

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 543

By: Standridge

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5
6 AS INTRODUCED

7 An Act relating to state employee benefits; amending
8 74 O.S. 2011, Sections 1371, as last amended by
9 Section 1, Chapter 178, O.S.L. 2016, and 1374, as
10 last amended by Section 1, Chapter 26, O.S.L. 2018
11 (74 O.S. Supp. 2020, Sections 1371 and 1374), which
12 relate to benefit plans and vision plans; requiring
13 Oklahoma Employees Insurance and Benefits Board and
14 Office of Management and Enterprise Services to
15 contract with certain companies for benefit plans;
16 providing an effective date; and declaring an
17 emergency.

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

19 SECTION 1. AMENDATORY 74 O.S. 2011, Section 1371, as
20 last amended by Section 1, Chapter 178, O.S.L. 2016 (74 O.S. Supp.
21 2020, Section 1371), is amended to read as follows:

22 Section 1371. A. All participants must purchase at least the
23 basic plan unless, to the extent that it is consistent with federal
24 law, the participant is a person who has retired from a branch of
the United States military and has been provided with health
coverage through a federal plan and that participant provides proof
of that coverage, or the participant has opted out of the state's

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

10 B. 1. The Board shall offer health, disability, life and
11 dental coverage to all participants and their dependents. For
12 health, dental, disability and life coverage, the Board shall offer
13 plans at the basic benefit level established by the Board, and in
14 addition, may offer benefit plans that provide an enhanced level of
15 benefits.

16 2. For the plan year beginning January 1, 2022, contracts
17 awarded for flexible benefit plans pursuant to this section shall be
18 awarded to Oklahoma-based companies, as defined in Section 11 of
19 Title 31 of the Oklahoma Statutes, unless no Oklahoma-based benefit
20 companies meet specified requirements for vendors established by the
21 Board when performing its responsibilities under Section 1361 et
22 seq. of this title.

23 3. The Board shall be responsible for determining the plan
24 design and the benefit price for the plans that they offer.

1 Effective for the plan year beginning January 1, 2017, and for each
2 plan year thereafter, in setting health insurance premiums for
3 active employees and for retirees under sixty-five (65) years of
4 age, the Board shall set the monthly premium for active employees to
5 be equal to the monthly premium for retirees under sixty-five (65)
6 years of age; except that the Board may offer retirees under sixty-
7 five (65) years of age the opportunity to voluntarily enroll in an
8 alternative plan of insurance at a rate that is between One Hundred
9 Dollars (\$100.00) less than the monthly premium for active employees
10 and up to One Hundred Dollars (\$100.00) more than the monthly
11 premium for active employees. Retirees under the age of sixty-five
12 (65) who enroll in an alternative plan of insurance shall retain the
13 right to enroll in any other health insurance plan offered by the
14 Board for which they might be qualified during a subsequent open
15 enrollment period.

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

20 C. In lieu of electing any of the preceding medical benefit
21 plans, a participant may elect medical coverage by any health
22 maintenance organization made available to participants by the
23 Board. The benefit price of any health maintenance organization
24 shall be determined on a competitive bid basis. Contracts for said

1 plans shall not be subject to the provisions of The Oklahoma Central
2 Purchasing Act. The Board shall promulgate rules establishing
3 appropriate competitive bidding criteria and procedures for
4 contracts awarded for flexible benefits plans. All plans offered by
5 health maintenance organizations meeting the bid requirements as
6 determined by the Board shall be accepted. The Board shall have the
7 authority to reject the bid or restrict enrollment in any health
8 maintenance organization for which the Board determines the benefit
9 price to be excessive. The Board shall have the authority to reject
10 any plan that does not meet the bid requirements. All bidders shall
11 submit along with their bid a notarized, sworn statement as provided
12 by Section 85.22 of this title. Effective for the plan year
13 beginning January 1, 2007, and for each plan year thereafter, in
14 setting health insurance premiums for active employees and for
15 retirees under sixty-five (65) years of age, HMOs, self-insured
16 organizations and prepaid plans shall set the monthly premium for
17 active employees to be equal to the monthly premium for retirees
18 under sixty-five (65) years of age.

19 D. Nothing in this section shall be construed as prohibiting
20 the Board from offering additional qualified benefit plans or
21 currently taxable benefit plans.

22 E. Each employee of a participating employer who meets the
23 eligibility requirements for participation in the flexible benefits
24 plan shall make an annual election of benefits under the plan during
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1 an enrollment period to be held prior to the beginning of each plan
2 year. The enrollment period dates will be determined annually and
3 will be announced by the Board, providing the enrollment period
4 shall end no later than thirty (30) days before the beginning of the
5 plan year.

6 Each such employee shall make an irrevocable advance election
7 for the plan year or the remainder thereof pursuant to such
8 procedures as the Board shall prescribe. Any such employee who
9 fails to make a proper election under the plan shall, nevertheless,
10 be a participant in the plan and shall be deemed to have purchased
11 the default benefits described in this section.

12 F. The Board shall prescribe the forms that participants will
13 be required to use in making their elections, and may prescribe
14 deadlines and other procedures for filing the elections.

15 G. Any participant who, in the first year for which he or she
16 is eligible to participate in the plan, fails to make a proper
17 election under the plan in conformance with the procedures set forth
18 in this section or as prescribed by the Board shall be deemed
19 automatically to have purchased the default benefits. The default
20 benefits shall be the same as the basic plan benefits. Any
21 participant who, after having participated in the plan during the
22 previous plan year, fails to make a proper election under the plan
23 in conformance with the procedures set forth in this section or
24 prescribed by the Board, shall be deemed automatically to have

1 purchased the same benefits which the participant purchased in the
2 immediately preceding plan year, except that the participant shall
3 not be deemed to have elected coverage under the health care
4 reimbursement account plan or the dependent care reimbursement
5 account plan.

6 H. Benefit plan contracts with the Board, health maintenance
7 organizations, and other third party insurance vendors shall provide
8 for a risk adjustment factor for adverse selection that may occur,
9 as determined by the Board, based on generally accepted actuarial
10 principles.

11 I. 1. For the plan year ending December 31, 2004, employees
12 covered or eligible to be covered under the State and Education
13 Employees Group Insurance Act and the State Employees Flexible
14 Benefits Act who are enrolled in a health maintenance organization
15 offering a network in Oklahoma City, shall have the option of
16 continuing care with a primary care physician for the remainder of
17 the plan year if:

- 18 a. that primary care physician was part of a provider
19 group that was offered to the individual at enrollment
20 and later removed from the network of the health
21 maintenance organization, for reasons other than for
22 cause, and

1 b. the individual submits a request in writing to the
2 health maintenance organization to continue to have
3 access to the primary care physician.

4 2. The primary care physician selected by the individual shall
5 be required to accept reimbursement for such health care services on
6 a fee-for-service basis only. The fee-for-service shall be computed
7 by the health maintenance organization based on the average of the
8 other fee-for-service contracts of the health maintenance
9 organization in the local community. The individual shall only be
10 required to pay the primary care physician those co-payments,
11 coinsurance and any applicable deductibles in accordance with the
12 terms of the agreement between the employer and the health
13 maintenance organization and the provider shall not balance bill the
14 patient.

15 3. Any network offered in Oklahoma City that is terminated
16 prior to July 1, 2004, shall notify the health maintenance
17 organization, and Oklahoma Employees Insurance and Benefits Board by
18 June 11, 2004, of the network's intentions to continue providing
19 primary care services as described in paragraph 2 of this subsection
20 offered by the health maintenance organization to state and public
21 employees.

22 SECTION 2. AMENDATORY 74 O.S. 2011, Section 1374, as
23 last amended by Section 1, Chapter 26, O.S.L. 2018 (74 O.S. Supp.
24 2020, Section 1374), is amended to read as follows:

1 Section 1374. A. For the plan year beginning January 1, 2017,
2 and for each year thereafter, it shall be the responsibility of the
3 Office of Management and Enterprise Services to offer vision plans
4 to participants during the open enrollment period. Providers of
5 plans eligible for selection shall submit information requested by
6 the Office of Management and Enterprise Services. Plans eligible
7 for selection shall meet or exceed the following criteria:

8 1. Has in place a statewide network of at least one hundred
9 fifty providers. "Providers", for purposes of this section, means
10 Optometrists (OD), Ophthalmologists (MD), and Ophthalmologists (DO)
11 which shall be counted once regardless of the number of locations
12 where they may practice. Optical shops and retail optical locations
13 shall not be listed as providers. The company offering the vision
14 plan must have a direct relationship with each provider on its
15 panel, and may not lease, borrow, or otherwise obtain use of a
16 provider panel from another company. This would not prevent a
17 company from offering its plan through one corporate entity and
18 administering the plan or provider panel through another legal
19 entity of the same organization so long as the entity receiving
20 premiums remains legally responsible for the payment of benefits.
21 Providers must be actively engaged in providing the services offered
22 under the vision plan they represent;

23 2. Has operated in Oklahoma for at least five (5) years;
24 provided, that an immediately prior operation in Oklahoma of a

1 nonsurviving corporation that merges into an affiliated corporation
2 shall be counted in determining whether the surviving corporation
3 has operated a plan in Oklahoma for five (5) years;

4 3. Is properly licensed, registered, certified or authorized to
5 operate its business in this state by the Insurance Department.

6 Vision plans must be offered by the company administering the plan,
7 not by an agent or third party. A company shall offer only one
8 vision plan and rate schedule for each plan year;

9 4. Presents accurate product information in a reproducible
10 format not to exceed two pages; and

11 5. Vision plans must provide an examination, frames and lenses,
12 and/or contact lenses and some form of indemnified payment to the
13 contracted providers for each component of the benefits, i.e., the
14 exam, frames and lenses and/or contact lenses. This does not
15 eliminate discounted supplementary benefits under a qualified plan,
16 so long as such benefits pertain to vision care.

17 B. Any administrative fees imposed by the Office of Management
18 and Enterprise Services shall be applied equally to all qualified
19 vision plans. There shall be no additional requirements imposed on
20 a vision plan other than the proper licensing, certification or
21 authorization to operate its business by the Oklahoma Insurance
22 Department.

23 C. ~~No more than two~~ For the plan year beginning January 1,
24 2022, vendors offered for enrollment in any state employee benefit

1 offering shall be limited to Oklahoma-based vision care benefits
2 companies that meet the criteria as specified in subsection A of
3 this section. ~~and no more than two~~ If no Oklahoma-based vision care
4 benefits companies meet the specified criteria, out-of-state vision
5 care benefits companies that meet the criteria as specified in
6 subsection A of this section shall be offered as vendors for
7 enrollment ~~in any state employee benefit offering.~~ For purposes of
8 this subsection, an "Oklahoma-based vision care benefits company"
9 shall be defined as follows:

10 1. A vision care benefits company that has a home office,
11 customer service and administration located within the State of
12 Oklahoma and is subject to Oklahoma state income taxes; or

13 2. A vision care benefits company that has a majority of
14 ownership interest held either directly or indirectly by residents
15 of the State of Oklahoma and is subject to Oklahoma state income
16 taxes.

17 D. In the event the number of vision companies submitting
18 offerings exceeds the amount permitted under subsection C of this
19 section, the Office of Management and Enterprise Services shall have
20 the authority to reject excess offerings based upon failures to meet
21 bid requirements or for providing lesser value for the State of
22 Oklahoma.

23 SECTION 3. This act shall become effective July 1, 2021.
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1 SECTION 4. It being immediately necessary for the preservation
2 of the public peace, health or safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.
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