

# An Act

ENROLLED HOUSE  
BILL NO. 3369

By: McEntire of the House

and

Garvin of the Senate

An Act relating to state government; amending 74 O.S. 2021, Section 1304.1, which relates to the Oklahoma Employees Insurance and Benefits Act; modifying certain duties and responsibilities; adding external review requirements; and providing an effective date.

SUBJECT: State government

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

SECTION 1. AMENDATORY 74 O.S. 2021, Section 1304.1, is amended to read as follows:

Section 74-1304.1 A. The State and Education Employees Group Insurance Board and the Oklahoma State Employees Benefits Council are hereby abolished. Wherever the State and Education Employees Group Insurance Board and the Oklahoma State Employees Benefits Council are referenced in law, that reference shall be construed to mean the Oklahoma Employees Insurance and Benefits Board.

B. There is hereby created the Oklahoma Employees Insurance and Benefits Board.

C. The chair and vice-chair shall be elected by the Board members at the first meeting of the Board and shall preside over meetings of the Board and perform other duties as may be required by the Board. Upon the resignation or expiration of the term of the chair or vice-chair, the members shall elect a chair or vice-chair. The Board shall elect one of its members to serve as secretary.

D. The Board shall consist of seven (7) members to be appointed as follows:

1. The State Insurance Commissioner, or designee;

2. Four members shall be appointed by the Governor;

3. One member shall be appointed by the Speaker of the Oklahoma House of Representatives; and

4. One member shall be appointed by the President Pro Tempore of the Oklahoma State Senate.

E. The appointed members shall:

1. Have demonstrated professional experience in investment or funds management, public funds management, public or private group health or pension fund management, or group health insurance management;

2. Be licensed to practice law in this state and have demonstrated professional experience in commercial matters; or

3. Be licensed by the Oklahoma Accountancy Board to practice in this state as a public accountant or a certified public accountant.

In making appointments that conform to the requirements of this subsection, at least one but not more than three members shall be appointed each from paragraphs 2 and 3 of this subsection by the combined appointing authorities.

F. Each member of the Board shall serve a term of four (4) years from the date of appointment.

G. Members of the Board shall be subject to the following:

1. The appointed members shall each receive compensation of Five Hundred Dollars (\$500.00) per month. Appointed members who fail to attend a regularly scheduled meeting of the Board shall not receive the related compensation;

2. The appointed members shall be reimbursed for their expenses, according to the State Travel Reimbursement Act, as are incurred in the performance of their duties, which shall be paid from the Health Insurance Reserve Fund;

3. In the event an appointed member does not attend at least seventy-five percent (75%) of the regularly scheduled meetings of the Board during a calendar year, the appointing authority may remove the member;

4. A member may also be removed for any other cause as provided by law;

5. No Board member shall be individually or personally liable for any action of the Board; and

6. Participation on the Board is contingent upon maintaining all necessary annual training as may be required through the Health Insurance Portability and Accountability Act of 1996, Medicare contracting requirements or other statutory or regulatory guidelines.

H. The Board shall meet as often as necessary to conduct business but shall meet no less than four times a year, with an organizational meeting to be held prior to December 1, 2012. The organizational meeting shall be called by the Insurance Commissioner. A majority of the members of the Board shall constitute a quorum for the transaction of business, and any official action of the Board must have a favorable vote by a majority of the members of the Board present.

I. Except as otherwise provided in this subsection, no member of the Board shall be a lobbyist registered in this state as provided by law, or be employed directly or indirectly by any firm or health care provider under contract to the State and Education Employees Group Insurance Board, the Oklahoma State Employees Benefits Council, or the Oklahoma Employees Insurance and Benefits Board, or any benefit program under its jurisdiction, for any goods or services whatsoever. Any physician member of the Board shall not be subject to the provisions of this subsection.

J. Any vacancy occurring on the Board shall be filled for the unexpired term of office in the same manner as provided for in subsection D of this section.

K. The Board shall act in accordance with the provisions of the Oklahoma Open Meeting Act, the Oklahoma Open Records Act and the Administrative Procedures Act.

L. The Administrative Director of the Courts shall designate grievance panel members as shall be necessary. The members of the grievance panel shall consist of two attorneys licensed to practice law in this state and one state-licensed health care professional or health care administrator who has at least three (3) years practical experience, has had or has admitting privileges to a hospital in this state, has a working knowledge of prescription medication, or has worked in an administrative capacity at some point in ~~their~~ his or her career. The state health care professional shall be appointed by the Governor. At the Governor's discretion, one or more qualified individuals may also be appointed as an alternate to serve on the grievance panel in the event the Governor's primary appointee becomes unable to serve.

M. The Office of Management and Enterprise Services shall have the following duties, responsibilities and authority with respect to the administration of the flexible benefits plan authorized pursuant to the State Employees Flexible Benefits Act:

1. To construe and interpret the plan, and decide all questions of eligibility in accordance with the Oklahoma State Employees Benefits Act and 26 U.S.C.A., Section 1 et seq.;

2. To select those benefits which shall be made available to participants under the plan, according to the Oklahoma State Employees Benefits Act, and other applicable laws and rules;

3. To prescribe procedures to be followed by participants in making elections and filing claims under the plan;

4. Beginning with the plan year which begins on January 1, 2013, to select and contract with one or more providers to offer a group TRICARE Supplement product to eligible employees who are eligible TRICARE beneficiaries. Any membership dues required to participate in a group TRICARE Supplement product offered pursuant to this paragraph shall be paid by the employee. As used in this paragraph, "TRICARE" means the Department of Defense health care program for active duty and retired service members and their families;

5. To prepare and distribute information communicating and explaining the plan to participating employers and participants. Health Maintenance Organizations or other third-party insurance vendors may be directly or indirectly involved in the distribution of communicated information to participating state agency employers

and state employee participants subject to the following condition: the Board shall verify all marketing and communications information for factual accuracy prior to distribution;

6. To receive from participating employers and participants such information as shall be necessary for the proper administration of the plan, and any of the benefits offered thereunder;

7. To furnish the participating employers and participants such annual reports with respect to the administration of the plan as are reasonable and appropriate;

8. To keep reports of benefit elections, claims and disbursements for claims under the plan;

9. To negotiate for best and final offer through competitive negotiation with the assistance and through the purchasing procedures adopted by the Office of Management and Enterprise Services and contract with federally qualified health maintenance organizations under the provisions of 42 U.S.C., Section 300e et seq., or with Health Maintenance Organizations granted a certificate of authority by the Insurance Commissioner pursuant to the Health Maintenance Reform Act of 2003 for consideration by participants as an alternative to the health plans offered by the Oklahoma Employees Insurance and Benefits Board, and to transfer to the health maintenance organizations such funds as may be approved for a participant electing health maintenance organization alternative services. The Board may also select and contract with a vendor to offer a point-of-service plan. An HMO may offer coverage through a point-of-service plan, subject to the guidelines established by the Board. However, if the Board chooses to offer a point-of-service plan, then a vendor that offers both an HMO plan and a point-of-service plan may choose to offer only its point-of-service plan in lieu of offering its HMO plan. The Board may, however, renegotiate rates with successful bidders after contracts have been awarded if there is an extraordinary circumstance. An extraordinary circumstance shall be limited to insolvency of a participating health maintenance organization or point-of-service plan, dissolution of a participating health maintenance organization or point-of-service plan or withdrawal of another participating health maintenance organization or point-of-service plan at any time during the calendar year. Nothing in this section of law shall be construed to permit either party to unilaterally alter the terms of the contract;

10. To retain as confidential information the initial Request For Proposal offers as well as any subsequent bid offers made by the health plans prior to final contract awards as a part of the best and final offer negotiations process for the benefit plan;

11. To promulgate administrative rules for the competitive negotiation process;

12. To require vendors offering coverage to provide such enrollment and claims data as is determined by the Board. The Board shall be authorized to retain as confidential any proprietary information submitted in response to the Board's Request For Proposal. Provided, however, that any such information requested by the Board from the vendors shall only be subject to the confidentiality provision of this paragraph if it is clearly designated in the Request For Proposal as being protected under this provision. All requested information lacking such a designation in the Request For Proposal shall be subject to Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes. From health maintenance organizations, data provided shall include the current Health Plan Employer Data and Information Set (HEDIS);

13. To authorize the purchase of any insurance deemed necessary for providing benefits under the plan including indemnity dental plans, provided that the only indemnity health plan selected by the Board shall be the indemnity plan offered by the Board, and to transfer to the Board such funds as may be approved for a participant electing a benefit plan offered by the Board. All indemnity dental plans shall meet or exceed the following requirements:

- a. they shall have a statewide provider network,
- b. they shall provide benefits which shall reimburse the expense for the following types of dental procedures:
  - (1) diagnostic,
  - (2) preventative,
  - (3) restorative,
  - (4) endodontic,
  - (5) periodontic,

- (6) prosthodontics,
- (7) oral surgery,
- (8) dental implants,
- (9) dental prosthetics, and
- (10) orthodontics, and

c. they shall provide an annual benefit of not less than One Thousand Five Hundred Dollars (\$1,500.00) for all services other than orthodontic services, and a lifetime benefit of not less than One Thousand Five Hundred Dollars (\$1,500.00) for orthodontic services;

14. To communicate deferred compensation programs as provided in Section 1701 of ~~Title 74 of the Oklahoma Statutes~~ this title;

15. To assess and collect reasonable fees from contracted health maintenance organizations and third-party insurance vendors to offset the costs of administration;

16. To accept, modify or reject elections under the plan in accordance with the Oklahoma State Employees Benefits Act and 26 U.S.C.A., Section 1 et seq.;

17. To promulgate election and claim forms to be used by participants;

18. To adopt rules requiring payment for medical and dental services and treatment rendered by duly licensed hospitals, physicians and dentists. Unless the Board has otherwise contracted with the out-of-state health care provider, the Board shall reimburse for medical services and treatment rendered and charged by an out-of-state health care provider at least at the same percentage level as the network percentage level of the fee schedule established by the Oklahoma Employees Insurance and Benefits Board if the insured employee was referred to the out-of-state health care provider by a physician or it was an emergency situation and the out-of-state provider was the closest in proximity to the place of residence of the employee which offers the type of health care services needed. For purposes of this paragraph, health care

providers shall include, but not be limited to, physicians, dentists, hospitals and special care facilities;

19. To enter into a contract with out-of-state providers in connection with any PPO or hospital or medical network plan which shall include, but not be limited to, special care facilities and hospitals outside the borders of the State of Oklahoma. The contract for out-of-state providers shall be identical to the in-state provider contracts. The Board may negotiate for discounts from billed charges when the out-of-state provider is not a network provider and the member sought services in an emergency situation, when the services were not otherwise available in the State of Oklahoma or when the Administrator appointed by the Board approved the service as an exceptional circumstance;

20. To create the establishment of ~~a grievance procedure by which a three member grievance panel~~ external appeals procedures for complaints by insured employees in the two following manners:

- a. independent review organizations, accredited by a national accrediting body, shall act as ~~an~~ appeals body ~~bodies~~ for complaints by insured employees regarding ~~the allowance and payment of claims, eligibility, and other matters. Except for grievances settled to the satisfaction of both parties prior to a hearing, any person who requests in writing a hearing before the grievance panel shall receive a hearing before the panel.~~ adverse benefit determinations based on:
  - (1) medical judgment,
  - (2) whether the insurer is complying with the surprise billing and cost-sharing protections set forth in Sections 2799A-1 and 2799A-2 of the Public Health Services Act, 42 U.S.C. 201 et seq., and
  - (3) a rescission in coverage,
- b. a three-member grievance panel, which shall act as an appeals body for complaints by insured employees regarding all other issues.

The ~~grievance procedure~~ appeals procedures provided by this paragraph shall be the exclusive ~~remedy~~ remedies available to insured employees having complaints against the insurer. ~~Such grievance procedure~~ The appeals procedures of the three-member grievance panel shall be subject to the Oklahoma Administrative Procedures Act, including provisions thereof for review of agency decisions by the district court. The grievance panel shall schedule a hearing ~~regarding the allowance and payment of claims, eligibility and other matters~~ within sixty (60) days from the date the grievance panel receives a written request for a hearing unless the panel orders a continuance for good cause shown. Upon written request by the insured employee to the grievance panel and received not less than ten (10) days before the hearing date, the grievance panel shall cause a full stenographic record of the proceedings to be made by a competent court reporter at the insured employee's expense; and

21. To intercept monies owing to plan participants from other state agencies, when those participants in turn owe money to the Office of Management and Enterprise Services, and to ensure that the participants are afforded due process of law.

N. Except for a breach of fiduciary obligation, a Board member shall not be individually or personally responsible for any action of the Board.

O. The Board shall operate in an advisory capacity to the Office of Management and Enterprise Services.

P. The members of the Board shall not accept gifts or gratuities from an individual organization with a value in excess of Ten Dollars (\$10.00) per year. The provisions of this section shall not be construed to prevent the members of the Board from attending educational seminars, conferences, meetings or similar functions.

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

Passed the House of Representatives the 12th day of March, 2024.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

Passed the Senate the 25th day of April, 2024.

\_\_\_\_\_  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

