

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 HOUSE BILL 2399

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5
6 AS INTRODUCED

7 An Act relating to insurance; creating the Oklahoma
8 Rural Access to Care Act; stating legislative intent;
9 defining terms; prohibiting certain acts by health
10 care insurers; providing that insurance providers may
11 continue certain efficiency and cost-control
12 programs; specifying that participation in a health
13 plan is not mandatory for certain institutes;
14 specifying that insurers may establish terms and
15 conditions for participation in certain programs;
16 specifying applicability to various insurance
17 providers; requiring compliance with federal Employee
18 Retirement Income Security Act of 1974; specifying
19 that the Oklahoma Rural Access to Care Act shall not
20 apply to certain self-insured businesses; authorizing
21 the creation of certain networks by certain
22 noninsurers; providing that the Oklahoma Rural Access
23 to Care Act shall apply to state and education
24 employees; specifying violations of act; providing
for cause of action in the event of certain
violations; providing that the Oklahoma Rural Access
to Care Act shall be applicable to certain contracts
arising after certain date; authorizing Insurance
Commissioner to enforce provisions of act; providing
for codification; and providing an effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 7005.1 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Oklahoma Rural
5 Access to Care Act".

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 7005.2 of Title 36, unless there
8 is created a duplication in numbering, reads as follows:

9 The Legislature finds that as the state's insurance sector
10 becomes increasingly dominated by managed care features that include
11 decisions regarding coverage and appropriateness of health care,
12 there is a vital need to protect patients in rural areas where
13 health care access is limited.

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 7005.3 of Title 36, unless there
16 is created a duplication in numbering, reads as follows:

17 As used in the Oklahoma Rural Access to Care Act:

18 1. "Oklahoma Rural Access to Care Act" means a law that
19 prohibits discrimination against a provider institute located in a
20 rural area and which is the only health care facility in a county
21 willing to meet the terms and conditions for participation
22 established by a health insurer or that otherwise precludes an
23 insurer from prohibiting or limiting participation in the provision
24 of services through a health benefit plan;

1 2. "Copayment" means a type of cost-sharing whereby insured or
2 covered persons pay a specified predetermined amount per unit of
3 service or percentage of health care costs with their insurer paying
4 the remainder of the charge. Further:

5 a. the copayment is incurred at the time the service is
6 rendered, and

7 b. the copayment may be a fixed or variable amount;

8 3. "Gatekeeper system" means a system of administration used by
9 any health benefit plan in which a primary care provider furnishes
10 basic patient care and coordinates diagnostic testing, indicated
11 treatment, and specialty referral for persons covered by the health
12 benefit plan;

13 4. "Health benefit plan" means any entity or program that
14 provides reimbursement, including capitation, for health care
15 services;

16 5. "Health care institute" means an entity or institution which
17 is the only provider of health care services in the county in which
18 it is located, licensed by the State of Oklahoma to provide health
19 care, limited to the following:

20 a. hospitals,

21 b. licensed ambulatory surgery centers, and

22 c. rural health clinics;

1 6. "Health care services" means services and products provided
2 by a health care institute within the scope of the institute's
3 license; and

4 7. "Health care insurer" means any entity including, but not
5 limited to:

- 6 a. insurance companies,
- 7 b. hospital and medical service corporations,
- 8 c. health maintenance organizations,
- 9 d. preferred provider organizations,
- 10 e. physician hospital organizations,
- 11 f. third-party administrators, and
- 12 g. prescription benefit management companies, authorized
13 to administer, offer, or provide health benefit plans.

14 SECTION 4. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 7005.4 of Title 36, unless there
16 is created a duplication in numbering, reads as follows:

17 A. A health care insurer shall not, directly or indirectly:

18 1. Impose a monetary advantage or penalty under a health
19 benefit plan that would affect the choice of a beneficiary to select
20 a health care institute, as defined in Section 3 of this act,
21 participating in the health benefit plan according to the terms
22 offered. "Monetary advantage" or "penalty" includes:

- 23 a. a higher copayment,
- 24 b. a reduction in reimbursement for services, or

1 c. promotion of one health care provider over another by
2 these methods;

3 2. Impose upon a beneficiary of health care services under a
4 health benefit plan any copayment, fee, or condition that is not
5 equally imposed upon all beneficiaries in the same benefit category,
6 class, or copayment level under that health benefit plan when the
7 beneficiary is receiving services from a participating health care
8 institute, as defined in Section 3 of this act, pursuant to that
9 health benefit plan; or

10 3. Prohibit or limit a health care institute, as defined in
11 Section 3 of this act, willing to accept the health benefit plan's
12 operating terms and conditions, schedule of fees, covered expenses,
13 and utilization regulations and quality standards from the
14 opportunity to participate in that plan.

15 B. Nothing in this section shall prevent a health benefit plan
16 from instituting measures designed to maintain quality and to
17 control costs, including, but not limited to, the utilization of a
18 gatekeeper system, as long as such measures are imposed equally on
19 all institutes in the same class.

20 SECTION 5. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 7005.5 of Title 36, unless there
22 is created a duplication in numbering, reads as follows:

23 A. The Oklahoma Rural Access to Care Act shall not be
24 construed:

1 1. To require all institutes or a percentage of institutes in
2 the state or a locale to participate in the provision of services
3 for a health maintenance organization; or

4 2. To take away the authority of health maintenance
5 organizations that provide coverage of physician services to set the
6 terms and conditions for participation by institutes, though health
7 maintenance organizations shall apply the terms and conditions in a
8 nondiscriminatory manner.

9 B. 1. The Oklahoma Rural Access to Care Act shall apply to:

10 a. all health insurers, regardless of whether they are
11 providing coverage, including prepaid coverage, or
12 administering or contracting to provide provider
13 networks, and

14 b. all multiple-employer welfare arrangements and
15 multiple-employer trusts.

16 2. This subsection shall apply only to the extent permitted by
17 the federal Employee Retirement Income Security Act of 1974, as
18 amended, 29 U.S.C., Sections 1001 through 1461.

19 C. 1. Nothing in the Oklahoma Rural Access to Care Act shall
20 be construed to cover or regulate health care provider networks
21 offered by noninsurers.

22 2. If an employer sponsoring a self-insured health benefit plan
23 contracts directly with providers or contracts for a health care
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1 provider network, the Oklahoma Rural Access to Care Act shall not
2 apply.

3 3. If a health insurer subcontracts with a noninsurer whose
4 health care network does not meet the requirements of the Oklahoma
5 Rural Access to Care Act, then the noninsurer may create a separate
6 health care provider network that meets the requirements of the act.

7 4. If the noninsurer chooses not to create the separate health
8 care provider network, the responsibility for compliance with the
9 Oklahoma Rural Access to Care Act shall be the obligation of the
10 health insurer to the extent permitted by the federal Employee
11 Retirement Income Security Act of 1974, as amended.

12 D. Notwithstanding the provisions of subsection C of this
13 section, the Oklahoma Rural Access to Care Act applies to a health
14 benefit plan provided by the state to state employees and education
15 employees, as defined by Section 1303 of Title 74 of the Oklahoma
16 Statutes, whether the health benefit plan is self-funded or insured.

17 SECTION 6. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 7005.6 of Title 36, unless there
19 is created a duplication in numbering, reads as follows:

20 It is a violation of the Oklahoma Rural Access to Care Act for
21 any health care insurer or other person or entity to provide any
22 health benefit plan providing for health care services to residents
23 of this state that does not conform to the Oklahoma Rural Access to
24 Care Act, but nothing in the Oklahoma Rural Access to Care Act shall

1 constitute a violation on the basis of actions taken by the health
2 benefit plan to maintain quality, enforce utilization regulations,
3 and to control costs.

4 SECTION 7. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 7005.7 of Title 36, unless there
6 is created a duplication in numbering, reads as follows:

7 To the extent permitted by ERISA, the federal Employee
8 Retirement Income Security Act of 1974, 29 U.S.C., Sections 1001
9 through 1461, any institute adversely affected by a violation of the
10 Oklahoma Rural Access to Care Act may sue in district court only for
11 injunctive relief against the health care insurer, but not for
12 damages. The prevailing party shall be allowed a reasonable
13 attorney fee and costs.

14 SECTION 8. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 7005.8 of Title 36, unless there
16 is created a duplication in numbering, reads as follows:

17 A. To avoid impairment of existing contracts, the Oklahoma
18 Rural Access to Care Act shall only apply to contracts issued or
19 renewed after November 1, 2012.

20 B. Any provision in a health benefit plan which is executed,
21 delivered, or renewed, or otherwise contracts for provision of
22 services in this state that is contrary to the Oklahoma Rural Access
23 to Care Act, shall, to the extent of the conflict, be void.

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1 SECTION 9. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 7005.9 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 The provisions of the Oklahoma Rural Access to Care Act shall
5 not apply to self-funded or other health benefit plans that are
6 exempt from state regulation by virtue of the federal Employee
7 Retirement Income Security Act of 1974, as amended.

8 SECTION 10. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 7005.10 of Title 36, unless
10 there is created a duplication in numbering, reads as follows:

11 The Insurance Commissioner shall:

12 1. Enforce the Oklahoma Rural Access to Care Act using powers
13 granted to the Commissioner in Title 36 of the Oklahoma Statutes;
14 and

15 2. Be entitled to seek an injunction against a health insurer
16 in a court of competent jurisdiction.

17 SECTION 11. This act shall become effective November 1, 2012.

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