

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 53rd Legislature (2011)

4 HOUSE BILL 1968

 By: Mulready

7 AS INTRODUCED

8 An Act relating to insurance; amending 36 O.S. 2001,
9 Section 1250.5, as amended by Section 2, Chapter 323,
10 O.S.L. 2009 (36 O.S. Supp. 2010, Section 1250.5),
11 which relates to unfair claims settlement practices;
12 adding certain denials, refusals, or modifications of
13 coverage to list of prohibited actions; amending 36
14 O.S. 2001, Section 4024, which relates to insurance
15 policy liability limitations; prohibiting insurer
16 refusals or modifications based upon certain travel
17 of insured claimants; specifying limitations and
18 exceptions; specifying certain action shall be an
19 unfair claims settlement practice; and providing an
20 effective date.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. AMENDATORY 36 O.S. 2001, Section 1250.5, as
23 amended by Section 2, Chapter 323, O.S.L. 2009 (36 O.S. Supp. 2010,
24 Section 1250.5), is amended to read as follows:

25 Section 1250.5 Any of the following acts by an insurer, if
26 committed in violation of Section 1250.3 of this title, constitutes
27 an unfair claim settlement practice exclusive of paragraph 16 of

1 this section which shall be applicable solely to health benefit
2 plans:

3 1. Failing to fully disclose to first party claimants,
4 benefits, coverages, or other provisions of any insurance policy or
5 insurance contract when the benefits, coverages or other provisions
6 are pertinent to a claim;

7 2. Knowingly misrepresenting to claimants pertinent facts or
8 policy provisions relating to coverages at issue;

9 3. Failing to adopt and implement reasonable standards for
10 prompt investigations of claims arising under its insurance policies
11 or insurance contracts;

12 4. Not attempting in good faith to effectuate prompt, fair and
13 equitable settlement of claims submitted in which liability has
14 become reasonably clear;

15 5. Failing to comply with the provisions of Section 1219 of
16 this title;

17 6. Denying a claim for failure to exhibit the property without
18 proof of demand and unfounded refusal by a claimant to do so;

19 7. Except where there is a time limit specified in the policy,
20 making statements, written or otherwise, which require a claimant to
21 give written notice of loss or proof of loss within a specified time
22 limit and which seek to relieve the company of its obligations if
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1 the time limit is not complied with unless the failure to comply
2 with the time limit prejudices the rights of an insurer;

3 8. Requesting a claimant to sign a release that extends beyond
4 the subject matter that gave rise to the claim payment;

5 9. Issuing checks or drafts in partial settlement of a loss or
6 claim under a specified coverage which contain language releasing an
7 insurer or its insured from its total liability;

8 10. Denying payment to a claimant on the grounds that services,
9 procedures, or supplies provided by a treating physician or a
10 hospital were not medically necessary unless the health insurer or
11 administrator, as defined in Section 1442 of this title, first
12 obtains an opinion from any provider of health care licensed by law
13 and preceded by a medical examination or claim review, to the effect
14 that the services, procedures or supplies for which payment is being
15 denied were not medically necessary. Upon written request of a
16 claimant, treating physician, or hospital, the opinion shall be set
17 forth in a written report, prepared and signed by the reviewing
18 physician. The report shall detail which specific services,
19 procedures, or supplies were not medically necessary, in the opinion
20 of the reviewing physician, and an explanation of that conclusion.
21 A copy of each report of a reviewing physician shall be mailed by
22 the health insurer, or administrator, postage prepaid, to the
23 claimant, treating physician or hospital requesting same within

1 fifteen (15) days after receipt of the written request. As used in
2 this paragraph, "physician" means a person holding a valid license
3 to practice medicine and surgery, osteopathic medicine, podiatric
4 medicine, dentistry, chiropractic, or optometry, pursuant to the
5 state licensing provisions of Title 59 of the Oklahoma Statutes;

6 11. Compensating a reviewing physician, as defined in paragraph
7 10 of this subsection, on the basis of a percentage of the amount by
8 which a claim is reduced for payment;

9 12. Violating the provisions of the Health Care Fraud
10 Prevention Act;

11 13. Compelling, without just cause, policyholders to institute
12 suits to recover amounts due under its insurance policies or
13 insurance contracts by offering substantially less than the amounts
14 ultimately recovered in suits brought by them, when the
15 policyholders have made claims for amounts reasonably similar to the
16 amounts ultimately recovered;

17 14. Failing to maintain a complete record of all complaints
18 which it has received during the preceding three (3) years or since
19 the date of its last financial examination conducted or accepted by
20 the Commissioner, whichever time is longer. This record shall
21 indicate the total number of complaints, their classification by
22 line of insurance, the nature of each complaint, the disposition of
23 each complaint, and the time it took to process each complaint. For
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1 the purposes of this paragraph, "complaint" means any written
2 communication primarily expressing a grievance;

3 15. Requesting a refund of all or a portion of a payment of a
4 claim made to a claimant or health care provider more than twenty-
5 four (24) months after the payment is made. This paragraph shall
6 not apply:

- 7 a. if the payment was made because of fraud committed by
8 the claimant or health care provider, or
- 9 b. if the claimant or health care provider has otherwise
10 agreed to make a refund to the insurer for overpayment
11 of a claim; ~~or~~

12 16. Failing to pay, or requesting a refund of a payment, for
13 health care services covered under the policy ~~or~~ if a health benefit
14 plan, or its agent, has provided a preauthorization or
15 precertification and verification of eligibility for those health
16 care services. This paragraph shall not apply if:

- 17 a. the claim or payment was made because of fraud
18 committed by the claimant or health care provider,
- 19 b. the subscriber had a preexisting exclusion under the
20 policy related to the service provided, or
- 21 c. the subscriber or employer failed to pay the
22 applicable premium and all grace periods and
23 extensions of coverage have expired; or

1 17. Denying or refusing to accept an application for life
2 insurance, or refusing to renew, cancel, restrict or otherwise
3 terminate a policy of life insurance, or charge a different rate
4 based upon the lawful travel destination of an applicant or insured
5 as provided in Section 4024 of this title.

6 SECTION 2. AMENDATORY 36 O.S. 2001, Section 4024, is
7 amended to read as follows:

8 Section 4024. A. No policy of life insurance shall be
9 delivered or issued for delivery in this state if it contains a
10 provision which excludes or restricts liability for death caused in
11 a certain specified manner or occurring while the insured has a
12 specified status, except that a policy may contain provisions
13 excluding or restricting coverage as specified therein in the event
14 of death under any one or more of the following circumstances:

15 1. Death as a result of a declared war or military action.

16 2. Death resulting from violations of the conditions of the
17 policy relating to service, travel, or flight in any species of
18 aircraft, other than as a fare-paying passenger in a licensed
19 passenger aircraft, piloted by a licensed passenger pilot on a
20 regular passenger route between definitely established airports.

21 3. Death within two (2) years from the date of issue of the
22 policy as a result of suicide, while sane or insane; provided, that
23 in the event of death as a result of suicide within two (2) years

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 from the date of issue of the policy the insurer shall return the
2 amount of all premiums paid.

3 B. A policy which contains any exclusion or restriction
4 pursuant to ~~subsection A,~~ paragraphs 1 and 2, of subsection A of
5 this section, shall also provide that in the event of death under
6 the circumstances to which any such exclusion or restriction is
7 applicable, the insurer will pay an amount not less than a reserve
8 determined according to the reserve valuation method and upon the
9 basis of the mortality table and interest rate specified in the
10 policy for the calculation of nonforfeiture benefits (or if the
11 policy provides for no such benefits, computed according to a
12 mortality table and interest rate determined by the insurer and
13 specified in the policy) with adjustment for indebtedness or
14 dividend credit.

15 C. A life insurance company doing business within this state
16 shall not deny or refuse to accept an application for life insurance
17 or refuse to renew, cancel, restrict, or otherwise terminate a
18 policy of life insurance, or charge a different rate for the same
19 life insurance coverage, based upon the lawful travel destinations
20 of the applicant or the insured. Nothing in this subsection shall
21 prohibit a life insurance company from denying an application for
22 life insurance, or restricting or charging a different premium or
23 rate for coverage under such a policy based on a specific travel

1 destination where the denial, restriction, or rate differential is
2 based upon sound actuarial principles or is related to actual or
3 anticipated experience. A violation of this subsection shall be an
4 unfair trade practice pursuant to Section 1250.5 of this title. The
5 provisions of this subsection shall apply to any life insurance
6 policy issued on or after November 1, 2011.

7 D. This section shall not apply to group life insurance,
8 accident and health insurance, reinsurance, or annuities, or to any
9 provision in a life insurance policy relating to disability benefits
10 or to additional benefits in the event of death by accident or
11 accidental means, except as provided in subsection C of this
12 section.

13 SECTION 3. This act shall become effective November 1, 2011.

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15 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 02-22-2011 - DO
16 PASS.

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