

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 HOUSE BILL 2144

By: Kannady

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5
6 AS INTRODUCED

7 An Act relating to insurance; creating the Insurance
8 Consumers Protection Act; providing definitions;
9 creating a statutory cause of action; clarifying
10 determination of reasonableness and necessity;
11 providing who may bring action; declaring certain
12 policy, contract, or plan provisions void; clarifying
13 there is no requirement to exhaust administrative
14 remedies; directing that claimants are entitled to
15 trial by jury; clarifying issues of bad faith are
16 question of fact; creating a statutory cause of
17 action against certain bad faith insurers; clarifying
18 duty of good faith and fair dealing is nondelegable;
19 providing when a cause of action for bad faith shall
20 lie; providing for damages; permitting punitive
21 damages; providing categories; directing jury to base
22 award on certain factors; limiting certain punitive
23 damages; clarifying considerations and defenses;
24 clarifying that causes of actions in act do not limit
other actions; providing for codification; and
providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 1119 of Title 12, unless there
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Insurance
Consumers Protection Act".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1119.1 of Title 12, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in the Insurance Consumers Protection Act:

5 1. "Bad faith" means conduct of an insurer that violates its
6 duty or duties of good faith and fair dealing to a first-party
7 claimant or third-party beneficiary by acts including but not
8 limited to unreasonably or untimely refusing to pay or tender the
9 proper benefits for a valid claim under the insurance policy. This
10 duty of good faith and fair dealing is contained in every insurance
11 contract and is a nondelegable duty;

12 2. "First-party claimant" means an individual corporation,
13 association, partnership, or other legal entity asserting an
14 entitlement to benefits owed directly to or on behalf of an insured
15 under an insurance policy. First-party claimants include a public
16 entity that has paid a claim for benefits dues to an insurer's
17 unreasonable delay or denial of the claim;

18 3. "Insurance" is a contract whereby one undertakes to
19 indemnify another or to pay a specified amount upon determinable
20 contingencies;

21 4. "Insurer" means every person engaged in the business of
22 making, selling, or binding contracts of insurance or indemnity in
23 Oklahoma, except for independent insurance agents and captive
24 insurance agents that market for only one insurer. A nonprofit

1 hospital service and medical indemnity corporation is an insurer
2 within the meaning of this act. The term insurer does not include
3 burial associations;

4 5. "Insured" means a person for whom the insurance policy is
5 written to protect;

6 6. "Issued in this state" refers to every health and disability
7 policy, insurance contract, insurance certificate, and insurance
8 agreement existing, offered, issued, delivered, or renewed in the
9 State of Oklahoma or providing health or disability benefits to a
10 resident or domiciliary of the State of Oklahoma and every employee
11 benefit plan covering a resident or domiciliary of the State of
12 Oklahoma, whether or not on behalf of an employer located or
13 domiciled in Oklahoma, on or after January 1, 2005, notwithstanding
14 any contractual or statutory choice-of-law provision to the
15 contrary;

16 7. "Person" means an individual, entity, company, insurer,
17 association, organization, society, reciprocal or inter-insurance
18 exchange, partnership, syndicate, business trust, or corporation;

19 8. "Prior authorization" or "pre-authorization" means the
20 review and approval by the insurer of treatment recommendations from
21 a health insurance policyholder's physician or the review by the
22 insured's agent experienced in remedying the type of casualty or
23 damage at issue; and

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1 9. "Third-party beneficiary" means a person that receives
2 benefits from a contract between two other parties, one of which is
3 an insurer, even though they are not a party to the contract.

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 1119.2 of Title 12, unless there
6 is created a duplication in numbering, reads as follows:

7 A. There is hereby created a statutory cause of action for an
8 insured under an insurance policy, as a first-party claimant, and
9 any third-party beneficiary to the contract of insurance between the
10 insurer and insured, to maintain an action in district court or any
11 court of competent jurisdiction for the bad faith refusal of or
12 untimely pre-authorization of benefits, and for payment of such
13 benefits.

14 B. Provided, however, the recommended treatment for which pre-
15 authorization or payment of benefits is sought shall be reasonable
16 and necessary for the person covered by the insurance policy. The
17 reasonableness and necessity of the recommended treatment shall be
18 determined by a jury.

19 C. Either the first-party claimant or third-party beneficiary
20 may prosecute a claim for bad faith created by this act.

21 D. An insurance policy, insurance contract, or plan that is
22 issued in this state shall not contain a provision purporting to
23 reserve discretion to the insurer, plan administrator, or claim
24 administrator to interpret the terms of the policy, contract, or

1 plan or to determine eligibility for benefits. If an insurance
2 policy, contract, or plan contains such a provision, the provision
3 is void.

4 E. There is no requirement to exhaust any administrative
5 remedies with the Oklahoma Insurance Department before filing an
6 action asserting a cause of action for bad faith in a district
7 court.

8 F. A claimant under this section is entitled to a trial by
9 jury.

10 G. The issue of bad faith is always a question of fact which
11 must be submitted to a jury pursuant to Section 6 of Article 2 of
12 the Oklahoma Constitution.

13 SECTION 4. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1119.3 of Title 12, unless there
15 is created a duplication in numbering, reads as follows:

16 A. There is hereby created a statutory cause of action against
17 an insurer, except pursuant to an insurance policy providing for
18 statutory workers' compensation benefits under the Administrative
19 Workers' Compensation Act in Title 85A of the Oklahoma Statutes or
20 the Workers' Compensation Code in Title 85 of the Oklahoma Statutes,
21 if the action or actions of the insurer is in bad faith as defined
22 by this act.

23 B. There is no requirement to exhaust any administrative
24 remedies with the Oklahoma Insurance Department before filing an

1 action asserting a cause of action for bad faith in a district
2 court.

3 C. A claimant under this section is entitled to a trial by
4 jury.

5 D. The issue of bad faith is always a question of fact which
6 must be submitted to a jury.

7 E. The duty of good faith and fair dealing is contained in
8 every insurance contract and is a nondelegable duty.

9 SECTION 5. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 1119.4 of Title 12, unless there
11 is created a duplication in numbering, reads as follows:

12 A cause of action for bad faith created by this act shall lie
13 if:

14 1. The insurer was required under the insurance policy to pay
15 the insured's claim;

16 2. The insurer's refusal to pay the claim was unreasonable or
17 untimely under the circumstances related to the claim;

18 3. The insurer had no reasonable basis for the refusal, or the
19 amount it offered to satisfy the claim was unreasonably low; or

20 4. The violation by the insurer of its duty of good faith and
21 fair dealing was the direct cause of the injury sustained by the
22 insured.

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1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1119.5 of Title 12, unless there
3 is created a duplication in numbering, reads as follows:

4 A. If the insurer violates its duty or duties of good faith and
5 fair dealing, the amount of damages shall be fixed as the amount of
6 money that will compensate a first-party claimant or third-party
7 beneficiary for any loss suffered as a result of the breach of the
8 duty of good faith and fair dealing.

9 B. In fixing the amount of damages, the jury may consider
10 financial losses, emotional distress, embarrassment, loss of
11 reputation, and mental pain and suffering.

12 C. The jury may award punitive damages for the sake of example
13 and by way of punishing the insurer based upon the following
14 factors, in accordance with Section 9.1 of Title 23 of the Oklahoma
15 Statutes:

- 16 1. The profitability of the misconduct to the insurer;
- 17 2. The duration of the misconduct and any concealment of it;
- 18 3. The attitude and conduct of the insurer upon discovery of
19 the bad faith action; and
- 20 4. The financial condition of the insurer.

21 D. Category I. Where the jury finds by clear and convincing
22 evidence that an insurer has recklessly disregarded its duty to deal
23 fairly and act in good faith with its insured; the jury, in a
24 separate proceeding conducted after the jury has made such finding

1 and awarded actual damages, may award punitive damages in an amount
2 not to exceed the greater of:

- 3 1. One Hundred Thousand Dollars (\$100,000.00); or
- 4 2. The amount of the actual damages awarded.

5 E. Category II. Where the jury finds by clear and convincing
6 evidence that:

7 1. An insurer has acted intentionally and with malice towards
8 others; or

9 2. An insurer has intentionally and with malice breached its
10 duty to deal fairly and act in good faith with its insured.

11 The jury, in a separate proceeding conducted after the jury has
12 made such finding and awarded actual damages, may award punitive
13 damages in an amount not to exceed the greatest of:

- 14 a. Five Hundred Thousand Dollars (\$500,000.00),
- 15 b. twice the amount of actual damages awarded, or
- 16 c. the increased financial benefit derived by the insurer
17 as a direct result of the conduct causing the injury
18 to the plaintiff and other persons or entities.

19 F. Category III. Where the jury finds by clear and convincing
20 evidence that:

21 1. An insurer has acted intentionally and with malice towards
22 others; or

23 2. An insurer has intentionally and with malice breached its
24 duty to deal fairly and act in good faith with its insured, and the

1 court finds, on the record and out of the presence of the jury, that
2 there is evidence beyond a reasonable doubt that the insurer acted
3 intentionally and with malice and engaged in conduct life-
4 threatening to humans, the jury, in a separate proceeding conducted
5 after the jury has made such finding and awarded actual damages, may
6 award punitive damages in any amount the jury deems appropriate,
7 without regard to the limitations set forth in subsections B and C
8 of this section. Any award of punitive damages under this
9 subsection awarded in any manner other than as required in this
10 subsection shall be void and reversible error.

11 G. In determining the amount, if any, of punitive damages to be
12 awarded under either subsection B, C, or D of this section, the jury
13 shall make the award based upon the factors set forth in subsection
14 A of this section.

15 H. Any award of punitive damages under this section awarded in
16 any manner other than as required in this section shall be void and
17 reversible error.

18 SECTION 7. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 1119.6 of Title 12, unless there
20 is created a duplication in numbering, reads as follows:

21 A cause of action for bad faith as provided for by this act
22 requires analysis of the insurer's action and not the interpretation
23 of any health insurance plan or how a health insurance plan relates
24 to the claim. Any insurance contract issued in this state that

1 offers health insurance benefits shall not contain a provision
2 purporting to reserve discretion to the insurer to interpret the
3 terms of the contract. If an insurance contract contains such a
4 provision, the provision is void. The interpretation of a health
5 insurance plan shall not be a defense to a bad faith cause of
6 action.

7 SECTION 8. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 1119.7 of Title 12, unless there
9 is created a duplication in numbering, reads as follows:

10 The causes of actions authorized in this act are in addition to,
11 and do not limit or affect, other actions available by statute or
12 common law, now or in the future. The statutory causes of action
13 created by this act are in addition to the common law bad faith
14 causes of action and in no way limit remedies or rights established
15 by common law for the cause of action for breach of the duty of good
16 faith and fair dealing under Oklahoma law.

17 SECTION 9. This act shall become effective November 1, 2025.

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