CHAPTER 82

(HB 138)

AN ACT relating to public employee health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 18A.2254 is amended to read as follows:

(1) Based on the recommendation of the secretary of the Personnel Cabinet, the secretary of the Finance and Administration Cabinet, in lieu of contracting with one (1) or more insurers licensed to do business in this state, shall procure, in compliance with KRS 45A.080, 45A.085, and 45A.090, and reviewed by the Government Contract Review Committee pursuant to KRS 45A.705, a contract with one (1) or more third-party administrators licensed to do business in the Commonwealth pursuant to KRS 304.9-052 to administer a self-insured plan offered to the Public Employee Health Insurance Program for public employees. The requirements for the self-insured plan shall be as follows:

(a) 1. The secretary of the Personnel Cabinet shall incorporate by reference in an administrative regulation, pursuant to KRS 13A.2251, the plan year handbook distributed by the Department of Employee Insurance in the Personnel Cabinet to public employees covered under the self-insured plan. The plan year handbook shall contain, at a minimum, the premiums, employee contributions, employer contributions, and a summary of benefits, copays, coinsurance, and deductibles for each plan provided to public employees covered under the self-insured plan;

2. Prior to filing an administrative regulation for the self-insured plan with the Legislative Research Commission, the secretary of the Personnel Cabinet shall submit the administrative regulation to the secretary of the Cabinet for Health and Family Services for review. Notwithstanding any other provision of KRS Chapter 18A to the contrary, the administrative regulation shall not be subject to review by the Personnel Board prior to filing the administrative regulation with the Legislative Research Commission; and

3. The secretary of the Personnel Cabinet shall file the administrative regulation for the self-insured plan with the Legislative Research Commission on or before September 15 of the year before each new plan year begins;

(b) The self-insured plan offered by the program shall cover hospice care at least equal to the Medicare benefit;

(c) The Personnel Cabinet shall provide written notice of any formulary change to employees covered under the self-insured plan who are directly impacted by the formulary change and to the Kentucky Group Health Insurance Board fifteen (15) days before implementation of any formulary change. If, after consulting with his or her physician, the employee still disagrees with the formulary change, the employee shall have the right to appeal the change. The employee shall have sixty (60) days from the date of the notice of the formulary change to file an appeal with the Personnel Cabinet. The cabinet shall render a decision within thirty (30) days from the receipt of the request for an appeal. After a final decision is rendered by the Personnel Cabinet, the employee shall have a right to file an appeal pursuant to the utilization review statutes in KRS 304.17A-600 to 304.17A-633. During the appeal process, the employee shall have the right to continue to take any drug prescribed by his or her physician that is the subject of the formulary changes;

(d) The Personnel Cabinet shall develop the necessary capabilities to ensure that an independent review of each formulary change is conducted and includes but is not limited to an evaluation of the fiscal impact and therapeutic benefit of the formulary change. The independent review shall be conducted by knowledgeable medical professionals and the results of the independent review shall be posted on the Web sites of the Personnel Cabinet and the Cabinet for Health and Family Services and made available to the public upon request within thirty (30) days of the notice from the Personnel Cabinet required in paragraph (c) of this subsection;

(e) If the self-insured plan restricts pharmacy benefits to a drug formulary, the plan shall comply with and have an exceptions policy in accordance with KRS 304.17A-535;

(f) Premiums for all plans offered by the Public Employee Health Insurance Program to employees shall be based on the experience of the entire group;

(g) The plan year for the Public Employee Health Insurance Program, whether for fully insured or self-insured benefits, shall be on a calendar year basis.

(2) In addition to any fully insured health benefit plans or self-insured plans, beginning January 1, ***2015***~~[2007]~~, the Personnel Cabinet shall offer a health reimbursement account ***or health flexible spending account*** for public employees insured under the Public Employee Health Insurance Program.

(a) If a public employee waives coverage provided by his or her employer under the Public Employee Health Insurance Program, the employer shall forward a monthly amount to be determined by the secretary of the Personnel Cabinet,~~[but not less than one hundred seventy-five dollars ($175),]~~ for that employee as an employer contribution to the health reimbursement account ***or health flexible spending account, but not less than one hundred seventy-five dollars ($175) per month, subject to any conditions or limitations imposed by the secretary to comply with applicable federal law***.

(b) The administrative fees associated with the health reimbursement account ***or health flexible spending account*** shall be an authorized expense to be charged to the public employee health insurance trust fund.

(3) (a) The public employee health insurance trust fund is established in the Personnel Cabinet. The purpose of the public employee health insurance trust fund is to provide funds to pay medical claims and other costs associated with the administration of the Public Employee Health Insurance Program self-insured plan under a competitively bid contract as provided by KRS Chapter 45A and reviewed by the Government Contract Review Committee pursuant to KRS 45A.705. Unless authorized by the General Assembly, the trust fund shall not utilize funds for any other purpose and the trust fund receipts from prior plan years shall not be used to pay claims and expenses for current or subsequent plan years, except as provided by paragraph (b) of this subsection.

(b) In the event of a projected deficit in the trust fund balance of a prior plan year, the secretary of the Finance and Administration Cabinet may declare an emergency and transfer up to twenty-five percent (25%) of another prior plan year's balance to that plan year, provided the Governor, all members of the General Assembly, and Legislative Research Commission are notified at least thirty (30) days prior to the transfer. The Legislative Research Commission shall refer the notice to appropriate committees of jurisdiction for their review.

(c) The following moneys shall be directly deposited into the trust fund:

1. Employer and employee premiums collected under the self-insured plan;

2. Interest and investment returns earned by the self-insured plan;

3. Rebates and refunds attributed to the self-insured plan; and

4. All other receipts attributed to the self-insured plan.

(d) Any balance remaining in the public employee health insurance trust fund at the end of a fiscal year shall not lapse. Any balance remaining at the end of a fiscal year shall be carried forward to the next fiscal year and be used solely for the purpose established in paragraphs (a) and (b) of this subsection. The balance of funds in the public employee health insurance trust fund shall be invested by the Office of Financial Management consistent with the provisions of KRS Chapter 42, and interest income shall be credited to the trust fund. Any balance for a specific plan year and any subsequent interest income for that specific plan year shall be accounted for separately.

(e) The Auditor of Public Accounts shall be responsible for a financial audit of the books and records of the trust fund. The audit shall be conducted in accordance with generally accepted accounting principles and shall be completed within ninety (90) days of the close of the fiscal year. All audit reports shall be filed with the Governor, the President of the Senate, the Speaker of the House of Representatives, and the secretary of the Personnel Cabinet.

(f) The secretary of the Personnel Cabinet shall file a quarterly report on the status of the trust fund with the Governor, the Interim Joint Committee on Appropriations and Revenue, the Kentucky Group Health Insurance Board, and the Advisory Committee of State Health Insurance Subscribers. The first status report shall be submitted no later than July 30, 2006, and subsequent reports shall be submitted no later than sixty (60) days following the end of each calendar quarter. The report shall include the following:

1. The current balance of the trust fund and the amount of the balance associated with each plan year;

2. A detailed description of all income to the trust fund since the last report;

3. A detailed description of any receipts due to the trust fund;

4. A total amount of payments made for medical and pharmacy claims from the trust fund by plan year;

5. A detailed description of all payments made to the third-party administrator of the self-insured plan by the trust fund;

6. Current enrollment data, including monthly enrollment since the last report, of the Public Employee Health Insurance Program self-insured plan;

7. Any other information the secretary may include;

8. Any other information requested by the Interim Joint Committee on Appropriations and Revenue concerning the operation of the Public Employee Health Insurance Program self-funded plan or the trust fund; and

9. In addition to the information required under subparagraphs 1. to 8. of this paragraph, the quarterly report filed in July and January shall also include the following:

    a. A projection of the medical claims incurred but not yet reported that are considered liabilities to the trust fund;

    b. A statement of any other trust fund liabilities;

    c. A detailed calculation outlining proposed premium rates for the next plan year, including base claims, trend assumptions, administrative fees, and any proposed plan or benefit changes;

    d. A detailed description of the current in-state and out-of-state networks provided under the plan, any changes to the networks since the last report, and any proposed changes to the in-state or out-of-state networks during the next six (6) months; and

    e. Specific data regarding the third-party administrator's performance under the contract. The data shall include the following:

        i. Any results or outcomes of disease management and wellness programs;

        ii. Results of case management audits and educational and communication efforts; and

        iii. Comparison of actual measurable results to contract performance guarantees.

Signed by Governor April 10, 2014.