

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2780

By: Olsen

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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 insurance carriers to create certain program;
10 establishing requirements of program; construing
11 certain provision as not an expense; requiring
12 certain filing with Insurance Department; requiring
13 carriers to establish certain online program;
14 establishing requirements of program; authorizing
15 exemption to requirements of act; requiring certain
16 notification; requiring certain enrollees to receive
17 out-of-network treatment under certain conditions;
18 requiring certain payment method; authorizing certain
19 average rates paid to certain providers; providing
20 for codification; providing for noncodification; and
21 providing an effective date.

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

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

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

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 6060.40 of Title 36, unless
there is created a duplication in numbering, reads as follows:

1 As used in the Oklahoma Right to Shop Act:

2 1. "Health care entity" means a physician, hospital,
3 pharmaceutical company, pharmacist, laboratory or other state-
4 licensed or state-recognized provider of health care services;

5 2. "Insurance carrier" or "carrier" means an insurance company
6 that issues policies of accident and health insurance and is
7 licensed to sell insurance in this state;

8 3. "Allowed amount" means the contractually agreed upon amount
9 paid by a carrier to a health care entity participating in the
10 carrier's network;

11 4. "Program" means the comparable health care service incentive
12 program established by a carrier pursuant to the Oklahoma Right to
13 Shop; and

14 5. "Comparable health care service" means any covered
15 nonemergency health care service or bundle of services. The
16 Insurance Commissioner may limit what is considered a comparable
17 health care service if an insurance carrier can demonstrate allowed
18 amount variation among network providers is less than Fifty Dollars
19 (\$50.00).

20 SECTION 3. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 6060.41 of Title 36, unless
22 there is created a duplication in numbering, reads as follows:

23 Beginning upon approval of the next health insurance rate filing
24 in 2021, a carrier offering a health plan in this state in the

1 individual or small group insurance market, except plans where
2 enrollees receive a premium subsidy under the federal Patient
3 Protection and Affordable Care Act, shall comply with the following
4 requirements:

5 1. A carrier shall establish for all health care plans a
6 program in which enrollees are directly incentivized to shop, before
7 and after their out-of-pocket limit has been met, for lower-cost
8 participating health care providers or health care entities for
9 comparable health care services. Incentives may include cash
10 payments, gift cards or credits or reductions of premiums,
11 copayments, cost-sharing or deductibles. However, incentives must
12 first be applied toward copayments, deductibles or premium
13 reductions before going to cash payments or gift cards;

14 2. Annually, at enrollment or renewal, a carrier shall provide
15 notice to enrollees of the availability of the program with a
16 description of the incentives available to an enrollee and how they
17 are earned; and

18 3. Prior to offering the program to any enrollee, a carrier
19 shall file with the Insurance Commissioner a description of the
20 program established by the carrier pursuant to this section, using a
21 form provided by the Insurance Department.

22 A comparable health care service incentive payment made by a
23 carrier in accordance with this section is not an administrative
24 expense of the carrier for rate development or rate filing purposes.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 6060.42 of Title 36, unless
3 there is created a duplication in numbering, reads as follows:

4 A. Beginning upon approval of the next health insurance rate
5 filing in 2021, a carrier offering a health plan in this state in
6 the individual or small group insurance market shall establish an
7 interactive mechanism on its publicly accessible website that
8 enables an enrollee to request and obtain from the carrier
9 information on the payments made by the carrier to network entities
10 or providers for comparable health care services, as well as quality
11 data for those providers, to the extent the data is available. The
12 interactive mechanism shall allow an enrollee seeking information
13 about the cost of a particular health care service to compare
14 allowed amounts among network providers, estimate out-of-pocket
15 costs applicable to that enrollee's health plan and the average paid
16 to a network provider for the procedure or service under the
17 enrollee's health plan within a reasonable timeframe, not to exceed
18 one (1) year. The out-of-pocket estimate shall provide a good-faith
19 estimate of the amount the enrollee will be responsible to pay out-
20 of-pocket for a proposed nonemergency procedure or service that is a
21 medically necessary covered benefit from a network provider of the
22 carrier, including any copayment, deductible, coinsurance or other
23 out-of-pocket amount for any covered benefit, based on the
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1 information available to the carrier at the time the request is
2 made.

3 B. A carrier may contract with a third-party vendor to satisfy
4 the requirements of this subsection.

5 C. A carrier may submit to the Insurance Commissioner a request
6 for exemption from the requirements of this subsection and shall
7 list the reasons for the need for exemption in the request. The
8 Commissioner may approve any request for exemption with reasonably
9 sufficient evidence. This information shall be public upon action
10 by the Commissioner.

11 D. Nothing in this section shall prohibit a carrier from
12 imposing cost-sharing requirements disclosed in the certificate of
13 coverage of the enrollee for unforeseen health care services that
14 arise out of the nonemergency procedure or service provided to an
15 enrollee that were not included in the original estimate.

16 E. A carrier shall notify an enrollee that these are estimated
17 costs and that the actual amount the enrollee will be responsible to
18 pay may vary due to unforeseen services that arise out of the
19 proposed nonemergency procedure or service.

20 SECTION 5. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 6060.43 of Title 36, unless
22 there is created a duplication in numbering, reads as follows:

23 A. If an enrollee elects to receive a covered health care
24 service from a United States based out-of-network provider at a

1 price that is less than the average that the insurance carrier of
2 the enrollee pays to health care providers within its network within
3 a reasonable timeframe, not to exceed one (1) year, for that
4 service, the carrier shall allow the enrollee to obtain the service
5 from the out-of-network provider and, upon request by the enrollee,
6 shall apply the payments made by the enrollee for that health care
7 service toward the deductible and out-of-pocket maximum specified in
8 the enrollee's health plan, as if the health care services had been
9 provided by a network provider. The carrier shall provide a
10 downloadable or interactive online form to the enrollee for the
11 purpose of submitting proof of payment to an out-of-network provider
12 for purposes of administering this section.

13 B. A carrier may base the average paid to a network provider
14 upon what that carrier pays to providers within the network,
15 applicable to the specific health plan of the enrollee, or across
16 all of their plans offered in this state. A carrier shall, at
17 minimum, inform enrollees of the enrollees' ability and the process
18 to request the average allowed amount paid for a procedure both on
19 the carrier's website and in benefit plan materials.

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

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