

1 **SENATE FLOOR VERSION**

February 18, 2021

2 **AS AMENDED**

3 SENATE BILL NO. 92

By: McCortney, Rader,
Montgomery, Jett and
Stanley of the Senate

4
5 and

6 McEntire of the House

7
8
9 **[insurance - Unfair Claims Settlement Practices Act**
10 **- effective date]**

11
12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

21 1. Failing to fully disclose to first party claimants,
22 benefits, coverages, or other provisions of any insurance policy or
23 insurance contract when the benefits, coverages or other provisions
24 are pertinent to a claim;

- 1 2. Knowingly misrepresenting to claimants pertinent facts or
2 policy provisions relating to coverages at issue;
- 3 3. Failing to adopt and implement reasonable standards for
4 prompt investigations of claims arising under its insurance policies
5 or insurance contracts;
- 6 4. Not attempting in good faith to effectuate prompt, fair and
7 equitable settlement of claims submitted in which liability has
8 become reasonably clear;
- 9 5. Failing to comply with the provisions of Section 1219 of
10 this title;
- 11 6. Denying a claim for failure to exhibit the property without
12 proof of demand and unfounded refusal by a claimant to do so;
- 13 7. Except where there is a time limit specified in the policy,
14 making statements, written or otherwise, which require a claimant to
15 give written notice of loss or proof of loss within a specified time
16 limit and which seek to relieve the company of its obligations if
17 the time limit is not complied with unless the failure to comply
18 with the time limit prejudices the rights of an insurer;
- 19 8. Requesting a claimant to sign a release that extends beyond
20 the subject matter that gave rise to the claim payment;
- 21 9. Issuing checks or drafts in partial settlement of a loss or
22 claim under a specified coverage which contain language releasing an
23 insurer or its insured from its total liability;

24

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

22 11. Compensating a reviewing physician, as defined in paragraph
23 10 of this ~~subsection~~ section, on the basis of a percentage of the
24 amount by which a claim is reduced for payment;

1 12. Violating the provisions of the Health Care Fraud
2 Prevention Act;

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

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

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

22 a. if the payment was made because of fraud committed by
23 the claimant or health care provider, or
24

1 b. if the claimant or health care provider has otherwise
2 agreed to make a refund to the insurer for overpayment
3 of a claim;

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

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

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

21 18. As a health insurer that provides pharmacy benefits or a
22 pharmacy benefits manager that administers pharmacy benefits for a
23 health plan, failing to include any amount paid **by** an enrollee or on
24 behalf of an enrollee by another person, as defined in Section 104

1 of this title, when calculating the total contribution to an out-of-
2 pocket maximum of the enrollee, deductible, copayment, coinsurance
3 or other cost-sharing requirement.

4 SECTION 2. This act shall become effective November 1, 2021.

5 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
6 February 18, 2021 - DO PASS AS AMENDED
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24