

1 **SENATE FLOOR VERSION**

2 February 8, 2021

3 SENATE BILL NO. 508

By: Montgomery

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7 An Act relating to insurance; amending 36 O.S. 2011,  
8 Sections 1250.5, as amended by Section 1, Chapter  
9 105, O.S.L. 2012 (36 O.S. Supp. 2020, Section 1250.5)  
10 and 6475.16, which relate to unfair claim settlement  
11 practices and independent review organizations;  
12 modifying act considered unfair claim settlement  
13 practice; requiring insurer pay interest on claim in  
14 certain circumstance; specifying time interest begins  
15 accruing; specifying when payment shall be considered  
16 made; and providing an effective date.

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

18 SECTION 1. AMENDATORY 36 O.S. 2011, Section 1250.5, as  
19 amended by Section 1, Chapter 105, O.S.L. 2012 (36 O.S. Supp. 2020,  
20 Section 1250.5), is amended to read as follows:

21 Section 1250.5. Any of the following acts by an insurer, if  
22 committed in violation of Section 1250.3 of this title, constitutes  
23 an unfair claim settlement practice exclusive of paragraph 16 of  
24 this section which shall be applicable solely to health benefit  
plans:

1. Failing to fully disclose to first party claimants,  
benefits, coverages, or other provisions of any insurance policy or

1 insurance contract when the benefits, coverages or other provisions  
2 are pertinent to a claim;

3 2. Knowingly misrepresenting to claimants pertinent facts or  
4 policy provisions relating to coverages at issue;

5 3. Failing to adopt and implement reasonable standards for  
6 prompt investigations of claims arising under its insurance policies  
7 or insurance contracts;

8 4. Not attempting in good faith to effectuate prompt, fair and  
9 equitable settlement of claims submitted in which liability has  
10 become reasonably clear;

11 5. Failing to comply with the provisions of Section 1219 of  
12 this title;

13 6. Denying a claim for failure to exhibit the property without  
14 proof of demand and unfounded refusal by a claimant to do so;

15 7. Except where there is a time limit specified in the policy,  
16 making statements, written or otherwise, which require a claimant to  
17 give written notice of loss or proof of loss within a specified time  
18 limit and which seek to relieve the company of its obligations if  
19 the time limit is not complied with unless the failure to comply  
20 with the time limit prejudices the rights of an insurer;

21 8. Requesting a claimant to sign a release that extends beyond  
22 the subject matter that gave rise to the claim payment;

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1           9. Issuing checks or drafts in partial settlement of a loss or  
2 claim under a specified coverage which contain language releasing an  
3 insurer or its insured from its total liability;

4           10. Denying payment to a claimant on the grounds that services,  
5 procedures~~7~~ or supplies provided by a treating physician or a  
6 hospital were not medically necessary unless the health insurer or  
7 administrator, as defined in Section 1442 of this title, first  
8 obtains an opinion from any provider of health care licensed by law  
9 and preceded by a medical examination or claim review, to the effect  
10 that the services, procedures or supplies for which payment is being  
11 denied were not medically necessary. Upon written request of a  
12 claimant, treating physician~~7~~ or hospital, the opinion shall be set  
13 forth in a written report, prepared and signed by the reviewing  
14 physician. The report shall detail which specific services,  
15 procedures, or supplies were not medically necessary, in the opinion  
16 of the reviewing physician, and an explanation of that conclusion.  
17 A copy of each report of a reviewing physician shall be mailed by  
18 the health insurer~~7~~ or administrator, postage prepaid, to the  
19 claimant, treating physician or hospital requesting same within  
20 fifteen (15) days after receipt of the written request. As used in  
21 this paragraph, "physician" means a person holding a valid license  
22 to practice medicine and surgery, osteopathic medicine, podiatric  
23 medicine, dentistry, chiropractic~~7~~ or optometry, pursuant to the  
24 state licensing provisions of Title 59 of the Oklahoma Statutes;

1 11. Compensating a reviewing physician, as defined in paragraph  
2 10 of this subsection, on the basis of a percentage of the amount by  
3 which a claim is reduced for payment;

4 12. Violating the provisions of the Health Care Fraud  
5 Prevention Act;

6 13. Compelling, without just cause, policyholders to institute  
7 suits to recover amounts due under its insurance policies or  
8 insurance contracts by offering substantially less than the amounts  
9 ultimately recovered in suits brought by them, when the  
10 policyholders have made claims for amounts reasonably similar to the  
11 amounts ultimately recovered;

12 14. Failing to maintain a complete record of all complaints  
13 which it has received during the preceding three (3) years or since  
14 the date of its last financial examination conducted or accepted by  
15 the Commissioner, whichever time is longer. This record shall  
16 indicate the total number of complaints, their classification by  
17 line of insurance, the nature of each complaint, the disposition of  
18 each complaint, and the time it took to process each complaint. For  
19 the purposes of this paragraph, "complaint" means any written  
20 communication primarily expressing a grievance;

21 15. Requesting a refund of all or a portion of a payment of a  
22 claim made to a claimant or health care provider more than ~~twenty-~~  
23 ~~four~~ ~~(24)~~ twelve (12) months after the payment is made. This  
24 paragraph shall not apply:

- 1           a.    if the payment was made because of fraud committed by  
2                    the claimant or health care provider, or  
3           b.    if the claimant or health care provider has otherwise  
4                    agreed to make a refund to the insurer for overpayment  
5                    of a claim;

6           16.   Failing to pay~~7~~ or requesting a refund of a payment, for  
7 health care services covered under the policy if a health benefit  
8 plan~~7~~ or its agent~~7~~ has provided a preauthorization or  
9 precertification and verification of eligibility for those health  
10 care services. This paragraph shall not apply if:

- 11           a.    the claim or payment was made because of fraud  
12                    committed by the claimant or health care provider,  
13           b.    the subscriber had a preexisting exclusion under the  
14                    policy related to the service provided, or  
15           c.    the subscriber or employer failed to pay the  
16                    applicable premium and all grace periods and  
17                    extensions of coverage have expired; or

18           17.   Denying or refusing to accept an application for life  
19 insurance, or refusing to renew, cancel, restrict or otherwise  
20 terminate a policy of life insurance, or charge a different rate  
21 based upon the lawful travel destination of an applicant or insured  
22 as provided in Section 4024 of this title.

23           SECTION 2.        AMENDATORY        36 O.S. 2011, Section 6475.16, is  
24 amended to read as follows:

1 Section 6475.16. A. The health carrier against which a request  
2 for a standard external review or an expedited external review is  
3 filed shall pay the cost of the independent review organization for  
4 conducting the external review.

5 B. 1. In the event an external review or an expedited external  
6 review finds a health carrier's adverse determination or final  
7 adverse determination denying coverage to an insured was improper,  
8 the health carrier shall pay interest to the insured, an assignee of  
9 the insured or a health care provider, as applicable, within forty-  
10 five (45) calendar days of the finding.

11 2. Interest shall accrue beginning on the date the claim for  
12 coverage was submitted at a rate of ten percent (10%) per year.

13 Payment shall be considered made on:

14 a. the date a draft or other valid instrument which is  
15 equivalent to the amount of the payment is placed in  
16 the United States mail in a properly addressed,  
17 postpaid envelope, or

18 b. if not so posted, the date of delivery.

19 SECTION 3. This act shall become effective November 1, 2021.

20 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE  
21 February 8, 2021 - DO PASS  
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