

Oklahoma

Oklahoma Insurance Commission
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Summary of Important Regulations

MEWA Regulations	Yes
TPA Regulations	Yes
Stop-Loss Regulations	Yes
UR Regulations	Yes

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Health Insurance Reserves Model Regulation	None	Okla. Stat. tit. 36 § 1508
Comprehensive Health Ins. Cost Containment Model Act	None	None
Standardized Health Claims Form Model Regulation	Okla. Ins. Regs. Rule 365:10-30 to 365:10-36	Okla. Stat. tit. 36 §§ 4510, 6581; Okla. Ins. Regs. Rule 365:10-1-3
Small Employer Health Insurance Availability Model Law	Okla. Stat. tit. 36 §§ 6511 to 6529	None
Model Regulation To Eliminate Unfair Sex Discrimination	Okla. Ins. Regs. § 365:10-1-9	None
Health Information Privacy Model Law	None	None
Preferred Provider Arrangements Model Law	None	None
Utilization Review Model Law	None	Okla. Stat. tit. 36 §§ 6551 to 6566; Okla. Ins. Regs. §§ 365:10-15-1 to 365:10-15-7
Managed Care Plan Network Adequacy Model Law	None	Okla. Stat. tit. 63 §§ 2525.4 to 2525.5
Third Party Administrator Law	Okla. Stat. tit. 36 §§ 1441 to 1453	None
Stop-loss Insurance Model Law	None	None

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Jurisdiction of Health Care Providers Model Law	Okla. Stat. tit. 36 § 632	Okla. Ins. Regs. §§ 365:30-3-1 to 365:30-3-13
Standard Group Health Model Law	None	Okla. Stat. tit. 36 §§ 4501 to 4507
Group Health Insurance Mandatory Conversion Law	None	Okla. Stat. tit. 36 § 4502.1
Group Coverage Discontinuance/ Replacement Model Regulation	Okla. Stat. tit. 36 §§ 4509 to 4509.1	None
Premium Rates and Renewability of Coverage-Small Groups	Okla. Stat. tit. 36 §§ 6511 to 6529	None
Group Coordination of Benefits Model Law	Okla. Ins. Regs. §§ 365:10-11-1 to 365:10-11-11	None
Model Regulation for Certification of Health Plans	None	None
Off-Label Drug Use Model Law	None	None
Group Health Mandatory Drug/ Alcohol Dependency Law	None	None
Model Newborn Children's Law	Okla. Stat. tit. 36 § 6058	None

Health Examination Benefits Availability Law	None	Okla. Stat. tit. 36 §§ 3201 to 3203
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NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Accident and Sickness Insurance Minimum Standards Model Law	None	Okla. Stat. tit. 36 §§ 3611
Agents and Brokers Licensing Model Law	Okla. Stat. tit.36 §§ 1421 to 1433	None
MEWA Licensing Model Law	None	None
Managing General Agents Law	Okla. Stat. tit. 36 §§ 1471 to 1478	None
Health Maintenance Organization Model Law	None	Okla. Stat. tit. 63 §§ 2501 to 2510
Insurance Information and Privacy Protection Law	None	None
Unfair Trade Practices Law	Okla. Stat. tit. 36 §§ 1201 to 1228	None
Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of Physical or Mental Impairment	None	None
Model Regulation on Unfair Discrimination in Life and Health Insurance on the Basics of Total or Partial Blindness Oklahoma	Okla. Ins. Regs. § 365:10-1-5	None

NAIC Model Laws or Regulations

<u>Name of Model Law/Regulation</u>	<u>Model/Similar</u>	<u>Related</u>
Unfair Discrimination against Subjects of Domestic Abuse in Health Benefit Plans Model Law	None	None
Unfair Claims Settlement Practices Law	None	Okla. Stat. tit. 36 §§ 1250.1 to 1250.16
Improper Termination Practices Law	None	None
Employee Leasing Registration Model Law	None	None
Private Employer Workers' Compensation Group Self-Insurance Model Law	None	None
Public Employee Workers' Compensation Group Self-Insurance Model Law	None	None
Twenty Four Hour Coverage Pilot Project Model Law	None	Okla. Stat. tit. 85 § 14.1

State-Mandates

Benefits That Must Be Covered

- Ambulance transportation
- Ambulatory surgery
- Bone mass measurement
- Breast reconstruction
- Childhood immunizations
- Colorectal cancer screening
- Dental anesthesia (only for children)
- Diabetic supplies, education
- Emergency services
- Hair prostheses (only for cancer and only if policy covers cancer treatment)
- Hearing aids (only for children up to age 13)
- Mammography screening
- Mental health, parity
- Minimum mastectomy stays
- Minimum maternity stays
- Off-label drug use
- Prostate cancer screening

Benefits That Must Be Offered

- Well-child care

Persons Who Must Be Allowed Coverage

- Adopted children
- Continuation/dependents
- Continuation/employees
- Newborns

Providers Who Must Be Covered

- Chiropractors
- Dentists
- Licensed Health Professionals
- Nurse Midwives
- Optometrists

- Osteopaths
- Pharmacists
- Podiatrists
- Psychologists
- Social Workers

Coordination of Benefits

- | | |
|----------------------------|-----|
| • Birthday Rule? | Yes |
| • Divorced/Separated Rule? | Yes |
| • Joint Custody Rule? | No |
| • Active v. Inactive Rule? | Yes |
| • Longer v. Shorter Rule? | Yes |
| • Managed Care Rule? | No |
| • COBRA Rule? | No |
| • Preservation Rule? | Yes |

Patient's Bill of Rights Legislation

None

High Risk Health Pool

Yes – capped at 125%

External Grievance System

Yes – all health plans

Basis of Filing Grievance

Medical necessity

Status of Decision of Grievance Panel

Advisory

Prompt Payment of Health Claim Requirement

Yes - 60 days

Miscellaneous

- Oklahoma requires group health insurance policies providing coverage on an expense-incurred basis to cover an annual screening by low-dose mammography for the presence of occult breast cancer for women 45 years of age or older.
- Oklahoma requires that any health plan that provides hospitalization coverage for anesthesia expenses, including physician expenses for the administration of anesthesia, associated with medically necessary dental procedures.

MEWA Regulation

Oklahoma adopted a MEWA statute in 1994.¹

An initial filing fee of one thousand dollars (\$1,000).

Each subsequent year the MEWA is in operation, an annual fee of two hundred fifty dollars (\$250) shall be required.

Annual and quarterly statement prepared using the appropriate NAIC Life, Accident, and Health blank and completed in accordance with the NAIC construction for said blank.

Items needed for registration include:

- Certified copies of any articles of incorporation, constitution and bylaws of the association.
- A certified copy of the articles of incorporation, bylaws, or trust agreement that governs the operation of the MEWA.
- A list of the individuals who will be responsible for the management and conduct of the affairs of the MEWA, including all trustees, officers, and directors. This list should include their names, addresses, and official capacities with the MEWA. Such individuals shall fully disclose the extent and nature of any contracts or arrangements between themselves and the MEWA, including possible conflicts of interest.
- A copy of the policy, contract, certificate, summary, plan description, or other evidence of the benefits and coverages provided to cover employees, including a table of the rates charges, or proposed to be charged, for each form of such contract. An actuary who is a Fellow of the Society of Actuaries (FSA) and has experience in establishing rates for a self-funded trust and the health services being provided, shall certify that (a) the rates are neither inadequate, nor excessive, nor unfairly discriminatory; (b) the rates are appropriate for the classes of risks for which they have been computed; and (c) an adequate description of the rating methodology has been filed with the Commissioner and such methodology follows consistent and equitable actuarial principles.
- Copies of stop-loss agreement, if any.
- A copy of an audited financial statement of the MEWA prepared by a licensed certified public accountant.
- A copy of every contract between the MEWA and any administrator or service company.

In the case of a MEWA which has not been in operation for at least (3) years on January 1, 1993, attach a feasibility study, made by a Fellow of the Society of Actuaries with an opinion acceptable to the Commissioner. This study shall address:

- Market potential
- Market penetration
- Market competition
- Operation expenses
- Gross revenues
- Net income
- Total assets and liabilities
- Cash flow
- Other items as required by the Commissioner.

The study shall be for the greater of the three (3) years or until the MEWA has been projected to be profitable for twelve (12) consecutive months. The study must show that at any month end of the projection period, the MEWA would not have less than ninety percent (90%) of the reserves as required by the Fellow Society of Actuaries.

Broker Alert to Marketing of MEWAs. The Oklahoma Insurance Department has issued a

memorandum stating that they intend to hold agents marketing certain self-funded plans liable for claims not paid. The memorandum states that “if any licensed insurance agent is marketing these so-called ERISA programs which are not qualified under the federal law, he or she will be representing an unauthorized and unlawful insurer. Both the agent and the entity will then be subject to legal action by the Department.” The Oklahoma Insurance Department is also requesting information on the marketing of any METs, associations, MEWAs, or ERISA programs sold in the state. “If you are selling these products, you have a duty to inquire and verify that the entity is operating lawfully under the federal laws or you may be liable” according to the Commissioner.

TPA Regulations

The state of Oklahoma adopted an administrator statute in 1983.² No criminal penalties attach as a result of any violations.

- Fees and taxes – both the initial and renewal fees are \$100.
- Records – five year retention.
- Bond – a surety bond in the amount of \$10,000 is required.
- Registration – of interest is the requirement of a CPA-prepared report for each plan administered by the TPA, showing:
 1. Name and address
 2. Plan equity
 3. Paid claims status
 4. Reserve status

The Insurance Commission may revoke the TPA’s license for incompetence, untrustworthiness, financial irresponsibility, loss of licensure license, or a felony conviction. The TPA may be fined up to \$5,000 per occurrence. A TPA operating without a license may be fined from \$1,000 to \$10,000.

Miscellaneous

Oklahoma Open Records Statute. TPAs registered in Oklahoma should be aware of the Open Records Act requiring the Insurance Department to disclose to the public, upon request, any information regarding a TPA company which has been filed with the Insurance Department under the TPA licensing law. The information allowed to be viewed by the public includes the TPA’s client list and the TPA’s annual reports.

*Registration of Self-Funded Plans.*³ A self-funded plan must register with the Oklahoma Insurance Department. If the plan cannot show that it is subject to the jurisdiction of some other state or federal agency, it must meet certain solvency requirements and must comply with the insurance code.

Stop-Loss Regulation

Oklahoma requires a stop-loss specific minimum of \$7,500 and 120% aggregate by Department Bulletin.⁴

Oklahoma does not view stop-loss as reinsurance, but as direct contracts which must be filed and approved with and by the Department of Insurance.

- *Stop-Loss Issued by Property and Casualty Carrier:* File with property and casualty division.

- *Stop-Loss Issued by Life Insurance*: File with life division.

Regardless of which division the stop-loss is filed with, it must comply with the Insurance Department’s bulletin:

- The stop-loss policy must be issued to, and insure, the sponsor of the plan or the plan itself, not the employees, members, or participants.
- Payment by the insurer should be made to the sponsor of the plan or plan itself, not the employees, members, participants, or providers.
- The individual stop-loss amount (i.e., retention or attachment point) shall be at least \$7,500.
- The aggregate stop-loss amount (i.e., retention or attachment point) shall be, at the minimum, 120% of expected paid claims.

Only where the above-stated requirements are met will stop-loss contract be able to avoid the state’s mandated benefits. The plan sponsor’s bankruptcy or insolvency must not relieve the stop-loss insurer from the payment of any claim covered by the policy. Stop-loss contracts sold through surplus lines companies must meet all of the requirements of the bulletin.

Utilization Review Regulations

Agency Responsible ⁵	Dept. of Insurance
Requirements	Registration-Certification
Exemptions	Provider internal revenues
Waivers	None

Miscellaneous

Small Group Reform

Oklahoma’s Reform Act ⁶ applies to group insurance coverage for as few as two employees of small employers. A *small employer* is any employer that employs no more than 50 eligible employees, the majority of whom must work in Oklahoma. An *eligible employee* is one who works for an employer on a full-time basis at least 24 hours per week, including those who are sole proprietors, partners, and associates of limited liability companies.

Insurers providing coverage to small employers (*small employer carriers*) must offer at least two health plans. One must be a *basic* health plan and the other a *standard* health benefit plan. What benefits must be provided under the two plans is determined by a health benefit plan committee appointed by the Insurance Commissioner, subject to the Commissioner’s approval.

In addition to the requirement that small employer carriers offer at least two prescribed health plans, carriers issuing small employer coverage are subject to limitations on premium rating classifications; may not subject small employers with similar case characteristics for the same or similar coverage to premiums that exceed the index rate for that class of business by more than 25%; and may not raise premiums with respect to a new rating period statutory limits; must guarantee renewability of the coverage at the option of the employer, except where coverage is canceled due to (1) nonpayment of premiums, (2) fraud committed by the employer or by anyone insured under the policy, (3) failure to meet the carrier’s minimum group participation requirements,

(4) failure to meet the carrier's minimum requirements for employer contributions, and (5) repeated misuse of provider network provisions.

MSA Legislation⁷

Who May Establish	Individuals or employer
Tax Treatment	Contributions to and interest received thereon are tax-exempt.
Policy Deductible	Not specified
Max. Annual Deposit	\$2,000 individual; \$2,000 spouse; \$1,000 each eligible child
Non-Medical Withdrawals	After close of plan year may be withdrawn as taxable income; otherwise, a 10% penalty applies
Eligible Medical Expenses	Tracks IRC § 213

State Premium Taxes

All carriers pay 2.25%.

Continuation of Coverage and Conversion of Benefits

Oklahoma law requires that all group health insurance coverage be continued for at least 30 days after coverage would otherwise terminate under the policy, unless the employee becomes covered under another health insurance policy. In cases in which loss of coverage is due to termination of employment, the option to continue coverage must be extended to three months for basic coverage and six months for major medical coverage. To be eligible for this coverage, terminated employees must have been covered under the employer's group plan for at least six months.

Covered employees and their dependents must be given the right to continue coverage or convert to individual policies (at the option of the insurer) if coverage under a group health policy is lost due to any reason except failure to pay applicable premiums or expiration or renewal of the policy. Individuals who accept such coverage must pay the premiums directly to the insurer. Employers may not require proof of insurability before granting conversion or continuation coverage.

Endnotes

¹ Okla. Stat. tit. 36 § 633A.

² Okla. Stat. tit. 36 §§ 1441 to 1453.

³ Okla. Ins. Reg. § 36-6-1.

⁴ Ins. Dept. bulletin, February 2, 1995.

⁵ Ins. Dept. Bulletin, March 20, 1996.

⁶ Okla. Stat. tit. 36 §§ 6501 to 6507.

⁷ Okla. Stat. tit. § _____.