

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 HOUSE BILL 3368

 By: McEntire

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6
7 AS INTRODUCED

8 An Act relating to health insurance; creating the
9 Patients Pay Less Act; providing for noncodification;
10 limiting cost sharing; regulating pharmacy benefits
11 managers; promulgating rules; providing definitions;
12 limiting cost sharing; regulating health insurers and
13 administrators; amending 36 O.S. 2021, Section 6960,
14 as amended by Section 1, Chapter 38, O.S.L. 2022 (36
15 O.S. Supp. 2023, Section 6960), which relates to
16 Patient's Right to Pharmacy Choice Act definitions;
17 adding definitions; providing for noncodification;
18 providing for codification; and providing an
19 effective date.

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

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

23 This act shall be known and may be cited as the "Patients Pay
24 Less Act".

25 SECTION 2. NEW LAW A new section of law to be codified
26 in the Oklahoma Statutes as Section 6962.1 of Title 36, unless there
27 is created a duplication in numbering, reads as follows:

1 A. The annual limitation on cost sharing provided for under 42
2 U.S.C., Section 18022(c)(1) shall apply to all health care services
3 covered under any health plan offered or issued by a health insurer
4 in this state, including a health plan administered by a pharmacy
5 benefits manager.

6 B. A pharmacy benefits manager shall not directly or indirectly
7 set, alter, implement, or condition the terms of health plan
8 coverage, including the benefit design, based in part or entirely on
9 information about the availability or amount of financial or product
10 assistance available for a prescription drug.

11 C. Annually by December 31, a pharmacy benefits manager shall
12 certify to the Insurance Commissioner that it has fully and
13 completely complied with the requirements of this section throughout
14 the prior calendar year. Such certification must be signed by the
15 chief executive officer or chief financial officer of the pharmacy
16 benefits manager.

17 D. This section shall apply with respect to health plans that
18 are entered into, amended, extended, or renewed on or after January
19 1, 2025.

20 E. In implementing the requirements of this section, the state
21 shall only regulate a health insurer, health plan, or pharmacy
22 benefits manager to the extent permissible under applicable law.

23 F. The Insurance Department may promulgate rules to effectuate
24 the provisions of this section.

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6969 of Title 36, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Notwithstanding any other provision of law, for purposes of
5 the Patients Pay Less Act:

6 1. "Administrator" has the same meaning as that term is defined
7 in Section 1442 of Title 36 of the Oklahoma Statutes, with respect
8 to any person who administers a health plan subject to the insurance
9 laws and rules of insurance in this state or subject to the
10 jurisdiction of the Insurance Department;

11 2. "Cost sharing" means any copayment, coinsurance, deductible,
12 or other similar charges required of an enrollee for a health care
13 service covered by a health plan, including a prescription drug, and
14 paid by or on behalf of such enrollee;

15 3. "Enrollee" means any individual entitled to health care
16 services from a health insurer;

17 4. "Health care service" means an item or service furnished to
18 any individual for the purpose of preventing, alleviating, curing,
19 or healing human illness, injury, or physical disability;

20 5. "Health insurer" has the same meaning as that term is
21 defined in Section 6960 of Title 36 of the Oklahoma Statutes;

22 6. "Health plan" means a policy, contract, certification, or
23 agreement offered or issued by a health insurer to provide, deliver,
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1 arrange for, pay for, or reimburse any of the costs of health care
2 services; and

3 7. "Person" means a natural person, corporation, mutual
4 company, unincorporated association, partnership, joint venture,
5 limited liability company, trust, estate, foundation, not-for-profit
6 corporation, unincorporated organization, government, or
7 governmental subdivision or agency.

8 B. The annual limitation on cost sharing provided for under 42
9 U.S.C., Section 18022(c)(1) shall apply to all health care services
10 covered under any health plan offered or issued by a health insurer
11 in this state.

12 C. A health insurer or administrator shall not directly or
13 indirectly set, alter, implement, or condition the terms of health
14 plan coverage, including the benefit design, based in part or
15 entirely on information about the availability or amount of
16 financial or product assistance available for a prescription drug.

17 D. Annually by December 31, each health insurer or
18 administrator must certify to the Insurance Commissioner that it has
19 fully and completely complied with the requirements of this section
20 throughout the prior calendar year. Such certification must be
21 signed by the chief executive officer or chief financial officer of
22 the health insurer or administrator.

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1 E. This section shall apply with respect to health plans that
2 are entered into, amended, extended, or renewed on or after January
3 1, 2025.

4 F. In implementing the requirements of this section, the state
5 shall only regulate a health insurer, health plan, or administrator
6 to the extent permissible under applicable law.

7 G. The Insurance Department may promulgate rules to effectuate
8 the provisions of this section.

9 SECTION 4. AMENDATORY 36 O.S. 2021, Section 6960, as
10 amended by Section 1, Chapter 38, O.S.L. 2022 (36 O.S. Supp. 2023,
11 Section 6960), is amended to read as follows:

12 Section 6960. ~~For~~ Notwithstanding any other provision of law,
13 for purposes of the Patient's Right to Pharmacy Choice Act:

14 1. "Cost sharing" means any copayment, coinsurance, deductible,
15 or other similar charges required of an enrollee for a health care
16 service covered by a health plan, including a prescription drug, and
17 paid by or on behalf of such enrollee;

18 2. "Enrollee" means any individual entitled to health care
19 services from a health insurer;

20 3. "Health care service" means an item or service furnished to
21 any individual for the purpose of preventing, alleviating, curing,
22 or healing human illness, injury, or physical disability;

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1 4. "Health insurer" means any corporation, association, benefit
2 society, exchange, partnership or individual licensed by the
3 Oklahoma Insurance Code;

4 ~~2.~~ 5. "Health insurer payor" means a health insurance company,
5 health maintenance organization, union, hospital and medical
6 services organization or any entity providing or administering a
7 self-funded health benefit plan;

8 6. "Health plan" means a policy, contract, certification, or
9 agreement offered or issued by a health insurer to provide, deliver,
10 arrange for, pay for, or reimburse any of the costs of health care
11 services;

12 ~~3.~~ 7. "Mail-order pharmacy" means a pharmacy licensed by this
13 state that primarily dispenses and delivers covered drugs via common
14 carrier;

15 ~~4.~~ 8. "Pharmacy benefits manager" or "PBM" means a person that,
16 either directly or through an intermediary, performs pharmacy
17 benefits management, as defined in paragraph 6 of Section 357 of
18 Title 59 of the Oklahoma Statutes, and any other person acting for
19 such person under a contractual or employment relationship in the
20 performance of pharmacy benefits management for a managed-care
21 company, nonprofit hospital, medical service organization, insurance
22 company, third-party payor or a health program administered by a
23 department of this state;

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1 9. "Person" means a natural person, corporation, mutual
2 company, unincorporated association, partnership, joint venture,
3 limited liability company, trust, estate, foundation, not-for-profit
4 corporation, unincorporated organization, government, or
5 governmental subdivision or agency;

6 ~~5.~~ 10. "Provider" means a pharmacy, as defined in Section 353.1
7 of Title 59 of the Oklahoma Statutes or an agent or representative
8 of a pharmacy;

9 ~~6.~~ 11. "Retail pharmacy network" means retail pharmacy
10 providers contracted with a PBM in which the pharmacy primarily
11 fills and sells prescriptions via a retail, storefront location;

12 ~~7.~~ 12. "Rural service area" means a five-digit ZIP code in
13 which the population density is less than one thousand (1,000)
14 individuals per square mile;

15 ~~8.~~ 13. "Spread pricing" means a prescription drug pricing model
16 utilized by a pharmacy benefits manager in which the PBM charges a
17 health benefit plan a contracted price for prescription drugs that
18 differs from the amount the PBM directly or indirectly pays the
19 pharmacy or pharmacist for providing pharmacy services;

20 ~~9.~~ 14. "Suburban service area" means a five-digit ZIP code in
21 which the population density is between one thousand (1,000) and
22 three thousand (3,000) individuals per square mile; and
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1 ~~10.~~ 15. "Urban service area" means a five-digit ZIP code in
2 which the population density is greater than three thousand (3,000)
3 individuals per square mile.

4 SECTION 5. This act shall become effective November 1, 2024.

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6 COMMITTEE REPORT BY: COMMITTEE ON INSURANCE, dated 02/22/2024 - DO
7 PASS.

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