

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 COMMITTEE SUBSTITUTE
4 FOR
5 SENATE BILL NO. 1551

By: Newberry

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to state employee benefit plans;
9 amending 74 O.S. 2011, Sections 1370, as last amended
10 by Section 4, Chapter 266, O.S.L. 2013, and 1371, as
11 amended by Section 979, Chapter 304, O.S.L. 2012 (74
12 O.S. Supp. 2015, Sections 1370 and 1371), which
13 relate to flexible benefit allowance and the election
14 of benefit plans; modifying the calculation of the
15 benefit allowance for state employees; requiring
16 Board to offer certain plans; providing an effective
17 date; and declaring an emergency.

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

19 SECTION 1. AMENDATORY 74 O.S. 2011, Section 1370, as
20 last amended by Section 4, Chapter 266, O.S.L. 2013 (74 O.S. Supp.
21 2015, Section 1370), is amended to read as follows:

22 Section 1370. A. Subject to the requirement that a participant
23 must elect the default benefits, the basic plan, or is a person who
24 has retired from a branch of the United States military and has been
provided with health care through a federal plan, to the extent that
it is consistent with federal law, or is an active employee who is
eligible to participate and who is a participant who has opted out

1 of the state's basic plan according to the provisions of Section
2 1308.3 of this title, and provides proof of this coverage, flexible
3 benefit dollars may be used to purchase any of the benefits offered
4 by the Oklahoma State Employees Benefits Council under the flexible
5 benefits plan. A participant who has opted out of the state's basic
6 plan and provided proof of other coverage as described in this
7 subsection shall receive One Hundred Fifty Dollars (\$150.00) in lieu
8 of the flexible benefit monthly. A participant's flexible benefit
9 dollars for a plan year shall consist of the sum of (1) flexible
10 benefit allowance credited to a participant by the participating
11 employer, and (2) pay conversion dollars elected by a participant.

12 B. Each participant shall be credited annually with a specified
13 amount as a flexible benefit allowance which shall be available for
14 the purchase of benefits. For participants on a biweekly payroll
15 system the disbursement of the flexible benefit allowance shall be
16 credited over twenty-four pay periods resulting in two pay periods
17 that do not reflect a credit. The amount of the flexible benefit
18 allowance credited to each participant shall be communicated to him
19 or her prior to the enrollment period for each plan year.

20 C. Except as provided in subsection D of this section, for the
21 plan year beginning ~~January 1, 2013~~ January 1, 2017, the benefit
22 allowance shall ~~not be less than the Plan Year 2012 benefit~~
23 ~~allowance amounts, and~~ be based on the average between the monthly
24 premium of the HealthChoice High Option plan and the lowest monthly

1 premium of an HMO plan with the same actuarial value and tied
2 directly to the Consumer Price Index (CPI) or the healthcare
3 inflation rate. For each plan year thereafter, the amount of a
4 participant's benefit allowance, which shall be the total amount the
5 employer contributes for the payment of insurance premiums or other
6 benefits, shall be:

7 1. ~~The greater of the amount of benefit which the participant~~
8 ~~would have qualified for as of plan year 2012, or an amount equal to~~
9 ~~the monthly premium of the~~ The average between the monthly premium
10 of the HealthChoice High Option plan and the lowest monthly premium
11 of an HMO plan with the same actuarial value, the average monthly
12 premiums of the dental plans, the monthly premium of the disability
13 plan, and the monthly premium of the basic life insurance plan
14 offered to state employees or the amount determined by the Council
15 based on a formula for determining a participant's benefit credits
16 consistent with the requirements of 26 U.S.C., Section 125(g)(2) and
17 regulations thereunder; or

18 2. The greater of the amount of benefit which the participant
19 would have qualified for as of plan year 2012 or an amount equal to
20 the monthly premium of the HealthChoice High Option plan, the
21 average monthly premiums of the dental plans, the monthly premium of
22 the disability plan, and the monthly premium of the basic life
23 insurance plan offered to state employees plus one of the additional
24

1 amounts as follows for participants who elect to include one or more
2 dependents:

- 3 a. for a spouse, seventy-five percent (75%) of the
4 HealthChoice High Option plan, available for coverage
5 of a spouse,
- 6 b. for one child, seventy-five percent (75%) of the
7 HealthChoice High Option plan, for coverage of one
8 child,
- 9 c. for two or more children, seventy-five percent (75%)
10 of the HealthChoice High Option plan, for coverage of
11 two or more children,
- 12 d. for a spouse and one child, seventy-five percent (75%)
13 of the HealthChoice High Option plan, for coverage of
14 a spouse and one child, or
- 15 e. for a spouse and two or more children, seventy-five
16 percent (75%) of the HealthChoice High Option plan,
17 for coverage of a spouse and two or more children.

18 D. To the extent that it is consistent with federal laws and
19 regulations, and in particular the regulations set forth by the
20 Secretary of Defense in 32 C.F.R. Section 199.8(d)(6), a benefit may
21 be provided to an employee who is an eligible TRICARE beneficiary
22 whereby he or she may purchase a group TRICARE Supplemental product
23 under a qualifying cafeteria plan consistent with the requirements
24 of 26 U.S.C., Section 125, provided that:

1 1. The state, as employer may not provide any payment for nor
2 receive any consideration or compensation for offering the benefit;

3 2. The employer's only involvement is in providing the
4 administrative support for the benefit under the cafeteria plan; and

5 3. The employee's participation in the plan is completely
6 voluntary.

7 The benefit allowance under paragraph 2 of subsection C of this
8 section of an employee whose plan participation includes a group
9 TRICARE Supplemental benefit shall not include any allowance or
10 portion thereof for such TRICARE Supplemental benefit.

11 E. This section shall not prohibit payments for supplemental
12 health insurance coverage made pursuant to Section 1314.4 of this
13 title or payments for the cost of providing health insurance
14 coverage for dependents of employees of the Grand River Dam
15 Authority.

16 F. If a participant desires to buy benefits whose sum total of
17 benefit prices is in excess of his or her flexible benefit
18 allowance, the participant may elect to use pay conversion dollars
19 to purchase such excess benefits. Pay conversion dollars may be
20 elected through a salary reduction agreement made pursuant to the
21 election procedures of Section 1371 of this title. The elected
22 amount shall be deducted from the participant's compensation in
23 equal amounts each pay period, with the exception of participants on
24 a biweekly payroll system, where such deduction shall occur over

1 twenty-four pay periods over the plan year. On termination of
2 employment during a plan year, a participant shall have no
3 obligation to pay the participating employer any pay conversion
4 dollars allocated to the portion of the plan year after the
5 participant's termination of employment.

6 G. If a participant elects benefits whose sum total of benefit
7 prices is less than his or her flexible benefit allowance, he or she
8 shall receive any excess flexible benefit allowance as taxable
9 compensation. Such taxable compensation will be paid in
10 substantially equal amounts each pay period, with the exception of
11 participants on a biweekly payroll system, where such deduction
12 shall occur over twenty-four pay periods over the plan year. On
13 termination during a plan year, a participant shall have no right to
14 receive any such taxable cash compensation allocated to the portion
15 of the plan year after the participant's termination. Nothing
16 herein shall affect a participant's obligation to elect the minimum
17 benefits or to accept the default benefits of the plan with
18 corresponding reduction in the sum of his or her flexible benefit
19 allowance equal to the sum total benefit price of such minimum
20 benefits or default benefits.

21 SECTION 2. AMENDATORY 74 O.S. 2011, Section 1371, as
22 amended by Section 979, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
23 2015, Section 1371), is amended to read as follows:
24

1 Section 1371. A. All participants must purchase at least the
2 basic plan unless, to the extent that it is consistent with federal
3 law, the participant is a person who has retired from a branch of
4 the United States military and has been provided with health
5 coverage through a federal plan and that participant provides proof
6 of that coverage, or the participant has opted out of the state's
7 basic plan according to the provisions in Section 1308.3 of this
8 title. On or before January 1 of the plan year beginning July 1,
9 2001, and July 1 of any plan year beginning after January 1, 2002,
10 the Oklahoma Employees Insurance and Benefits Board shall design the
11 basic plan for the next plan year to insure that the basic plan
12 provides adequate coverage to all participants. All benefit plans,
13 whether offered by the State and Education Employees Group Insurance
14 Board, a health maintenance organization or other vendors shall meet
15 the minimum requirements set by the Board for the basic plan.

16 B. The Board shall offer health, disability, life and dental
17 coverage to all participants and their dependents. For health,
18 dental, disability and life coverage, the Board shall offer plans at
19 the basic benefit level established by the Board, and in addition,
20 may offer benefit plans that provide an enhanced level of benefits.
21 The Board shall offer at least one HMO plan with the same actuarial
22 value to the HealthChoice High Option plan, pursuant to Section 1370
23 of this title. The Board shall be responsible for determining the
24 plan design and the benefit price for the plans that they offer.

1 Effective for the plan year beginning January 1, 2007, and for each
2 plan year thereafter, in setting health insurance premiums for
3 active employees and for retirees under sixty-five (65) years of
4 age, the Board shall set the monthly premium for active employees to
5 be equal to the monthly premium for retirees under sixty-five (65)
6 years of age.

7 Nothing in this subsection shall be construed as prohibiting the
8 Board from offering additional medical plans, provided that any
9 medical plan offered to participants shall meet or exceed the
10 benefits provided in the medical portion of the basic plan.

11 C. In lieu of electing any of the preceding medical benefit
12 plans, a participant may elect medical coverage by any health
13 maintenance organization made available to participants by the
14 Board. The benefit price of any health maintenance organization
15 shall be determined on a competitive bid basis. Contracts for said
16 plans shall not be subject to the provisions of The Oklahoma Central
17 Purchasing Act. The Board shall promulgate rules establishing
18 appropriate competitive bidding criteria and procedures for
19 contracts awarded for flexible benefits plans. All plans offered by
20 health maintenance organizations meeting the bid requirements as
21 determined by the Board shall be accepted. The Board shall have the
22 authority to reject the bid or restrict enrollment in any health
23 maintenance organization for which the Board determines the benefit
24 price to be excessive. The Board shall have the authority to reject

1 any plan that does not meet the bid requirements. All bidders shall
2 submit along with their bid a notarized, sworn statement as provided
3 by Section 85.22 of this title. Effective for the plan year
4 beginning January 1, 2007, and for each plan year thereafter, in
5 setting health insurance premiums for active employees and for
6 retirees under sixty-five (65) years of age, HMOs, self-insured
7 organizations and prepaid plans shall set the monthly premium for
8 active employees to be equal to the monthly premium for retirees
9 under sixty-five (65) years of age.

10 D. Nothing in this section shall be construed as prohibiting
11 the Board from offering additional qualified benefit plans or
12 currently taxable benefit plans.

13 E. Each employee of a participating employer who meets the
14 eligibility requirements for participation in the flexible benefits
15 plan shall make an annual election of benefits under the plan during
16 an enrollment period to be held prior to the beginning of each plan
17 year. The enrollment period dates will be determined annually and
18 will be announced by the Board, providing the enrollment period
19 shall end no later than thirty (30) days before the beginning of the
20 plan year.

21 Each such employee shall make an irrevocable advance election
22 for the plan year or the remainder thereof pursuant to such
23 procedures as the Board shall prescribe. Any such employee who
24 fails to make a proper election under the plan shall, nevertheless,

1 be a participant in the plan and shall be deemed to have purchased
2 the default benefits described in this section.

3 F. The Board shall prescribe the forms that participants will
4 be required to use in making their elections, and may prescribe
5 deadlines and other procedures for filing the elections.

6 G. Any participant who, in the first year for which he or she
7 is eligible to participate in the plan, fails to make a proper
8 election under the plan in conformance with the procedures set forth
9 in this section or as prescribed by the Board shall be deemed
10 automatically to have purchased the default benefits. The default
11 benefits shall be the same as the basic plan benefits. Any
12 participant who, after having participated in the plan during the
13 previous plan year, fails to make a proper election under the plan
14 in conformance with the procedures set forth in this section or
15 prescribed by the Board, shall be deemed automatically to have
16 purchased the same benefits which the participant purchased in the
17 immediately preceding plan year, except that the participant shall
18 not be deemed to have elected coverage under the health care
19 reimbursement account plan or the dependent care reimbursement
20 account plan.

21 ~~H. Benefit plan contracts with the Board, health maintenance~~
22 ~~organizations, and other third party insurance vendors shall provide~~
23 ~~for a risk adjustment factor for adverse selection that may occur,~~
24

1 ~~as determined by the Board, based on generally accepted actuarial~~
2 ~~principles.~~

3 ~~1.~~ 1. For the plan year ending December 31, 2004, employees
4 covered or eligible to be covered under the State and Education
5 Employees Group Insurance Act and the State Employees Flexible
6 Benefits Act who are enrolled in a health maintenance organization
7 offering a network in Oklahoma City, shall have the option of
8 continuing care with a primary care physician for the remainder of
9 the plan year if:

- 10 a. that primary care physician was part of a provider
11 group that was offered to the individual at enrollment
12 and later removed from the network of the health
13 maintenance organization, for reasons other than for
14 cause, and
15 b. the individual submits a request in writing to the
16 health maintenance organization to continue to have
17 access to the primary care physician.

18 2. The primary care physician selected by the individual shall
19 be required to accept reimbursement for such health care services on
20 a fee-for-service basis only. The fee-for-service shall be computed
21 by the health maintenance organization based on the average of the
22 other fee-for-service contracts of the health maintenance
23 organization in the local community. The individual shall only be
24 required to pay the primary care physician those co-payments,

1 coinsurance and any applicable deductibles in accordance with the
2 terms of the agreement between the employer and the health
3 maintenance organization and the provider shall not balance bill the
4 patient.

5 3. Any network offered in Oklahoma City that is terminated
6 prior to July 1, 2004, shall notify the health maintenance
7 organization, and Oklahoma Employees Insurance and Benefits Board by
8 June 11, 2004, of the network's intentions to continue providing
9 primary care services as described in paragraph 2 of this subsection
10 offered by the health maintenance organization to state and public
11 employees.

12 SECTION 3. This act shall become effective July 1, 2016.

13 SECTION 4. It being immediately necessary for the preservation
14 of the public peace, health and safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

17
18 55-2-3132 CB 2/18/2016 3:55:24 PM
19
20
21
22
23
24