

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1466

By: David

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6 AS INTRODUCED

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

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

16 SECTION 1. AMENDATORY 74 O.S. 2011, Section 1370, as
17 last amended by Section 4, Chapter 266, O.S.L. 2013 (74 O.S. Supp.
18 2015, Section 1370), is amended to read as follows:

19 Section 1370. A. Subject to the requirement that a participant
20 must elect the default benefits, the basic plan, or is a person who
21 has retired from a branch of the United States military and has been
22 provided with health care through a federal plan, to the extent that
23 it is consistent with federal law, or is an active employee who is
24 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, the benefit allowance shall not
22 be less than the Plan Year 2012 benefit allowance amounts, and each
23 plan year thereafter, the amount of a participant's benefit
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1 allowance, which shall be the total amount the employer contributes
2 for the payment of insurance premiums or other benefits, shall be:

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

14 2. The greater of the amount of benefit which the participant
15 would have qualified for as of plan year 2012 or an amount equal to
16 the monthly premium of the HealthChoice High Option plan, the
17 average monthly premiums of the dental plans, the monthly premium of
18 the disability plan, and the monthly premium of the basic life
19 insurance plan offered to state employees plus one of the additional
20 amounts as follows for participants who elect to include one or more
21 dependents:

- 22 a. for a spouse, seventy-five percent (75%) of the
23 HealthChoice High Option plan, available for coverage
24 of a spouse,

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

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

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

22 2. The employer's only involvement is in providing the
23 administrative support for the benefit under the cafeteria plan; and
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1 3. The employee's participation in the plan is completely
2 voluntary.

3 The benefit allowance under paragraph 2 of subsection C of this
4 section of an employee whose plan participation includes a group
5 TRICARE Supplemental benefit shall not include any allowance or
6 portion thereof for such TRICARE Supplemental benefit.

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

12 F. If a participant desires to buy benefits whose sum total of
13 benefit prices is in excess of his or her flexible benefit
14 allowance, the participant may elect to use pay conversion dollars
15 to purchase such excess benefits. Pay conversion dollars may be
16 elected through a salary reduction agreement made pursuant to the
17 election procedures of Section 1371 of this title. The elected
18 amount shall be deducted from the participant's compensation in
19 equal amounts each pay period, with the exception of participants on
20 a biweekly payroll system, where such deduction shall occur over
21 twenty-four pay periods over the plan year. On termination of
22 employment during a plan year, a participant shall have no
23 obligation to pay the participating employer any pay conversion
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1 dollars allocated to the portion of the plan year after the
2 participant's termination of employment.

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

18 SECTION 2. AMENDATORY 74 O.S. 2011, Section 1371, as
19 amended by Section 979, Chapter 304, O.S.L. 2012 (74 O.S. Supp.
20 2015, Section 1371), is amended to read as follows:

21 Section 1371. A. All participants must purchase at least the
22 basic plan unless, to the extent that it is consistent with federal
23 law, the participant is a person who has retired from a branch of
24 the United States military and has been provided with health

1 coverage through a federal plan and that participant provides proof
2 of that coverage, or the participant has opted out of the state's
3 basic plan according to the provisions in Section 1308.3 of this
4 title. On or before January 1 of the plan year beginning July 1,
5 2001, and July 1 of any plan year beginning after January 1, 2002,
6 the Oklahoma Employees Insurance and Benefits Board shall design the
7 basic plan for the next plan year to insure that the basic plan
8 provides adequate coverage to all participants. All benefit plans,
9 whether offered by the State and Education Employees Group Insurance
10 Board, a health maintenance organization or other vendors shall meet
11 the minimum requirements set by the Board for the basic plan.

12 B. The Board shall offer health, disability, life and dental
13 coverage to all participants and their dependents. For health,
14 dental, disability and life coverage, the Board shall offer plans at
15 the basic benefit level established by the Board, and in addition,
16 may offer benefit plans that provide an enhanced level of benefits.
17 The Board shall offer health maintenance organization plans with the
18 same actuarial value to the preferred provider organization plan
19 with the highest level of benefits offered, according to the
20 provisions in Section 1370 of this title. The Board shall be
21 responsible for determining the plan design and the benefit price
22 for the plans that they offer. Effective for the plan year
23 beginning January 1, 2007, and for each plan year thereafter, in
24 setting health insurance premiums for active employees and for

1 retirees under sixty-five (65) years of age, the Board shall set the
2 monthly premium for active employees to be equal to the monthly
3 premium for retirees under sixty-five (65) years of age.

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

8 C. In lieu of electing any of the preceding medical benefit
9 plans, a participant may elect medical coverage by any health
10 maintenance organization made available to participants by the
11 Board. The benefit price of any health maintenance organization
12 shall be determined on a competitive bid basis. Contracts for said
13 plans shall not be subject to the provisions of The Oklahoma Central
14 Purchasing Act. The Board shall promulgate rules establishing
15 appropriate competitive bidding criteria and procedures for
16 contracts awarded for flexible benefits plans. All plans offered by
17 health maintenance organizations meeting the bid requirements as
18 determined by the Board shall be accepted. The Board shall have the
19 authority to reject the bid or restrict enrollment in any health
20 maintenance organization for which the Board determines the benefit
21 price to be excessive. The Board shall have the authority to reject
22 any plan that does not meet the bid requirements. All bidders shall
23 submit along with their bid a notarized, sworn statement as provided
24 by Section 85.22 of this title. Effective for the plan year

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

7 D. Nothing in this section shall be construed as prohibiting
8 the Board from offering additional qualified benefit plans or
9 currently taxable benefit plans.

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

18 Each such employee shall make an irrevocable advance election
19 for the plan year or the remainder thereof pursuant to such
20 procedures as the Board shall prescribe. Any such employee who
21 fails to make a proper election under the plan shall, nevertheless,
22 be a participant in the plan and shall be deemed to have purchased
23 the default benefits described in this section.
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1 F. The Board shall prescribe the forms that participants will
2 be required to use in making their elections, and may prescribe
3 deadlines and other procedures for filing the elections.

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

19 H. Benefit plan contracts with the Board, health maintenance
20 organizations, and other third party insurance vendors shall provide
21 for a risk adjustment factor, which will be based on a comprehensive
22 medical and pharmacy model to account for the majority of risk in
23 the State of Oklahoma, for adverse selection that may occur, as
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1 determined by the Board, based on generally accepted actuarial
2 principles.

3 I. 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 November 1, 2016.

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