

OKLAHOMA INSURANCE DEPARTMENT



Legislative Changes 2015

HB 1074 – Right to Try

New Law – 63 O.S. §§ 3091.1-3091.7

- Allows a terminally ill patient who has exhausted all other treatments approved by the FDA, opt for investigational treatments.
- Specifies that this is optional for all parties and not an mandate
- Gives legal protection to the manufacturer for any harm should the investigational treatment fail.

HB 1515 – Proton Therapy

New Law – 36 O.S. § 6060.9b

- Prohibits health benefit plans that cover cancer therapy from holding proton radiation therapy to a higher standard of clinical evidence than it would any other radiation therapy treatment.

HB 1566 – Coordinated Care

New Law – 63 O.S. § 5028

- States that the Oklahoma Health Care Authority shall initiate requests for proposals for care coordination models for aged, blind, and disabled persons.
- Allows for 2 year phase in of care coordination models for members receiving institutional care after the initial enrollment period of a care program.
- Allows the Oklahoma Health Care Authority Board to promulgate rules.

HB 1628 – Oklahoma Health Care Authority

Prior Authorization – 63 O.S. § 5030.5

- The Oklahoma Health Care Authority shall provide coverage for a drug if it does not fall in a class that is already placed under prior authorization with the US Food and Drug Administration.
- The Drug Utilization Review Board must review the drug within 100 days after being approved by the US Food and Drug Administration to determine whether or not to continue the prior authorization criteria.

HB 1965 – Texting While Driving

New Law – 47 O.S. § 11-901d

- Any person found guilty of operating a vehicle while using a hand-held electronic communication device to manually compose, send, or read a text message while the vehicle is in motion shall be fined up to \$100.
- No points shall be removed off of a license for this offense.
- Emergency communication is exempt.
- Primary traffic offense.

HB 2217 – Reimbursement After Credentialing

Credentialing – 36 O.S. § 4405.1(F)

- Within thirty-one (31) days after a provider has been credentialed by a health benefit plan following the completion of the credentialing or recredentialing process, the health benefit plan shall consider the provider in-network for purposes of reimbursement.

SB 560 – Health Care Empowerment Act

New Law – 36 O.S. §§ 4604 & 4605

- Allows consumers to enter into a direct primary care membership program without losing insurance benefits; including Medicare & Medicaid.
- Defines Direct Primary Care Memberships; specifies that they are not insurance products, not medical discount plans, not required to obtain a certification of authority, and not regulated by the OID

SB236 – Navigators

Navigators – 36 O.S. §§ 1415.2 & 1415.3

- Allows the Insurance Commissioner to perform an on-site inspection of operations and records.
- Specifies that reports requested by the commissioner shall omit personally identifiable information from the individuals that they assist.
- Defines “personally identifiable information”
- Clarifies that the registered navigator or navigator entity shall, upon request of the Commissioner, verify the name, contact information, and date of contact for the individuals that they assist.

HB1614 – Transportation Network Companies

New Law – 47 O.S. §§ 1010-1030

- Sets out the requirements for Transportation Network Companies operating in Oklahoma.
- Starting July 1, 2015, all TNC drivers, or the TNC on the driver's behalf, must meet certain insurance requirements.
- While the driver is logged onto the TNC's digital network and available to receive ride requests, the driver must be covered by a primary auto liability insurance policy of \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage, plus UM coverage.

HB1614 – Transportation Network Companies

New Law – 47 O.S. §§ 1010-1030

- While the driver is engaged in a prearranged ride (driver has accepted a fare and is en route to pick up passenger until the last passenger exits the vehicle), must be covered by liability insurance policy of at least \$1,000,000 for death, bodily injury, and property damage, plus UM coverage.
- Insurance can be obtained by the TNC, the TNC driver, or a combination of the two.
- Coverage under the TNC policy shall not be dependent on the driver's personal insurance carrier first denying the claim.

HB1614 – Transportation Network Companies

New Law – 47 O.S. §§ 1010-1030

- Insurers writing auto coverage in Oklahoma may exclude coverage under the owner's personal policy for any loss or injury that occurs while a TNC driver is logged into the TNC's digital network or while a driver is engaged in a prearranged ride. And the personal auto carrier has no duty to defend or indemnify any claim excluded under the policy.

SB443 – Title Insurance

New Law – 36 O.S. § 5008

- If a mortgagor fails to receive a mortgage release from their mortgagee within 60 days after the mortgage is paid off, an officer of the title insurance company, on behalf of the mortgagor, may file an affidavit stating that the mortgage has been paid off. Subject to certain requirements.

SB101 – Bail

- A person who owns a restaurant where alcohol is sold incidental to the sale of food may hold a license as a bail bondsman.
- Exception to 59 O.S. § 1315(A)(8),(9),(10), and (11)
- “Incidental to the sale of food” → alcohol is not more than 50% of the monthly gross sales of the restaurant.
- The bondsman may not perform bail bondsman duties or have a bondsman office on the premises of the restaurant.
- DOES NOT APPLY TO BAIL ENFORCERS

SB586 – Bail

- Current law → if a bond forfeits, the bondsman may:
 - Apprehend the defendant personally, or
 - Hire a licensed bail enforcer, or
 - Get help from another bondsman, provided he or she has been continuously licensed for at least 5 years prior to July 1, 2014.

59 O.S. § 1332(C)(2) – New law

- A bondsman may aid another bondsman in apprehending a defendant if both bondsmen are appointed with the same insurer (company, professional, or MCA).

OKLAHOMA INSURANCE DEPARTMENT



Legislative Requests 2015

SB487 – Flood Insurance

Surplus Lines – 36 O.S. §§ 1102, 1106.2, & 1115

- The NFIP is a broken system that is not being fixed. This is a state-based attempt to provide competition to the federal program by encouraging the writing of flood insurance in the private surplus lines market.
- Provides a Surplus Line Premium Tax exemption for flood insurance policies covering Oklahoma properties.
- Allows a flood insurance policy to be placed with a surplus lines carrier without a due diligence search.

SB455 – Title 36 Omnibus

- Deletes requirement for companies to send copies of adopted examination report to all other states because OID already sends the reports out through FEETS (Financial Exam Electronic Tracking System) operated by the NAIC. 36 O.S. § 309.4
- Clarifies the Commissioner's authority over entities regulated outside Title 36. 36 O.S. § 312A
 - Ex: bail bondsmen are regulated by the Commissioner under Title 59.
- Deletes requirement that insurers provide certification of creditable coverage to individuals whose group health insurance has terminated. The requirement is no longer necessary because of new federal law. 36 O.S. § 4502

SB455 – Title 36 Omnibus

- Expands the methods in which an insurer may make a claims payment to an insured to include electronic funds transfers and prepaid cards. 36 O.S. § 6041
- Clarifies the Commissioner's authority over entities regulated outside Title 36. 36 O.S. § 6103.3
 - Example: bail bondsmen are regulated by the Commissioner under Title 59.
- Gives the Commissioner discretion regarding the filing of closed claims annual reports by medical professional liability insurers. 36 O.S. § 6811(a)

SB455 – Title 36 Omnibus

Oklahoma Captive Insurance Company Act Updates

36 O.S. §§ 6470.1-6470.34

- Conforms the definition of Workers' Compensation to the rest of the Act.
- Adds definition of "Unimpaired Paid-in Capital" for investment purposes.
- Makes it easier for the Commissioner to waive a public hearing for a captive insurance company.
- Cleans up an issue of how Captives in other states re-domesticate in Oklahoma.
- Cleans up language regarding capital investments of various kinds of Captives.

SB455 – Title 36 Omnibus

Oklahoma Captive Insurance Company Act Updates

36 O.S. §§ 6470.1-6470.34

- Cleans up language regarding taking credit for reserves when ceding risk to reinsurers.
- Clears up language about how two or more captives with the same ownership are taxed.
- Defines sponsored captive parent.
- Allows individual protected cells of sponsored captives to enter into contracts with outside investors and protects the parent sponsors and other captive cells.

SB439 – Adjusters

All Adjusters

- Nonresident adjuster applicants may have passed an examination in a state other than their home state (36 O.S. § 6205(B)(1)).
- Emergency declarations by the Commissioner may be on a county-by-county basis (§ 6218(A)).
- Emergency adjuster licenses are valid for only 90 days after the emergency declaration (not 90 days after the license is issued) (§ 6218(A)).
- An adjuster may not have an interest in the entity providing construction services on the claim unless in a town of less than 6,000 residents. (§ 6220.1(C) – previously also exempted claims in the adjuster’s county)
- Acting as an adjuster without a license is now a misdemeanor (§ 6220(F))

SB439 – Adjusters

All Adjusters . . . Continued

- Additional causes for action against an adjuster's license (§ 6220(A)):
 - Failing to respond to an inquiry from the OID within 30 days,
 - Forging another's name to a document,
 - Obtaining or attempting to obtain a license through misrepresentation or fraud,
 - Committing an unfair trade practice or insurance fraud,
 - Having action taken against an adjuster license in another jurisdiction,
 - Failing to inform OID of a change of address, legal name, or information submitted on the application within 30 days of the change,
 - Providing services as a company adjuster, independent adjuster, or public adjuster on the same claim.

SB439 – Adjusters

Public Adjusters

- Surety bond requirement up to \$25,000 from \$10,000 (§ 6214(A)).
- An insured may cancel a contract with a PA up to 3 business days after he or she receives the signed agreement from the PA (§ 6216.2(A)).
- Anything of value given to the PA under the contract must be returned within 15 business days following receipt of the cancellation notice by the PA (§ 6216.2(B)).
- Every PA contract must be in writing and contain (§ 6216.2(D)):
 - Legible full name of the PA,
 - Permanent home state business address and phone number,
 - OID license number, . . .

SB439 – Adjusters

Public Adjusters . . . Continued

- Title of “Public Adjuster Contract”,
- Insured’s full name, street address, and insurance company name and policy #,
- Description of the loss and its location,
- Description of services to be provided to the insured,
- Signatures of the PA and the insured,
- Date the contract was signed by the PA and the insured,
- Full compensation description according to the following guidelines:
 - If based on a share of the settlement, the exact %
 - Initial expenses to be reimbursed to the PA from the claim proceeds shall be specified by type, with dollar estimates and with any additional expenses first approved by the insured, . . .

SB439 – Adjusters

Public Adjusters . . . Continued

- Compensation provisions shall not be redacted in any copy of a contract provided to OID. Such a redaction shall constitute an omission of material fact,
- The public adjuster and the insured shall both indicate their agreement to the compensation provisions of the contract by initialing next to the provisions in the contract.
- If the insurer, not later than 72 hours after the loss is reported to the insurer, either pays or commits in writing to pay the insured a policy coverage limit, the PA shall, with respect to that coverage (§ 6216.2(E)):
 - Not receive a % commission,
 - Inform the insured that the loss recovery might not be increased, and
 - Be entitled only to reasonable compensation for the services provided prior to the insurer's payment or commitment to pay

SB439 – Adjusters

Public Adjusters . . . Continued

- A PA contract may not contain any term that (§ 6216.2(F)):
 - Allows the PA fee to be collected when money is due from an insurer but not yet paid, or that allows the PA to collect the entire fee from the 1st check issued by the insurer rather than as a % of each check,
 - Requires the insured to authorize an insurer to issue a check only in the name of the public adjuster,
 - Imposes collection costs or late fees, or
 - Precludes any party from pursuing civil remedies.
- At the time of signing, a PA shall deliver to the insured, in any manner acceptable to the insured and approved by the Commissioner, a copy of the original executed contract (§ 6216.2(G)).

SB439 – Adjusters

Public Adjusters . . . Continued

- A PA contract may specify that an adjuster shall be named as a joint payee on an insurer's payment of a claim (§ 6216.2(H)).
- A public adjuster may not charge more than 10% on any claim resulting from a catastrophe declared by the Commissioner to be an emergency, except for those claims on behalf of a for-profit commercial entity (§ 6218(C)).
- A PA shall not misrepresent to a claimant that the PA represents the insurer in any capacity (§ 6223(A)).
- Shall not split any payment for adjusting services with any person or entity unless they are also licensed as a PA (§ 6223(B)).

SB439 – Adjusters

Public Adjusters . . . Continued

- A PA shall provide the insured with a separate disclosure document that sets out the definitions for the different adjusters and states that the insured is not required to hire a PA, the PA is not a rep or employee of the insurer, and the payment is the obligation of the insured not the insurer (§ 6223(C)).
- The PA shall provide the insurer a notification letter signed by the insured authorizing the PA to represent the insured's interests (§ 6223 (D)).
- A PA must hold money on behalf of an insured in a non-interest-bearing escrow or trust account (§ 6223 (E)).

SB439 – Adjusters

Public Adjusters . . . Continued

- A PA shall maintain a complete record of each transaction for at least 5 years, which shall include the following (§ 6223 (F)):
 - Name of the insured,
 - Date, location, and the amount of the loss,
 - Copy of the signed contract,
 - Name of the insurer, amount, expiration date, and number of each policy,
 - Itemized statement of the insured's recoveries,
 - Itemized statement of all compensation received by the PA from any source whatsoever in connection with the loss,

SB439 – Adjusters

Public Adjusters . . . Continued

- Register of all monies received, deposited, disbursed, or withdrawn in connection with a transaction with an insured,
 - Name of the PA who executed the contract, and
 - Name of the attorney representing the insured, if applicable, and the name of the claim representatives of the insurance company.
- A PA shall not solicit or attempt to solicit an insured during the progress of a loss-producing occurrence (§ 6223(H)).
 - A PA shall not permit an unlicensed employee or representative to conduct business for which a license is required (§ 6223(I)).
 - A PA shall not acquire any interest in the salvage of the property without obtaining written permission from the insured (§ 6223(J)).

SB439 – Adjusters

Public Adjusters . . . Continued

- The PA shall not refer or direct the insured to obtain needed repairs or services in connection with the loss from any person or entity with whom the PA has a financial interest or from whom the PA may receive compensation for the referral (§ 6223(K)).
- Any compensation to be received by the PA from any third party in connection with the loss shall be disclosed to the insured in writing (§ 6223(L)).
- A PA shall not enter into a contract or accept power of attorney that vests in the PA the effective right to choose the persons who will perform repair work (§ 6223(M)).

SB439 – Adjusters

Public Adjusters . . . Continued

- The PA shall not agree to any loss settlement without the insured's knowledge and consent (§ 6223(N)).
- On a % fee contract, a PA may not require or accept any compensation prior to payment of any claim proceeds, whether such payment is partial in nature or payment in full (§ 6223(O)).

HB1033 – Bail

- For professional and MCA financial statements, GAAP standards replaced with “Statements on Accounting Standards.”
59 O.S. §§ 1306, 1306.1, and 1309
- Allows a transferee who has been a licensed surety bondsman for at least 5 years to apply for a Multicounty Agent Bondsman license after the 180-day grace period. § 1306.1(C)(2)
- Prohibits a bondsman from refusing to return collateral (which is meant to pay the bond if it forfeits) for nonpayment of premium. § 1310(A)(21)
- Adds residence address (which is not a public record) and business address to the list of information a bondsman must keep up to date with the OID. § 1310(A)(23)
- Clarifies the expenses that must be paid by a bondsman. § 1310(A)(30)

HB1033 – Bail

- Prohibits a bondsman from posting a bond for any defendant without a prior oral or written agreement.
§ 1310(A)(33)
- Allows a bondsman whose license is suspended or revoked to contract with a licensed bail enforcer to find and surrender the bondsman's delinquent clients.
§ 1311.3(C)
- Updates language to include multicounty agent bondsmen, a new type of bondsman license created in 2014.
§§ 1314, 1316, 1317, 1320, and 1321
- Clarifies that that individuals who are prohibited by law from being a bail bondsman may also not perform the "acts of a bail bondsman."
§ 1315(A)

HB1033 – Bail

- Eliminates the requirement that a professional bondsman submit to OID their agreement with an appointed surety bondsman because the OID has no authority to enforce that agreement.
§ 1316(A)(1)
- Clarifies the fees a bondsman must pay to each court clerk. Instead of paying \$10 each year to each court clerk in which a bondsman files his or her license, they will pay \$20 every other year.
§ 1320
- Allows the Commissioner to accept forms or payments in electronic formats.
§ 1341

SB 340 – Interlocal Entities

36 O.S. § 607.1

- Interlocal Entities insuring educational institutions shall:
 - annually file an unqualified opinion from a CPA.
 - annually file an actuarial opinion (consistent with Actuarial Standards of Practice - ASOP) within 180 days after the end of its fiscal year.
- Defines that a qualified actuary is a member of the America Academy of Actuaries and has met their Qualifications Standards for Issuing Statements of Actuarial Opinions in the United States.
- Adds “qualified actuary” to those that may file a request for extension.

SB 2021 – Supervisory Colleges

- Allows the Commissioner to participate in supervisory colleges for the purpose of examining holding companies which have international operations.
New Law – 36 O.S. § 1656.1
- Strengthens confidentiality of documents obtained by or disclosed to OID pursuant to Article 16A of the Insurance Code. Amended § 1657.1

SB 663 – Own Risk Solvency Assessment (ORSA)

New Law – 36 O.S. §§ 3301-3309

- An insurer that is subject to the ORSA requirements will be expected to:
 - Annually conduct an ORSA to analyze all reasonably foreseeable and relevant material risks (i.e., underwriting, credit, market, operational, liquidity risks, etc.) that could have an impact on the insurer's ability to meet its policyholder obligations.;
 - Internally document the process and results of the assessment; and
 - Provide a confidential high-level ORSA Summary Report annually to the Commissioner.
- Applies to any insurer that writes more than \$500m of annual direct written and assumed premium, and/or insurance groups that collectively write more than \$1b of annual direct written and assumed premium.
- Only 2 companies in Oklahoma that currently meet this threshold.

Administrative Rules

Chapter 10 - Life, Accident, and Health

365:10-1-13

- This rule requiring health insurers to notify rejected applicants that they may be eligible for coverage through the Oklahoma Health Insurance High Risk Pool or the Oklahoma Temporary High Risk Pool is repealed because all statutory high risk pool provisions were repealed in 2014.

365:10-1-15

- The “child only rule” prohibits discrimination in the issuance of insurance to children as single applicants. This rule is repealed as unnecessary because federal law no longer permits a health insurance carrier to deny coverage to an applicant of any age on the basis of pre-existing conditions.

Administrative Rules

365:10-3-3 and 365:10-3-31

- This Subchapter sets out the rules for the advertising of accident and health insurance as well as life insurance. “Social media” is added to the definition of “advertisement.”

365:10-9-1, 2, 3, and 3.1, and Appendices WW, XX, YY, and ZZ

- The amendments in Subchapter 9 address the NAIC’s December 2012 adoption of the revised Model Rule for Recognizing a New Annuity Mortality Table for Use in Determining Reserve Liabilities for Annuities. The revised model adds the 2012 Individual Annuity Reserving Mortality Table (2012 IAR Mortality Table). The rule amendments include (1) adding the 2012 IAR Mortality Table to the list of recognized mortality tables; (2) adding definitions for Period Table, Generational Mortality Table, 2012 IAR Mortality Table, 2012 IAM Period Table, and Projection Scale G2; and (3) establishing when and how the 2012 IAR Mortality Table may be used. Four new appendices (WW, XX, YY, and ZZ) are added to reflect these changes

Administrative Rules

Subchapter 31. Navigators and Navigator Entities

- Subchapter 31 is an entirely new subchapter devoted to implementing the provisions of new law relating to the registration and oversight of Navigators and Navigator Entities (36 O.S. §§ 1415.2-1415.5).
- Annual application fee of \$25 for individual Navigators. \$50 for Navigator Entities.
- Individual applicants must submit to criminal background check conducted by ISBI and submit the completed report to OID at the time of application. Only applies to initial applications – not renewals.
- Sets out the procedure for Navigators or Navigator Entities who face disciplinary action from the Commissioner in accordance with the Administrative Procedures Act

Administrative Rules

Individual navigator requirements:

- If a navigator obtains authorization from an individual or group to provide assistance, the navigator must give the individual or group a signed disclaimer form created by the Commissioner. Must also record the contact information and date of contact for the individual or group and provide that information to the navigator entity within 3 days.
- Must allow for inspection of operations and records specifically related to the enrollment or assistance in enrollment duties of the navigator at the discretion of the Commissioner.
- Must submit to the Commissioner at his or her request a report setting forth the contact information for all individuals or employer groups which receive a disclaimer form from the navigator.

Administrative Rules

Navigator entity requirements:

- Shall maintain a record of all individuals employed or overseen as a navigator for a period of 3 years following the last date of employment or oversight.
- Maintain all records required to be provided to the entity by navigators for 3 years.
- Allow for an inspection of operations and records related to the duties of the navigator entity.
- Submit a report to the Commissioner setting forth the individuals or groups who have received a disclaimer from a navigator employed or overseen by the navigator entity.
- Submit at the time of application a list of all navigators it is employing or overseeing at the time of application, or those it has overseen in the previous year.
- Report to the Commissioner any termination of a navigator if they are terminated for failing to comply with any requirement of Title 36.

Administrative Rules

Chapter 15. Property and Casualty

- 365:15-1-3 and 365:15-7-3 are amended to reflect the Insurance Department's move to all electronic filings.
- 365:15-1-3.1 is amended to reflect a legislative change. The "workers' compensation medical claims small deductible form" is now the "workers' compensation optional deductible form." Appendix B is also amended to reflect this change.
- Subchapter 9 (Medical Professional Liability Rate Setting) and Appendix D are revoked because the statutory basis for the rules and appendix (36 O.S. § 6821) was repealed in HB1512 in 2013.

Administrative Rules

Chapter 25. Other Licensees

- 365:25-3-1 - All licensed property insurance producers are required to obtain 1 hour of continuing education in the topic of earthquake insurance every 2 years as part of their overall requirement.
- 365:25-3-14 - All licensed property insurance adjusters are required to obtain 1 hour of continuing education in the topic of earthquake insurance every 2 years as part of their overall requirement.
- 365:25-5-31 - All bail bondsman applications shall include the bondsman's phone number and legal name.
- 365:25-5-48 - New rule defining the "acts of a bondsman" for the purpose of 59 O.S. § 1311.3, which prohibits those who have had a bondsman licensed suspended, revoked, surrendered or refused from performing the acts of a bondsman.

Administrative Rules

The definition includes:

- (1) Soliciting for a bond as defined in 59 O.S. § 1301(B)(11);
- (2) Accepting collateral and providing a written receipt for collateral pursuant to 59 O.S. § 1314(A);
- (3) Collecting premiums in person at a location other than the bondsman's recorded place of business pursuant to 59 O.S. § 1316(C);
- (4) Providing a written receipt for premium pursuant to 59 O.S. § 1316(C);
- (5) Negotiating or posting bonds pursuant to 59 O.S. § 1317(D);
- (6) Surrendering a defendant into custody pursuant to 59 O.S. § 1327(A);
- (7) Returning a defendant to custody prior to forfeiture pursuant to 59 O.S. §§ 1327 & 1328;
- (8) Filing or signing with the court clerk a notice of return to custody;
- (9) Signing or filing with the court clerk a guarantee to pay travel expenses;
- (10) Signing and presenting a request that a defendant be entered into the records of the National Crime Information Center (NCIC);
- (11) Submitting monthly reports to the Insurance Department pursuant to 59 O.S. § 1314(B);
- (12) Providing to the Oklahoma Insurance Department required documentation regarding Notice of Appointment, Filing Fee, and Notice of Termination pursuant to 59 O.S. § 1317; and
- (13) Any other act that imposes any duty or obligation upon a licensed bail bondsman or surety.

Administrative Rules

Subchapter 15. Captive Insurance Companies Regulation

- The rules relating to captive insurance companies are updated for clarity and efficiency.

Subchapter 19. Annuity Disclosure Regulation

- 365:25-19-3 – Annuities used to fund prepaid funeral benefits are explicitly exempted from the rules.

Administrative Rules

Subchapter 25. Oklahoma Employee Injury Benefit Act [NEW]

365:25-25-1. Purpose (New)

- These rules set out the procedure for employers to secure compensation for their covered employees under the Oklahoma Employee Injury Benefit Act.

365:25-25-2. Scope (New)

- The Subchapter applies to all employers who elect to be exempt from the Administrative Workers' Compensation Act and become a Qualified Employer ("QE").

365:25-25-3. Authority (New)

- Promulgated under the authority of the Commissioner under the two Acts.

365:25-25-4. Definitions (New)

- Sets out the definitions of terms used in the Subchapter.

Administrative Rules

Subchapter 25. Oklahoma Employee Injury Benefit Act [NEW]

365:25-25-5. Election notification to the Oklahoma Insurance Department (New)

- Any employer electing to become a QE, or renew its election after the 1-year term, must complete a form electronically and provide all information at least 60 days prior to the desired effective date of the election.
- The election form must include complete answers and proof of the employer's ability to secure compensation for its covered employees.
- The employer may proceed with its written benefit plan after confirmation of election from OID.
- A QE must submit documentation upon request by OID to affirm its continued compliance and notify OID of any change of material information within 14 days after the change. If a QE is found noncompliant, OID may withdraw its confirmation of the employer as a QE.

Administrative Rules

Subchapter 25. Oklahoma Employee Injury Benefit Act [NEW]

365:25-25-6. Election fee (New)

- \$1,500 nonrefundable fee upon filing an initial or renewal election form.

365:25-25-7. Written benefit plan (New)

- The employer must submit to OID:
 - A copy of the employer's written benefit plan,
 - A statement explaining the procedure used to notify the employer's covered employees that the employer has elected to become a QE,
 - The name, title, address, and telephone number for a covered employee to contact for claims administration, and whether that party is in-house, a third-party administrator, or an insurance carrier, and
 - A copy of the employer's Employee Notice.

Administrative Rules

Subchapter 25. Oklahoma Employee Injury Benefit Act [NEW]

365:25-25-8. Employee notice (New)

- An employer may not act as a QE until it provides written notification to its employees in substantially the same form as the “Notice to Employees Concerning Qualified Employer” (See Appendix Z).
- The notice must be posted at conspicuous locations at the QE’s place(s) of business to provide notice that the employer is a QE, it does not carry workers’ compensation coverage, and its workers’ compensation coverage has been terminated or canceled.

365:25-25-9. Funding of Qualified Employer’s benefit plan, liability, and other insurable risk (New)

- A QE may self-fund or insure benefits payable under the benefit plan (which are in the nature of workers’ compensation), the employer’s liability under the Employee Injury Benefit Act, and any other insurable risk related to its QE status.

Administrative Rules

Subchapter 25. Oklahoma Employee Injury Benefit Act [NEW]

365:25-25-10. Insuring Qualified Employer's benefit plan, liability, and other insurable risk (New)

- A Qualified Employer electing to insure benefits payable must obtain insurance coverage in an amount equal to the compensation obligation with an admitted or surplus lines carrier which has an AM Best Rating of B+ or better.
- Such coverage pertains to Oklahoma covered employees only. Employers with employees working in other states must arrange separate coverage for those employees in compliance with that state's laws.

Administrative Rules

Subchapter 25. Oklahoma Employee Injury Benefit Act [NEW]

365:25-25-11. Self-Funding Qualified Employer's benefit plan, liability, and other insurable risk (New)

- A QE electing to self-fund benefits payable must secure compensation to covered employees by furnishing proof to OID of its financial ability to pay the compensation and meet the following requirements:
 - Provide documentation regarding the employer's yearly claims for the last 3 years,
 - Attach employer's most recent financial statement including a balance sheet and income statement, and
 - Furnish proof of the employer's financial ability to pay the compensation (rule sets out the full specific standards which an employer must meet).

Administrative Rules

Subchapter 25. Oklahoma Employee Injury Benefit Act [NEW]

365:25-25-12. Surety bond and irrevocable letter of credit (New)

- Surety bonds must be from an admitted or surplus lines insurer with an AM Best Rating of B+ or better, and on a form prescribed by OID.
- Irrevocable letters of credit shall contain such terms as may be prescribed by OID, include an automatic renewal clause, and cannot be non-renewed without at least 60 days prior written notice to OID, and shall be issued for the benefit of OID by a financial institution, approved in advance by OID, whose deposits are insured by FDIC.
- OID may make demand and collect on the posted letter of credit in the case of actual or imminent default of the employer to pay compensation liabilities or the cancellation of the letter of credit without an adequate replacement.

Administrative Rules

Subchapter 25. Oklahoma Employee Injury Benefit Act [NEW]

365:25-25-13. Release of security deposit (New)

- Security deposit must remain in place for at least 2 years after the Qualified Employer ceases to self-fund its benefit plan.
- The deposit may be reduced at OID's discretion after the 2-year waiting period upon application and submission of current financial statements and loss runs.
- The deposit may be released at OID's discretion upon application and submission of current financial statements and a signed and notarized affidavit affirming that all injury claims have been permanently closed.
- The deposit will be released in full by OID within a reasonable time following proof of an assumption agreement or equivalent from a licensed insurance carrier.

Administrative Rules

Subchapter 25. Oklahoma Employee Injury Benefit Act [NEW]

365:25-25-14. Oklahoma Option Self-Insured Guaranty Fund (New)

- Upon declaration by the Commissioner that a self-insurer has become an impaired insurer, the Commissioner will petition the Workers' Compensation Commission for its approval that the Commissioner release the Qualified Employer's required security from the State Treasurer and shall advise the Oklahoma Property and Casualty Insurance Guaranty Association of the impairment.

365:25-25-15. Severability (New)

- The provisions of the Subchapter are declared severable.

Administrative Rules

Subchapter 29. Pharmacy Benefits Managers [NEW]

365:25-29-5 - PBM licenses must include:

- Identity of the PBM and any controlling entity.
- Name and address of corporate officers and directors, members and managers (if an LLC), or names of all partners (if a partnership).
- License fee of \$1,000.
- Certificate of Incorporation or comparable organizational document from the domiciliary state of the PBM.
- Report of any suspension or other disciplinary action relating to the PBM and its officers and directors.
- Name and address for agent for service of process in Oklahoma.
- Number of total individuals or lives covered under all contracts or agreements in OK.
- Audited financial statements.

Administrative Rules

365:25-29-7 – License specifics

- License lasts 1 year. \$500 renewal fee.
- Can reinstate within a year after failing to renew. \$1,000 reinstatement fee.
- If denied, within 30 days a PBM may request a hearing before an independent hearing examiner.

365:25-29-8 – Financial statements.

- A PBM shall annually submit a financial statement using GAAP that consists of a balance sheet, income statement, and statement of cash flows.

365:25-29-9 – MAC.

- Sets out specific requirements for PBM's related to contracts with providers and Maximum Allowable Cost lists and MAC appeals.

Administrative Rules

365:25-29-10 – Penalties

- If a PBM violates the provisions of the statutes or rules, they face a suspension or revocation of their license and/or a fine of \$500-\$5,000 for each violation.

365:25-29-11 – Definitions

- Sets out the definition for “doing pharmacy benefits management business in this state.”

Chapter 40. Health Maintenance Organizations (HMO)

- 365:40-5-51 and 365:40-5-58 are amended to require coordination between individual and group health insurance products for HMOs, as well as between group health insurance products, in order to prevent over-insurance of a person’s health insurance risk. In turn, this will help keep premiums low for policyholders. An identical rule change was made in 2014 for PPOs. This rule brings HMOs in line with the same requirements.