

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1409

By: Sparks

4  
5  
6 AS INTRODUCED

7 An Act relating to health insurance; amending 36 O.S.  
8 2011, Section 4502, as amended by Section 11, Chapter  
9 298, O.S.L. 2015 (36 O.S. Supp. 2015, Section 4502),  
which relates to provisions of group accident and  
health policies; requiring insurers to set a period  
of coverage; and providing an effective date.

10  
11  
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. AMENDATORY 36 O.S. 2011, Section 4502, as  
14 amended by Section 11, Chapter 298, O.S.L. 2015 (36 O.S. Supp. 2015,  
15 Section 4502), is amended to read as follows:

16 Section 4502. A. Each group accident and health policy shall  
17 contain in substance the following provisions:

18 1. A provision that, in the absence of fraud, all statements  
19 made by the policyholder or by any insured person shall be deemed  
20 representations and not warranties, and that no statement made for  
21 the purpose of effecting insurance shall avoid such insurance or  
22 reduce benefits unless contained in a written instrument signed by  
23 the policyholder or the insured person, a copy of which has been  
24

1 furnished to such policyholder or to such person or his or her  
2 beneficiary;

3 2. A provision that the insurer will furnish to the  
4 policyholder, for delivery to each employee or member of the insured  
5 group, an individual certificate setting forth in summary form a  
6 statement of the essential features of the insurance coverage of  
7 such employee or member and to whom benefits are payable. If  
8 dependents or family members are included in the coverage additional  
9 certificates need not be issued for delivery to such dependents or  
10 family members; and

11 3. A provision that to the group originally insured may be  
12 added from time to time eligible new employees or members or  
13 dependents, as the case may be, in accordance with the terms of the  
14 policy.

15 B. Each group health policy certificate subject to the  
16 provisions of the Federal Health Insurance Portability and  
17 Accountability Act, Public Law 104-191, (HIPAA) laws shall contain  
18 in substance the following provisions, which shall be in addition to  
19 the provisions required by subsection A of this section.

20 1. A provision that a health benefit plan shall not deny,  
21 exclude or limit benefits for a covered individual for losses  
22 incurred more than twelve (12) months following the effective date  
23 of the individual's coverage due to a preexisting condition;  
24

1           2. A provision that a health benefit plan shall not define a  
2 preexisting condition more restrictively than:

- 3           a. a condition for which medical advice, diagnosis, care  
4 or treatment was recommended or received during the  
5 six (6) months immediately preceding the effective  
6 date of coverage,
- 7           b. pregnancy and genetic information shall not be  
8 considered preexisting conditions,
- 9           c. a health benefit plan may exclude a preexisting  
10 condition for late enrollees for a period not to  
11 exceed eighteen (18) months from the date the  
12 individual enrolls for coverage,
- 13           d. the period of any such preexisting condition exclusion  
14 shall be reduced by the aggregate of the periods of  
15 creditable coverage as defined in the Federal HIPAA  
16 laws,
- 17           e. a period of creditable coverage shall not be counted  
18 if after such period and before the enrollment date,  
19 there was a sixty-three-day period during all of which  
20 the individual was not covered under any creditable  
21 coverage,
- 22           f. "enrollment date" means the date of enrollment of the  
23 individual in the plan or coverage or, if earlier, the  
24

1 first day of the waiting period for such enrollment,  
2 and

- 3 g. "late enrollee" means a participant or beneficiary who  
4 enrolls under the plan other than during the first  
5 period in which the individual is eligible to enroll  
6 under the plan or a special enrollment period;

7 3. A provision that individuals losing other coverage shall be  
8 permitted to enroll for coverage under the terms of the plan if each  
9 of the following conditions is met:

- 10 a. the employee or dependent was covered under a group  
11 health plan or had health insurance coverage at the  
12 time coverage was previously offered to the employee  
13 or dependent,
- 14 b. the employee stated in writing at such time that  
15 coverage under a group health plan or health insurance  
16 coverage was the reason for declining enrollment, but  
17 only if the plan sponsor or issuer required such a  
18 statement at such time and provided the employee with  
19 notice of such requirement, and the consequences of  
20 such requirement, at such time,
- 21 c. the employee's or dependent's coverage was under a  
22 COBRA continuation provision and the coverage under  
23 such provision was exhausted; or was not under such a  
24 provision and either the coverage was terminated as a

1 result of loss of eligibility for the coverage,  
2 including as a result of legal separation, divorce,  
3 death, termination of employment, or reduction in the  
4 number of hours of employment, or employer  
5 contributions toward such coverage were terminated,  
6 and

7 d. under the terms of the plan, the employee requests  
8 such enrollment not later than thirty (30) days after  
9 the date of exhaustion of coverage;

10 4. A provision that for any period that an individual is in a  
11 waiting period for any coverage under a group health plan or for  
12 group health insurance coverage or is in an affiliation period, that  
13 period shall not be taken into account in determining the continuous  
14 period of creditable coverage. "Affiliation period" means a period  
15 which, under the terms of the health insurance coverage offered by a  
16 health maintenance organization, must expire before the health  
17 insurance coverage becomes effective. The organization is not  
18 required to provide health care services or benefits during such  
19 period and no premium shall be charged to the participant or  
20 beneficiary for any coverage during the period;

21 5. A provision that preexisting condition exclusions will not  
22 apply to newborns, who, as the last day of the thirty-day period  
23 beginning with the date of birth, are covered under creditable  
24 coverage;

1           6. A provision that preexisting condition exclusions will not  
2 apply to a child who is adopted or placed for adoption before  
3 attaining eighteen (18) years of age;

4           7. A provision that dependents are eligible for a special  
5 enrollment period if the group health plan makes coverage available  
6 with respect to a dependent of an individual, and the individual is  
7 a participant under the plan, or has met any waiting period  
8 applicable to becoming a participant under the plan and is eligible  
9 to be enrolled under the plan but for a failure to enroll during a  
10 previous enrollment period, and a person becomes such a dependent of  
11 the individual through marriage, birth or adoption or placement for  
12 adoption. The special enrollment period shall apply to that person  
13 or, if not otherwise enrolled, the individual, the dependent of the  
14 individual, and in the case of the birth or adoption of a child, the  
15 spouse of the individual may be enrolled as a dependent of the  
16 individual if such spouse is otherwise eligible for coverage.

17           a. The dependent special enrollment period shall be a  
18 period of not less than thirty (30) days and shall  
19 begin on the later of the date dependent coverage is  
20 made available, or the date of the marriage, birth, or  
21 adoption or placement for adoption.

22           b. There is no waiting period if an individual seeks to  
23 enroll a dependent during the first thirty (30) days  
24 of such a dependent special enrollment period.

1 c. The coverage for the dependent shall become effective  
2 in the case of marriage, not later than the first day  
3 of the first month beginning after the date the  
4 completed request for enrollment is received, in the  
5 case of a dependent's birth, as of the date of such  
6 birth, in the case of a dependent's adoption or  
7 placement for adoption, the date of such adoption or  
8 placement for adoption;

9 8. A provision that eligibility or continued eligibility of any  
10 individual will not be based on any of the following health-status-  
11 related factors in relation to the individual or a dependent of the  
12 individual: health status, medical condition, including both  
13 physical and mental illnesses, claims experience, receipt of health  
14 care, medical history, genetic information, evidence of  
15 insurability, including conditions arising out of acts of domestic  
16 violence or disability.

17 a. Carriers are not required to provide particular  
18 benefits other than those provided under the terms of  
19 the plan or coverage.

20 b. Carriers may establish limitations or restrictions on  
21 the amount, level, extent, and nature of the benefits  
22 or coverage for similarly situated individuals  
23 enrolled in the plan or coverage; ~~and~~  
24

1 9. A provision that the group health plan is guaranteed  
2 renewable, except as provided pursuant to the federal provisions  
3 found in HIPAA, which are as follows:

- 4 a. nonpayment of premium,
- 5 b. fraud,
- 6 c. violation of participation and/or contribution rules,
- 7 d. termination of coverage:

8 (1) in any case in which an issuer decides to  
9 discontinue offering a particular type of group  
10 health insurance coverage offered in the large or  
11 small group market, coverage of such type may be  
12 discontinued by the issuer only if: the issuer  
13 provides notice to each plan sponsor provided  
14 coverage of this type in such market, and  
15 participants and beneficiaries covered under such  
16 coverage, of such discontinuation at least ninety  
17 (90) days prior to the date of the  
18 discontinuation of such coverage and makes  
19 available the option to purchase all or, in the  
20 case of the large group market, any other health  
21 insurance coverage currently being offered by the  
22 issuer to a group health plan in such market and  
23 in exercising the option to discontinue coverage  
24 of this type and in offering the option of

1 coverage pursuant to this provision, the issuer  
2 acts uniformly without regard to the claims  
3 experience of those sponsors or any health-  
4 status-related factor relating to any  
5 participants or beneficiaries covered or new  
6 participants or beneficiaries who may become  
7 eligible for such coverage,

8 (2) in any case in which an issuer decides to  
9 discontinue offering a particular type of group  
10 health insurance coverage offered in the large or  
11 small group market, coverage of such type may be  
12 discontinued by the issuer only if: the issuer  
13 provides notice to the Oklahoma Insurance  
14 Department and to each plan sponsor and  
15 participants and beneficiaries covered under such  
16 coverage of such discontinuation at least one  
17 hundred eighty (180) days prior to the date of  
18 the discontinuation of such coverage; and all  
19 health insurance issued or delivered for issuance  
20 in the state in such market or markets are  
21 discontinued and coverage under such health  
22 insurance coverage in such market or markets is  
23 not renewed, and  
24

1 (3) in the case of a discontinuation under division  
2 (2) of this subparagraph in a market, the issuer  
3 shall not provide for the issuance of any health  
4 insurance coverage in the market and in this  
5 state during the five-year period beginning on  
6 the date of the discontinuation of the last  
7 health insurance coverage not so renewed,

8 e. movement outside the service area, and

9 f. association membership ceases; and

10 10. For all policies issued or renewed after November 1, 2016,  
11 a provision that the period of coverage shall be from July 1 to June  
12 30 of each year.

13 SECTION 2. This act shall become effective November 1, 2016.

14  
15 55-2-2127 CB 2/18/2016 6:56:25 PM  
16  
17  
18  
19  
20  
21  
22  
23  
24