

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

COMMITTEE SUBSTITUTE  
FOR

HOUSE BILL NO. 3304

By: Bennett

COMMITTEE SUBSTITUTE

An Act relating to insurance; amending 36 O.S. 2021, Section 123, which relates to delivery and storage of electronic documents; providing definitions; modifying definition; permitting plan sponsor of a health benefit plan to take certain actions on behalf of certain covered persons; requiring certain actions by plan sponsor; requiring certain actions by the insurer for the health benefit plan; requiring insurer to apprise certain parties of significance of certain notice or documents; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 2021, Section 123, is amended to read as follows:

Section 123. A. In this section, the following words shall have the following meanings:

1. "Delivered by electronic means" includes:

a. delivery to an electronic mail address at which a party has consented to receive notices or documents,  
or

1           b.   posting on an electronic network or site accessible  
2               via the Internet, mobile application, computer, mobile  
3               device, tablet or any other electronic device,  
4               together with separate notice of the posting which  
5               shall be provided by electronic mail to the address at  
6               which the party has consented to receive notice, or by  
7               any other delivery method that has been consented to  
8               by the party.

9           2.   "Health benefit plan" means a policy, contract, certificate,  
10   or agreement entered into, offered by, or issued by an insurer to  
11   provide, deliver, arrange for, pay for, or reimburse any of the  
12   costs of healthcare services, including a vision or dental benefit  
13   plan and a self-insured plan as permitted under the Employee  
14   Retirement Income Security Act of 1974.

15          3.   "Party" means any recipient of any notice or document  
16   required as part of an insurance transaction, including but not  
17   limited to an applicant, an insured, a policyholder, a covered  
18   person, or an annuity contract holder.

19          4.   "Plan sponsor" means a person, other than a regulated  
20   entity, who establishes, adopts, or maintains a health benefit plan  
21   that covers residents of this state, including a plan established,  
22   adopted, or maintained by an employer or jointly by an employer and  
23   one or more employee organizations, an association, a committee, a  
24

1 joint board of trustees, or any similar group of representatives who  
2 establish, adopt, or maintain a plan.

3 B. Subject to the requirements of this section, any notice to a  
4 party or any other document required under applicable law in an  
5 insurance transaction, or that is to serve as evidence of insurance  
6 coverage, may be delivered, stored and presented by electronic  
7 means, so long as it meets the requirements of the Uniform  
8 Electronic Transactions Act pursuant to Section 15-101, et seq. of  
9 Title 12A of the Oklahoma Statutes.

10 C. Delivery of a notice or document in accordance with this  
11 section shall be considered equivalent to any delivery method  
12 required under applicable law, including delivery by first class  
13 mail; first class mail, postage prepaid; certified mail; certificate  
14 of mail; or certificate of mailing.

15 D. A notice or document may be delivered by electronic means by  
16 an insurer to a party under this section if:

17 1. The party has affirmatively consented to that method of  
18 delivery and has not withdrawn the consent; or

19 2. The party, before giving consent, is provided with a clear  
20 and conspicuous statement informing the party of:

21 a. the right of the party to withdraw consent to have a  
22 notice or document delivered by electronic means, at  
23 any time, and any conditions or consequences imposed  
24 in the event consent is withdrawn,

- b. the types of notices and documents to which the party's consent would apply,
- c. the right of a party to have a notice or document delivered in paper form, and
- d. the procedures a party must follow to withdraw consent to have a notice or document delivered by electronic means and to update the party's electronic mail address;

3. The party:

- a. before giving consent, is provided with a statement of the hardware and software requirements for access to and retention of a notice or document delivered by electronic means, and
- b. consents electronically, or confirms consent electronically, in a manner that reasonably demonstrates that the party can access information in the electronic form that will be used for notices or documents delivered by electronic means as to which the party has given consent;

4. The insurer takes measures reasonably calculated to ensure that delivery by electronic means results in receipt of the notice or document by the party; and

5. After consent of the party is given, the insurer, in the event a change in the hardware or software requirements needed to

1 access or retain a notice or document delivered by electronic means  
2 creates a material risk that the party will not be able to access or  
3 retain a subsequent notice or document to which the consent applies:

4 a. provides the party with a statement that describes:

5 (1) the revised hardware and software requirements

6 for access to and retention of a notice or

7 document delivered by electronic means, and

8 (2) the right of the party to withdraw consent

9 without the imposition of any condition or

10 consequence that was not disclosed at the time of

11 initial consent, and

12 b. complies with paragraph 2 of this subsection.

13 E. 1. The plan sponsor of a health benefit plan may, on behalf  
14 of covered persons enrolled in the plan, provide the consent to the  
15 mailing of all communications related to the plan by electronic  
16 means otherwise required by paragraphs 1 and 2 of subsection D of  
17 this section.

18 2. Before consenting on behalf of a covered person, a plan  
19 sponsor must:

20 a. confirm that the covered person routinely uses

21 electronic communications during the normal course of

22 employment and is able to access and retain electronic

23 communications that may be delivered by the insurer,

24 and

1        b.    inform the party that such consent will be provided,  
2        and that notices and documents related to the plan may  
3        be delivered to the party's work electronic mail  
4        address unless the party affirmatively opts out of  
5        delivery by electronic means or provides an  
6        alternative electronic mail address.

7        3.    Before providing delivery of a notice or document by  
8        electronic means pursuant to this subsection, the insurer for the  
9        health benefit plan must:

10       a.    provide the party with a clear and conspicuous  
11       statement informing the person of all of the  
12       following:

- 13                (1)    the types of notices and documents that may  
14                be delivered to the covered person by  
15                electronic means,  
16                (2)    the right of the party to withdraw consent  
17                to have a notice or document delivered by  
18                electronic means at any time without charge,  
19                (3)    the procedures the party must follow to  
20                withdraw consent to have a notice or  
21                document delivered by electronic means and  
22                to update the person's electronic mail  
23                address, and

1                   (4) the right of the party to have any notice or  
2                   document delivered, upon request, in paper  
3                   form free of charge,

4           b. provide the party an opportunity to opt out of  
5           delivery by electronic means,

6           c. document that the applicable provisions of the  
7           conditions under the Uniform Electronic Transactions  
8           Act, found at Section 15-101 et seq. of Title 12A of  
9           the Oklahoma Statutes, are satisfied, and

10          d. satisfy the other requirements of this subsection.

11          4. When a notice or document is provided electronically to a  
12          party pursuant to this subsection, an insurer shall apprise the  
13          party of the significance of the notice or document when it is not  
14          otherwise reasonably evident and of the right to request and obtain  
15          a paper version of such notice or document.

16          F. This section does not affect requirements related to content  
17 or timing of any notice or document required under applicable law.

18          ~~F.~~ G. If a provision of this title or applicable law requiring  
19 a notice or document to be provided to a party expressly requires  
20 verification or acknowledgment of receipt of the notice or document,  
21 the notice or document may be delivered by electronic means only if  
22 the method used provides for verification or acknowledgment of  
23 receipt.

1       ~~G.~~ H. The legal effectiveness, validity or enforceability of  
2 any contract or policy of insurance executed by a party may not be  
3 denied solely because of the failure to obtain electronic consent or  
4 confirmation of consent of the party in accordance with subparagraph  
5 b of paragraph 3 of subsection D of this section.

6       ~~H.~~ I. 1. A withdrawal of consent by a party does not affect  
7 the legal effectiveness, validity or enforceability of a notice or  
8 document delivered by electronic means to the party before the  
9 withdrawal of consent is effective.

10       2. A withdrawal of consent by a party is effective within a  
11 reasonable period of time after receipt of the withdrawal by the  
12 insurer.

13       3. Failure by an insurer to comply with paragraph 5 of  
14 subsection D and subsection J of this section may be treated, at the  
15 election of the party, as a withdrawal of consent for purposes of  
16 this section.

17       ~~I.~~ J. This section does not apply to a notice or document  
18 delivered by an insurer in an electronic form before the effective  
19 date of this act to a party who, before that date, has consented to  
20 receive notice or document in an electronic form otherwise allowed  
21 by law.

22       ~~J.~~ K. If the consent of a party to receive certain notices or  
23 documents in an electronic form is on file with an insurer before  
24 the effective date of this act, and pursuant to this section, an



1 insurer intends to deliver additional notices or documents to such  
2 party in an electronic form, then prior to delivering such  
3 additional notices or documents electronically, the insurer shall:

4 1. Provide the party with a statement that describes:

5 a. the notices or documents that shall be delivered by  
6 electronic means under this section that were not  
7 previously delivered electronically, and

8 b. the party's right to withdraw consent to have notices  
9 or documents delivered by electronic means, without  
10 the imposition of any condition or consequence that  
11 was not disclosed at the time of initial consent; and

12 2. Comply with paragraph 2 of subsection D of this section.

13 ~~K.~~ L. An insurer shall deliver a notice or document by any  
14 other delivery method permitted by law other than electronic means  
15 if:

16 1. The insurer attempts to deliver the notice or document by  
17 electronic means and has a reasonable basis for believing that the  
18 notice or document has not been received by the party; or

19 2. The insurer becomes aware that the electronic mail address  
20 provided by the party is no longer valid.

21 ~~L.~~ M. A producer shall not be subject to civil liability for  
22 any harm or injury that occurs as a result of a party's election to  
23 receive any notice or document by electronic means or by an  
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1 insurer's failure to deliver a notice or document by electronic  
2 means.

3 ~~M.~~ N. This section may not be construed to modify, limit or  
4 supersede the provisions of the federal Electronic Signatures in  
5 Global and National Commerce Act, Public Law 106-229, as amended.

6 SECTION 2. This act shall become effective November 1, 2024.

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