

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1824

By: McCortney

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6 AS INTRODUCED

7 An Act relating to health insurance; creating the
8 Oklahoma Right to Shop Act; defining terms; requiring
9 Office of Management and Enterprise Services offered
10 health benefit plans to establish certain program;
11 requiring certain filing with Insurance Commissioner;
12 requiring certain notice to employees; construing
13 provision; requiring Commissioner to review filing
14 for compliance; requiring notice of certain
15 information; authorizing Commissioner to promulgate
16 rules; requiring OMES to establish website and phone
17 number for certain purpose; requiring certain
18 information to be available to employees; construing
19 provision; requiring OMES to allow employee to obtain
20 certain out-of-network services; requiring employee
21 to demonstrate certain application of payments; and
22 requiring carrier to provide certain form; specifying
23 that certain payments are not administrative expense;
24 providing for codification; and providing an
effective date.

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

20 SECTION 1. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 1330 of Title 74, unless there
22 is created a duplication in numbering, reads as follows:

23 This act shall be known and may be cited as the "Oklahoma
24 Employees' Right to Shop Act".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1330.1 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in this act, the following definitions apply:

5 1. "Carrier" shall mean the State of Oklahoma or a state
6 designated health maintenance organization that is federally
7 qualified under 42 U.S.C. Section 300e, as provided in Section 1303
8 of Title 74 of the Oklahoma Statutes;

9 2. "Comparable health care service" means any non-emergency,
10 outpatient health care services in the following categories:

- 11 a. Physical and occupational therapy services,
- 12 b. Radiology and imaging services,
- 13 c. Laboratory services, and
- 14 d. Infusion therapy services;

15 3. "Employee" shall mean state and education employees, defined
16 pursuant to Section 1303 of Title 74 of the Oklahoma Statutes and
17 any other employee enrolled in a health benefit plan pursuant to the
18 Oklahoma Employees Insurance and Benefits Act;

19 4. "Health Care Entity" means a physician, as defined in
20 Section 3101.3 of Title 63 of the Oklahoma Statutes, hospital, as
21 defined in 1-701 of Title 63 of the Oklahoma Statutes,
22 pharmaceutical company, pharmacist, as defined in Section 3634.2 of
23 Title 36 of the Oklahoma Statutes, laboratory or any other state-
24 licensed or state-recognized provider of health care services;

1 5. "Health plan" means a health insurance plan provided to
2 employees pursuant to the State and Education Employees Group
3 Insurance Act; and

4 6. "Program" means the comparable health care service incentive
5 program established by a carrier pursuant to this act.

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 1330.2 of Title 74, unless there
8 is created a duplication in numbering, reads as follows:

9 A. At the next open enrollment period for the plan year
10 beginning January 1, 2021, a carrier offering a health benefit plan
11 for an employee shall comply with the following requirements:

12 1. Establish for all health care plans a program in which
13 employees are incentivized to shop for and choose low-cost, high-
14 quality participating providers for comparable health care services.
15 Incentives shall include but are not limited to cash payments,
16 reductions of premiums, copayments or deductibles;

17 2. Prior to offering the program to any employee, a carrier
18 shall file with the Insurance Commissioner a description of the
19 program using a form provided by the Insurance Commissioner.

20 a. The carrier must disclose, in the summary of benefits
21 and explanation of coverage of the health plan, a
22 detailed description of the incentives available to an
23 employee. The description must clearly detail any
24 incentives that can be earned by the employee,

1 including any limits on such incentives, the actions
2 that must be taken in order to earn such incentives
3 and a list of the types of services that qualify under
4 the program.

5 b. This paragraph shall not be construed as preventing a
6 carrier from directing an employee to the website or
7 toll-free telephone number of the carrier for further
8 information on the program in the summary of benefits
9 and explanation of coverage.

10 c. The Insurance Commissioner shall review the filing
11 made by the carrier to determine if the program
12 complies with the requirements of this act; and

13 3. Annually at enrollment or renewal of a health plan, a
14 carrier shall provide notice to employees of the availability of the
15 program with a description of the incentives available to the
16 employee and how the incentives are earned.

17 B. The Insurance Commissioner shall promulgate rules to
18 implement the provisions of this section.

19 SECTION 4. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 1330.3 of Title 74, unless there
21 is created a duplication in numbering, reads as follows:

22 A. At the next open enrollment period for the plan year
23 beginning January 1, 2021, a carrier offering a health benefit plan
24 to an employee shall do the following:

1 1. Establish and maintain an interactive website and a toll-
2 free telephone number enabling an employee to obtain information on
3 the estimated costs for obtaining a comparable health care service
4 from network providers, as well as quality data for those providers
5 to the extent this data is available;

6 2. Make available to the employee the ability to obtain an
7 estimated cost based on a description of the health care service or
8 the applicable standard medical codes or current procedural
9 terminology codes used by the American Medical Association given to
10 the employee by the health care entity providing comparable health
11 care service. Upon request of the employee, the carrier shall
12 request additional or clarifying code information, if needed, from
13 the health care entity. If the carrier obtains specific code
14 information from the employee or the health care entity, the carrier
15 shall provide the anticipated charge and the anticipated out-of-
16 pocket costs based on that code information to the extent that
17 information is made available to the carrier by the health care
18 entity;

19 3. Notify an employee that the amounts are estimates based on
20 information available to the carrier at the time the request is made
21 and that the amount the employee will be responsible to pay may vary
22 due to unforeseen circumstances that arise out of the proposed
23 comparable health care service.

1 Nothing in this paragraph shall be construed to prohibit a
2 carrier from imposing cost-sharing requirements disclosed in the
3 certificate of coverage of an employee for unforeseen health care
4 services that arise out of the proposed comparable health care
5 service or for a procedure or service that is not included in the
6 original estimate;

7 4. This section does not prohibit an employee from contacting
8 the carrier to obtain more information about a specific procedure or
9 service with respect to a specific provider; and

10 5. The Insurance Commissioner shall promulgate rules to
11 implement the provisions of this section.

12 SECTION 5. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1330.4 of Title 74, unless there
14 is created a duplication in numbering, reads as follows:

15 A. If an employee covered under a health benefit plan other
16 than a health maintenance organization plan elects to obtain a
17 covered health care service from an out-of-network provider or
18 facility, or both, at a cost that is the same or less than the
19 average the carrier of the employee currently pays to health care
20 providers or facilities within its network, the carrier shall allow
21 the employee to obtain the service from the out-of-network provider,
22 facility or both and, upon request by the employee, shall apply the
23 payments made by the employee for that health care service toward
24 the deductible and out-of-pocket maximum specified in his or her

1 health plan as if the health care services had been provided in-
2 network, and shall reimburse the employee any copayment amount paid
3 that is over the copayment required for an in-network provider or
4 facility. The employee is responsible for demonstrating to the
5 carrier that payments made by the employee to the out-of-network
6 provider should be applied toward the deductible or out-of-pocket
7 maximum of the employee pursuant to this subsection. The carrier
8 shall provide a downloadable or interactive online form to the
9 employee for the purpose of making the demonstration and may require
10 that copies of bills and proof of payment be submitted by the
11 employee.

12 B. A comparable health care service incentive payment made by a
13 carrier in accordance with the provisions of this section is not an
14 administrative expense of the carrier for rate development or rate
15 filing purposes.

16 SECTION 6. This act shall become effective November 1, 2020.

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