

GOVERNOR
MARY FALLIN



INSURANCE COMMISSIONER
JOHN D. DOAK

INSURANCE COMMISSIONER
State of Oklahoma

To: All Interested Parties

From: Buddy Combs
Assistant General Counsel
Rulemaking Liaison

Date: February 1, 2013

Subject: Notice of proposed permanent rulemaking action by the Oklahoma Insurance Department, Title 365

The Oklahoma Insurance Department has submitted notices of rulemaking intent to the Office of Administrative Rules for Chapters 1, 15, 25, and 40 of the Insurance Department Rules found in Title 365 of the Oklahoma Administrative Code.

Copies of the notices of rulemaking intent for the proposed new rules and amendments are enclosed for your review. The notices set forth summaries of the proposed changes and information regarding the public comment period and public hearing date.

Copies of the notices, rule impact statements, and text of the proposed permanent rules and amendments may be obtained by contacting the Insurance Department at the address and telephone number set out below. The notices, rule impact statements, and text of the proposed rules and amendments may be viewed on the website of the Insurance Department at www.ok.gov/oid by clicking on the drop down menu item "Public Information" and then clicking on "Legal" followed by clicking on "Statutes and Rules" and then the link "Rule Amendments – Insurance Department, Title 365."

This is the final year that notices of Insurance Department rulemaking will be sent in hard copy format. All future notices will be sent via email. If you are not already on the email distribution list, please send an email to sherry.standerfer@oid.ok.gov requesting email notification.

Please address any comments or questions to:

Oklahoma Insurance Commissioner
State Insurance Department
Attn: Buddy Combs
3625 NW 56th Street, Suite 100
Oklahoma City, OK 73112
(405) 521-2746

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 40. HEALTH MAINTENANCE ORGANIZATIONS (HMO)**

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3.	Financial
Part 3.	Holding Company System
365:40-3-17.	Forms: general requirements [AMENDED]
Subchapter 5.	Life, Accident & Health Division and Consumer Assistance and
Claims Division Rules	
Part 9.	HMO Requirements and Prohibitions
365:40-5-43.	Premiums/co-payments [AMENDED]

SUMMARY:

365:40-3-17 is amended to update the address of the Oklahoma Insurance Commissioner. 365:40-5-43 is amended to allow HMOs more flexibility in their product design and offer products in a greater range of actuarial values.

AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 6903(D), 6923

COMMENT PERIOD:

Written or oral comments regarding the proposed rule amendment shall be received on or before March 4, 2013. Comments shall be directed to Buddy Combs, Assistant General Counsel, Oklahoma Insurance Department, Five Corporate Plaza, 3625 NW 56th St., Suite 100, Oklahoma City, Oklahoma 73112.

PUBLIC HEARING:

A public hearing regarding the proposed rule amendment will be held March 7, 2013, at 9:30 a.m. at the Oklahoma Insurance Department, Five Corporate Plaza, 3625 NW 56th St., Suite 100, Oklahoma City, Oklahoma 73112.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities are requested to provide any increase in costs expected to be incurred due to compliance with the proposed rules. The comments shall be submitted to Buddy Combs, Assistant General Counsel, Oklahoma Insurance Department, at the mailing address above on or before March 4, 2013.

COPIES OF PROPOSED RULES:

Copies of the proposed rule amendments may be inspected at the Oklahoma Insurance Department at the physical address listed above. Office hours are from 8:00 a.m. through 5:00 p.m., Monday through Friday. Additional copies of the rules may also be obtained at the Oklahoma Insurance Department.

RULE IMPACT STATEMENT:

A rule impact statement will be available on and after February 1, 2013, in accordance with 75 O.S. § 303(D). A copy of the statement may be obtained at the physical address above.

CONTACT PERSON:

Buddy Combs, Assistant General Counsel, (405) 521-2746.

RULE IMPACT STATEMENT

1. RULE

Proposed PERMANENT rules:

Subchapter 3.	Financial
Part 3.	Holding Company System
365:40-3-17.	Forms: general requirements [AMENDED]
Subchapter 5.	Life, Accident & Health Division and Consumer Assistance and
Claims Division Rules	
Part 9.	HMO Requirements and Prohibitions
365:40-5-43.	Premiums/co-payments [AMENDED]

2. PURPOSE

365:40-3-17 is amended to update the address of the Oklahoma Insurance Commissioner.
365:40-5-43 is amended to allow HMOs more flexibility in their product design and offer products in a greater range of actuarial values.

3. CLASSES AFFECTED:

A. Health Maintenance Organizations

4. COST IMPACTS ON PRIVATE OR PUBLIC ENTITIES:

No information

5. CLASSES BENEFITTED:

A. Health Maintenance Organizations

6. ECONOMIC IMPACT:

Unknown

7. PROBABLE COST TO AGENCY AND EFFECT ON STATE REVENUES:

None Anticipated

8. SOURCE OF REVENUE:

Normal yearly budgeted funds

9. MEASURES TAKEN TO MINIMIZE COMPLIANCE COSTS:

None

10. EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT:

Unknown

11. LESS COSTLY/LESS INTRUSIVE METHODS:

Unknown

12. EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF RULE NOT IMPLEMENTED:

Unknown

13. EFFECT ON SMALL BUSINESS

Implementation of the proposed rule will not have an adverse effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act.

14. DATE PREPARED:

February 1, 2013

TITLE 365. INSURANCE DEPARTMENT
CHAPTER 40. HEALTH MAINTENANCE ORGANIZATIONS (HMO)

RULEMAKING ACTION:

Proposed PERMANENT rules

PROPOSED RULES:

Subchapter 3.	Financial
Part 3.	Holding Company System
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AUTHORITY:

Insurance Commissioner, 36 O.S. §§ 307.1, 6903(D), 6923

ANALYSIS:

365:40-3-17 is amended to update the address of the Oklahoma Insurance Commissioner. 365:40-5-43 is amended to allow HMOs more flexibility in their product design and offer products in a greater range of actuarial values.

SUBCHAPTER 3. FINANCIAL
PART 3. HOLDING COMPANY SYSTEM

365:40-3-17. Forms: general requirements

(a) **Forms A, B, C, D, E and R.** HMO Forms A, B, C, D, E and R, as set forth in Appendices A, B, C, D, E, and F of this Chapter, are intended to be guides in the preparation of the statements required by Article 16A of Title 36, Section 6930 of Title 36 and O.A.C. 365:40-3-12, 13 and 16. They are not intended to be blank forms that are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable, or the answer thereto is in the negative, an appropriate statement to that effect shall be made.

(b) **Filing statements.** Two (2) complete copies of each statement, including exhibits and all other papers and documents filed as a part thereof, shall be filed with the Insurance Commissioner by personal delivery to the Office of the Insurance Commissioner in Oklahoma City, Oklahoma, or by mail addressed to the Insurance Commissioner of the State of Oklahoma, ~~P. O. Box 53408, Oklahoma City, OK 73152-3408~~ 3625 NW 56th Street, Suite 100, Oklahoma City, Oklahoma 73112. A copy of an HMO Form C shall be filed in each state in which an HMO is authorized to do business, if the HMO authority of that state has notified the HMO of its request in writing, in which case the HMO has thirty (30) days from receipt of the notice to file such form. At least one of the copies shall be manually signed in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.

(c) **Format of statements.** Statements should be prepared on paper 8 1/2" x 11" in size and preferably bound at the top or the top left hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language, and monetary values shall be stated in United States Currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency shall be converted into United States Currency.

**SUBCHAPTER 5. LIFE, ACCIDENT & HEALTH DIVISION AND CONSUMER
ASSISTANCE AND CLAIMS DIVISION RULES
PART 9. HMO REQUIREMENTS AND PROHIBITIONS**

365:40-5-43. Premiums/co-payments

(a) Each HMO shall provide or arrange basic health care services for a basic health care services payment which:

- (1) Is paid on a periodic basis without regard to the dates these services are provided;
- (2) Is fixed without regard to the frequency, extent, or kind of basic health care services furnished;
- (3) Is fixed under a rating system which generates funds sufficient to meet the HMO's financial plan, and under which the rates are reasonable for the health services provided; and
- (4) May be supplemented by nominal co-payments for specific basic health care services. Each HMO may establish one or more co-payment options calculated on the basis of a rating system. Co-payments applied to a service must be equal for all providers unless the unequal co-payments are based on differences in the cost to the HMO for the service.

~~(A) An HMO may not impose co-payment charges that exceed fifty (50) percent of the total cost of providing any single service to its enrollees, or in the aggregate more than twenty (20) percent of the total cost of providing all basic health care services.~~

~~(B) An HMO shall not impose on any subscriber or enrollee, in any calendar year, co-payment charges of more than two hundred (200) percent of the annual premium charged for an option with no co-payments.~~

~~(C) Co-payments applied to a service must be equal for all providers unless the unequal co-payments are based on differences in the cost to the HMO for the service.~~

(b) Basic health care services shall be provided for an illness or injury covered under a workers' compensation law or an insurance policy. The HMO may charge or authorize the provider to charge:

- (1) The insurance carrier, employer, or other entity which is required to pay for the services; and
- (2) The enrollee, to the extent that the enrollee has been paid under the law or policy for the services.

(c) An HMO may require payments for supplemental health care services in addition to the payments for basic health care services. Or, an HMO may include supplemental health care services in the basic health care services for a basic health care service payment.

(1) Supplemental health services payments may be made in any agreed upon manner, such as prepayment or fee-for-service.

(2) Supplemental health services may be limited as to time and cost.