

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL NO. 1546

By: David

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to health insurance; creating the
9 Oklahoma Right to Shop Act; defining terms; requiring
10 insurance carriers to create certain program;
11 establishing requirements of program; construing
12 certain provision as not an expense; requiring
13 certain filing with Insurance Department; requiring
14 carriers to establish certain online program;
15 establishing requirements of program; authorizing
16 exemption to requirements of act; requiring certain
17 notification; requiring certain enrollees to receive
18 out-of-network treatment under certain conditions;
19 requiring certain payment method; authorizing certain
20 average rates paid to certain providers; providing
21 for noncodification; providing for codification; and
22 providing an effective date.

23
24 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

25 SECTION 1. NEW LAW A new section of law not to be
26 codified in the Oklahoma Statutes reads as follows:

27 This act shall be known and may be cited as the "Oklahoma Right
28 to Shop Act".

1 SECTION 2. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 6060.40 of Title 36, unless
3 there is created a duplication in numbering, reads as follows:

4 As used in the Oklahoma Right to Shop Act, the following
5 definitions apply:

6 1. "Health care entity" shall mean a physician, hospital,
7 pharmaceutical company, pharmacist, laboratory or other state-
8 licensed or state-recognized provider of health care services;

9 2. "Insurance carrier" shall mean an insurance company that
10 issues policies of accident and health insurance and is or should be
11 licensed to sell insurance in this state;

12 3. "Allowed amount" shall mean the contractually agreed upon
13 amount paid by a carrier to a health care entity participating in
14 the carrier's network;

15 4. "Program" shall mean the comparable health care service
16 incentive program established by a carrier pursuant to this section;

17 5. "Comparable health care service" shall mean any covered non-
18 emergency health care service or bundle of services. The Insurance
19 Commissioner may limit what is considered a comparable health care
20 service if a carrier can demonstrate allowed amount variation among
21 network providers in less than Fifty Dollars (\$50.00); and

22 6. "Average" means mean, median or mode.
23
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1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6060.41 of Title 36, unless
3 there is created a duplication in numbering, reads as follows:

4 Beginning upon approval of the next health insurance rate filing
5 in 2020, a carrier offering a health plan in this state in the
6 individual or small group insurance market, except plans where
7 enrollees receive a premium subsidy under the federal Patient
8 Protection and Affordable Care Act pursuant to Public Law 111-148,
9 shall comply with the following requirements:

10 A. A carrier shall establish for all health care plans a
11 program in which enrollees are directly incentivized to shop, before
12 and after their out-of-pocket limit has been met, for lower-cost
13 participating health care providers or health care entities for
14 comparable health care services. Incentives may include cash
15 payments, gift cards or credits or reductions of premiums,
16 copayments, cost-sharing or deductibles.

17 B. Annually at enrollment or renewal, a carrier shall provide
18 notice to enrollees of the availability of the program with a
19 description of the incentives available to an enrollee and how they
20 are earned.

21 C. A comparable health care service incentive payment made by a
22 carrier in accordance with this section is not an administrative
23 expense of the carrier for rate development or rate filing purposes.
24

1 D. Prior to offering the program to any enrollee, a carrier
2 shall file with the Insurance Commissioner a description of the
3 program established by the carrier pursuant to this section, using a
4 form provided by the Insurance Department.

5 SECTION 4. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 6060.42 of Title 36, unless
7 there is created a duplication in numbering, reads as follows:

8 Beginning upon approval of the next health insurance rate filing
9 in 2020, a carrier offering a health plan in this state in the
10 individual or small group insurance market shall comply with the
11 following requirements:

12 A. A carrier shall establish an interactive mechanism on its
13 publicly accessible website that enables an enrollee to request and
14 obtain from the carrier information on the payments made by the
15 carrier to network entities or providers for comparable health care
16 services, as well as quality data for those providers, to the extent
17 the data is available. The interactive mechanism must allow an
18 enrollee seeking information about the cost of a particular health
19 care service to compare allowed amounts among network providers,
20 estimate out-of-pocket costs applicable to that enrollee's health
21 plan and the average paid to a network provider for the procedure or
22 service under the enrollee's health plan within a reasonable
23 timeframe, not to exceed one (1) year. The out-of-pocket estimate
24 must provide a good faith estimate of the amount the enrollee will

1 be responsible to pay out-of-pocket for a proposed non-emergency
2 procedure or service that is a medically necessary covered benefit
3 from a network provider of the carrier, including any copayment,
4 deductible, coinsurance or other out-of-pocket amount for any
5 covered benefit, based on the information available to the carrier
6 at the time the request is made.

7 1. A carrier may contract with a third-party vendor to satisfy
8 the requirements of this paragraph.

9 2. A carrier may submit to the Insurance Commissioner a request
10 for exemption from the requirements of this section for any health
11 care service that is believed to be too difficult to shop and shall
12 list the reasons for the difficulty in the request. The
13 Commissioner shall approve any request for exemption with sufficient
14 evidence. This information shall be public upon action by the
15 Commissioner;

16 B. Nothing in this section shall prohibit a carrier from
17 imposing cost-sharing requirements disclosed in the certificate of
18 coverage of the enrollee for unforeseen health care services that
19 arise out of the non-emergency procedure or service provided to an
20 enrollee that was not included in the original estimate; and

21 C. A carrier shall notify an enrollee that these are estimated
22 costs, and that the actual amount the enrollee will be responsible
23 to pay may vary due to unforeseen services that arise out of the
24 proposed non-emergency procedure or service.

1 SECTION 5. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 6060.43 of Title 36, unless
3 there is created a duplication in numbering, reads as follows:

4 A. If an enrollee elects to receive a covered health care
5 service from a United States based out-of-network provider at a
6 price that is the same or less than the average that the insurance
7 carrier of the enrollee pays to health care providers within its
8 network within a reasonable timeframe, not to exceed one (1) year,
9 for that service, the carrier shall allow the enrollee to obtain the
10 service from the out-of-network provider and, upon request by the
11 enrollee, shall apply the payments made by the enrollee for that
12 health care service toward the deductible and out-of-pocket maximum
13 specified in the enrollee's health plan, as if the health care
14 services had been provided by a network provider. The carrier shall
15 provide a downloadable or interactive online form to the enrollee
16 for the purpose of submitting proof of payment to an out-of-network
17 provider for purposes of administering this section.

18 B. A carrier may base the average paid to a network provider
19 upon what that carrier pays to providers within the network,
20 applicable to the specific health plan of the enrollee, or across
21 all of their plans offered in this state. A carrier shall, at
22 minimum, inform enrollees of their ability and the process to
23 request the average allowed amount paid for a procedure both on
24 their website and in benefit plan materials.

SECTION 6. This act shall become effective November 1, 2018.

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