

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 4098

By: Frix

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6 AS INTRODUCED

7 An Act relating to insurance; creating the Oklahoma
8 Right to Shop and Transparency Act of 2022; defining
9 terms; allowing insurance carriers to offer shared
10 savings incentive programs; limiting provider
11 participation in certain circumstances; requiring
12 enrollees to stay in-network in certain situations;
13 providing parameters for out-of-network participation
14 in shared savings incentive programs; providing for
15 certain construction of provisions; requiring certain
16 terms when enrollees receive out-of-network service;
17 limiting enrollee and carrier financial liability in
18 certain situations; requiring certain features of
19 shared savings incentive programs; providing for
20 calculation and disbursement of savings; limiting
21 purpose of savings; requiring Insurance Commissioner
22 to create certain form with certain provisions;
23 providing for submission of form; providing for
24 codification; and providing an effective date.

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

19 SECTION 1. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 6060.40 of Title 36, unless
21 there is created a duplication in numbering, reads as follows:

22 This act shall be known and may be cited as the "Oklahoma Right
23 to Shop and Transparency Act of 2022".

1 SECTION 2. 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 As used in the Oklahoma Right to Shop and Transparency Act of
5 2022:

6 1. "Allowed amount" means the contractually agreed-upon amount
7 paid by a carrier to a provider who has entered into a contract with
8 the carrier to provide health care services under the terms and
9 conditions established in the contract;

10 2. "Average allowed amount" means mean, median, or mode of all
11 contractually agreed-upon amounts paid by an enrollee's health
12 benefit plan for comparable health care services as defined by this
13 section. The QPA (Qualified Payment Amount) as defined and required
14 by the Federal No Surprises Act may be utilized as the average
15 allowed amount for the purposes of this act;

16 3. "Comparable health care services" means any covered
17 nonemergency health care service or bundle of services;

18 4. "Health benefit plan" means any plan as defined in
19 subsection C of Section 6060.4 of Title 36 of the Oklahoma Statutes;

20 5. "Insurance carrier" or "carrier" means an insurance company
21 that issues policies of accident and health insurance and is
22 licensed to sell insurance in this state;

23 6. "Provider" means a health care practitioner, ambulatory
24 surgical center, home health care agency, or hospital; and

1 7. "Shared savings incentive program" means an incentive
2 program established by an insurance carrier that enables enrollees
3 to decrease out-of-pocket costs when a comparable health care
4 service is provided by providers who charge less than the average
5 allowed amount. If a health benefit plan does not have variation in
6 allowed amounts, the amount reimbursed for comparable health care
7 services shall be considered the average allowed amount.

8 SECTION 3. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 6060.42 of Title 36, unless
10 there is created a duplication in numbering, reads as follows:

11 A. An insurance carrier shall offer a shared savings incentive
12 program to provide incentives to an enrollee when the enrollee
13 obtains a comparable health care service that is covered by the
14 health benefit plan from providers that charge less than the average
15 allowed amount.

16 B. If a provider has entered into a contract with a carrier to
17 provide health care services and the contractually agreed-upon
18 amount is less than the average allowed amount, the provider shall
19 not be allowed to participate in that carrier's shared savings
20 incentive program unless the provider agrees to charge less than the
21 contractually agreed-upon amount.

22 C. An enrollee in a health benefit plan that does not include
23 out-of-network provisions may only utilize the shared savings
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1 incentive program among providers within the health benefit plan
2 network.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 6060.43 of Title 36, unless
5 there is created a duplication in numbering, reads as follows:

6 A. An insurance carrier shall offer a shared savings incentive
7 program to an enrollee when covered comparable health care services
8 are obtained from out-of-network providers that charge less than the
9 average allowed amount. Nothing in this act shall be construed to
10 require a health benefit plan to cover a comparable health care
11 service from an out-of-network provider if the health benefit plan
12 does not include out-of-network benefits.

13 B. When an enrollee of a health benefit plan elects to receive
14 a covered comparable health care service from an out-of-network
15 provider who charges less than the average allowed amount, a health
16 benefit plan shall ensure that:

17 1. The enrollee's financial liability is no greater than the
18 in-network deductible, copay, and coinsurance amounts as dictated in
19 the health benefit plan contract;

20 2. Calculation of coinsurance liability is based on the amount
21 charged by the out-of-network provider; and

22 3. The enrollee's provider is paid directly.

23 C. Nothing in this act shall be construed to require a provider
24 to participate in a shared savings incentive program. If an out-of-

1 network provider refuses to charge an amount less than the average
2 allowed amount, the financial liability for the enrollee and the
3 carrier shall be based on the out-of-network health benefit plan
4 provisions.

5 SECTION 5. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 6060.44 of Title 36, unless
7 there is created a duplication in numbering, reads as follows:

8 A. A carrier that offers a shared savings incentive program
9 shall:

10 1. Establish the program as a component part of each health
11 benefit policy;

12 2. Notify enrollees annually or at the time of renewal of the
13 availability of the shared savings incentive program and the
14 procedures to participate in the program;

15 3. Establish an accessible means by which an enrollee may:

16 a. request and obtain from the health benefit plan
17 information regarding the payments made by the carrier
18 to network providers for comparable health care
19 services,

20 b. ascertain the average allowed amount as defined in
21 this act, and

22 c. obtain an estimate of out-of-pocket costs; and
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1 4. Ensure that no less than fifty percent (50%) of the savings
2 generated by the participation of the enrollee in the shared savings
3 incentive program is applied on the enrollee's behalf.

4 B. Savings generated by a shared savings incentive program
5 shall be calculated based upon the difference between the average
6 allowed amount paid for a comparable health care service and the
7 amount charged by the provider. Savings generated by an enrollee's
8 participation in a shared savings incentive program shall be
9 provided to the enrollee in the form of a cash payment or a credit
10 toward the annual in-network deductible and out-of-pocket limit.
11 Savings generated by and provided to enrollees who utilize the
12 shared savings incentive program shall be made at least quarterly in
13 the form of a credit or cash payment to the enrollee.

14 C. Savings generated by a shared savings incentive program,
15 paid or credited to an enrollee, shall not be considered an
16 administrative expense for rate development or rate filing purposes.

17 SECTION 6. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 6060.45 of Title 36, unless
19 there is created a duplication in numbering, reads as follows:

20 A. The Insurance Commissioner shall create a shared savings
21 incentive program form for enrollees and providers, which shall
22 include, but not be limited to:

23 1. The enrollee's name;

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- 1 2. The health benefit plan identification number, if
- 2 applicable;
- 3 3. The participating provider's name;
- 4 4. Network status of the participating provider;
- 5 5. The average allowed amount for comparable health care
- 6 services;
- 7 6. The provider and enrollee contractually agreed-upon amount;
- 8 and
- 9 7. The amount of savings generated by the shared savings
- 10 incentive program.

11 B. A signed copy of the shared savings incentive program form
12 shall be submitted to the insurance carrier in conjunction with the
13 uniform health care claim forms adopted by the Insurance
14 Commissioner pursuant to Section 6581 of Title 36 of the Oklahoma
15 Statutes and any other health care claim forms required by state and
16 federal law.

17 C. Nothing in this act shall prohibit an employer of a self-
18 funded health benefit plan governed by the Employee Retirement
19 Income Security Act of 1974 to voluntarily elect to be subject to
20 the requirements and protections as set forth in this act.
21 Employers who voluntarily elect to be subject to the requirements
22 and protections as set forth in this act shall only fall under the
23 jurisdiction of the Oklahoma Insurance Department for a period of
24 one year. Employers must voluntarily elect to be subject to the

1 provisions of this act every year or at renewal of a health benefit
2 plan.

3 D. The Oklahoma Insurance Commissioner shall set forth an
4 appropriate form, process by which an employer shall voluntarily
5 elect to be subject to the requirements and protections as set forth
6 in this act.

7 SECTION 7. This act shall become effective November 1, 2022.

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