

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 58th Legislature (2022)

4   HOUSE BILL 3495

                              By: McEntire

7                               AS INTRODUCED

8           An Act relating to insurance; amending 36 O.S. 2021,  
9           Section 1250.5, which relates to acts by an insurer  
10          constituting unfair claim settlement practice;  
          modifying acts considered unfair claim settlement  
          practices; and providing an effective date.

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

14           SECTION 1.       AMENDATORY       36 O.S. 2021, Section 1250.5, is  
15   amended to read as follows:

16           Section 1250.5   Any of the following acts by an insurer, if  
17   committed in violation of Section 1250.3 of this title, constitutes  
18   an unfair claim settlement practice exclusive of paragraph 16 of  
19   this section which shall be applicable solely to health benefit  
20   plans:

21           1.   Failing to fully disclose to first party claimants,  
22   benefits, coverages, or other provisions of any insurance policy or  
23   insurance contract when the benefits, coverages or other provisions  
24   are pertinent to a claim;

1        2. Knowingly misrepresenting to claimants pertinent facts or  
2 policy provisions relating to coverages at issue;

3        3. Failing to adopt and implement reasonable standards for  
4 prompt investigations of claims arising under its insurance policies  
5 or insurance contracts;

6        4. Not attempting in good faith to effectuate prompt, fair and  
7 equitable settlement of claims submitted in which liability has  
8 become reasonably clear;

9        5. Failing to comply with the provisions of Section 1219 of  
10 this title;

11       6. Denying a claim for failure to exhibit the property without  
12 proof of demand and unfounded refusal by a claimant to do so;

13       7. Except where there is a time limit specified in the policy,  
14 making statements, written or otherwise, which require a claimant to  
15 give written notice of loss or proof of loss within a specified time  
16 limit and which seek to relieve the company of its obligations if  
17 the time limit is not complied with unless the failure to comply  
18 with the time limit prejudices the rights of an insurer. Any policy  
19 that specifies a time limit covering damage to a roof due to wind or  
20 hail must include a provision allowing the filing of claims after  
21 the first anniversary but no later than twenty-four (24) months  
22 after the date of the loss, if the damage is not evident without  
23 inspection;

1       8. Requesting a claimant to sign a release that extends beyond  
2 the subject matter that gave rise to the claim payment;

3       9. Issuing checks, drafts or electronic payment in partial  
4 settlement of a loss or claim under a specified coverage which  
5 contain language releasing an insurer or its insured from its total  
6 liability;

7       10. Denying payment to a claimant on the grounds that services,  
8 procedures, or supplies provided by a treating physician or a  
9 hospital were not medically necessary unless the health insurer or  
10 administrator, as defined in Section 1442 of this title, first  
11 obtains an opinion from any provider of health care licensed by law  
12 and preceded by a medical examination or claim review, to the effect  
13 that the services, procedures or supplies for which payment is being  
14 denied were not medically necessary. Upon written request of a  
15 claimant, treating physician, or hospital, the opinion shall be set  
16 forth in a written report, prepared and signed by the reviewing  
17 physician. The report shall detail which specific services,  
18 procedures, or supplies were not medically necessary, in the opinion  
19 of the reviewing physician, and an explanation of that conclusion.  
20 A copy of each report of a reviewing physician shall be mailed by  
21 the health insurer, or administrator, postage prepaid, to the  
22 claimant, treating physician or hospital requesting same within  
23 fifteen (15) days after receipt of the written request. As used in  
24 this paragraph, "physician" means a person holding a valid license

1 to practice medicine and surgery, osteopathic medicine, podiatric  
2 medicine, dentistry, chiropractic, or optometry, pursuant to the  
3 state licensing provisions of Title 59 of the Oklahoma Statutes;

4 11. Compensating a reviewing physician, as defined in paragraph  
5 10 of this section, on the basis of a percentage of the amount by  
6 which a claim is reduced for payment;

7 12. Violating the provisions of the Health Care Fraud  
8 Prevention Act;

9 13. Compelling, without just cause, policyholders to institute  
10 suits to recover amounts due under its insurance policies or  
11 insurance contracts by offering substantially less than the amounts  
12 ultimately recovered in suits brought by them, when the  
13 policyholders have made claims for amounts reasonably similar to the  
14 amounts ultimately recovered;

15 14. Failing to maintain a complete record of all complaints  
16 which it has received during the preceding three (3) years or since  
17 the date of its last financial examination conducted or accepted by  
18 the Commissioner, whichever time is longer. This record shall  
19 indicate the total number of complaints, their classification by  
20 line of insurance, the nature of each complaint, the disposition of  
21 each complaint, and the time it took to process each complaint. For  
22 the purposes of this paragraph, "complaint" means any written  
23 communication primarily expressing a grievance;

1        15. Requesting a refund of all or a portion of a payment of a  
2 claim made to a claimant or health care provider more than ~~twenty-~~  
3 ~~four (24)~~ twelve (12) months after the payment is made. This  
4 paragraph shall not apply:

- 5            a. if the payment was made because of fraud committed by
- 6                    the claimant or health care provider, or
- 7            b. if the claimant or health care provider has otherwise
- 8                    agreed to make a refund to the insurer for overpayment
- 9                    of a claim;

10        16. Failing to pay, or requesting a refund of a payment, for  
11 health care services covered under the policy if a health benefit  
12 plan, or its agent, has provided a preauthorization or  
13 precertification and verification of eligibility for those health  
14 care services. This paragraph shall not apply if:

- 15            a. the claim or payment was made because of fraud
- 16                    committed by the claimant or health care provider,
- 17            b. the subscriber had a preexisting exclusion under the
- 18                    policy related to the service provided, or
- 19            c. the subscriber or employer failed to pay the
- 20                    applicable premium and all grace periods and
- 21                    extensions of coverage have expired;

22        17. Denying or refusing to accept an application for life  
23 insurance, or refusing to renew, cancel, restrict or otherwise  
24 terminate a policy of life insurance, or charge a different rate

1 based upon the lawful travel destination of an applicant or insured  
2 as provided in Section 4024 of this title; or

3 18. As a health insurer that provides pharmacy benefits or a  
4 pharmacy benefits manager that administers pharmacy benefits for a  
5 health plan, with exception for high deductible health plan with an  
6 associated health savings account, failing to include any amount  
7 paid by an enrollee or on behalf of an enrollee by another person  
8 when calculating the enrollee's total contribution to an out-of-  
9 pocket maximum, deductible, copayment, coinsurance or other cost-  
10 sharing requirement.

11 SECTION 2. This act shall become effective November 1, 2022.

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13 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 03/02/2022 - DO  
14 PASS.  
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