

1 AN ACT relating to health care services received at no-cost or reduced-cost health
2 facilities by persons covered under a health insurance policy.

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

4 ➔SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304
5 IS CREATED TO READ AS FOLLOWS:

6 *(1) As used in this subsection:*

7 *(a) "Fair market value" means:*

8 *1. For prescription drugs, the retail value of the drug; and*

9 *2. For all other health care services, the fair market value of the service*
10 *as determined by the health care provider that provided the service;*

11 *(b) "Health insurance policy" means any policy, contract, or plan not exempt*
12 *from state regulation under federal law that provides reimbursement or*
13 *benefits for health care services received by persons covered under the*
14 *policy, contract, or plan, including but not limited to a health benefit plan*
15 *defined in KRS 304.17A-005; and*

16 *(c) "No-cost or reduced-cost health facility" means a health facility that offers*
17 *health care services in a setting in which the services are rendered to*
18 *patients at no cost or at a reduced cost.*

19 *(2) (a) A health insurance policy issued or renewed on or after the effective date of*
20 *this Act shall apply the fair market value of covered health care services*
21 *received by a covered person at a no-cost or reduced-cost health facility to*
22 *any deductible or out-of-pocket maximum owed by that person under the*
23 *policy.*

24 *(b) The coverage required under paragraph (a) of this subsection shall include*
25 *health care services provided by an out-of-network provider if the policy*
26 *covers those services when they are provided by an in-network provider.*

27 *(c) Each policy shall notify covered persons of their rights under this section.*

1 ➔SECTION 2. A NEW SECTION OF SUBTITLE 17C OF KRS CHAPTER 304
2 IS CREATED TO READ AS FOLLOWS:

3 *The provisions of Section 1 of this Act shall apply to limited health service benefit*
4 *plans, including limited health service contracts as defined in KRS 304.38A-010.*

5 ➔Section 3. KRS 18A.225 is amended to read as follows:

- 6 (1) (a) The term "employee" for purposes of this section means:
- 7 1. Any person, including an elected public official, who is regularly
8 employed by any department, office, board, agency, or branch of state
9 government; or by a public postsecondary educational institution; or by
10 any city, urban-county, charter county, county, or consolidated local
11 government, whose legislative body has opted to participate in the state-
12 sponsored health insurance program pursuant to KRS 79.080; and who
13 is either a contributing member to any one (1) of the retirement systems
14 administered by the state, including but not limited to the Kentucky
15 Retirement Systems, Kentucky Teachers' Retirement System, the
16 Legislators' Retirement Plan, or the Judicial Retirement Plan; or is
17 receiving a contractual contribution from the state toward a retirement
18 plan; or, in the case of a public postsecondary education institution, is an
19 individual participating in an optional retirement plan authorized by
20 KRS 161.567; or is eligible to participate in a retirement plan
21 established by an employer who ceases participating in the Kentucky
22 Employees Retirement System pursuant to KRS 61.522 whose
23 employees participated in the health insurance plans administered by the
24 Personnel Cabinet prior to the employer's effective cessation date in the
25 Kentucky Employees Retirement System;
- 26 2. Any certified or classified employee of a local board of education;
- 27 3. Any elected member of a local board of education;

- 1 4. Any person who is a present or future recipient of a retirement
2 allowance from the Kentucky Retirement Systems, Kentucky Teachers'
3 Retirement System, the Legislators' Retirement Plan, the Judicial
4 Retirement Plan, or the Kentucky Community and Technical College
5 System's optional retirement plan authorized by KRS 161.567, except
6 that a person who is receiving a retirement allowance and who is age
7 sixty-five (65) or older shall not be included, with the exception of
8 persons covered under KRS 61.702(4)(c), unless he or she is actively
9 employed pursuant to subparagraph 1. of this paragraph; and
- 10 5. Any eligible dependents and beneficiaries of participating employees
11 and retirees who are entitled to participate in the state-sponsored health
12 insurance program;
- 13 (b) The term "health benefit plan" for the purposes of this section means a health
14 benefit plan as defined in KRS 304.17A-005;
- 15 (c) The term "insurer" for the purposes of this section means an insurer as defined
16 in KRS 304.17A-005; and
- 17 (d) The term "managed care plan" for the purposes of this section means a
18 managed care plan as defined in KRS 304.17A-500.
- 19 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
20 recommendation of the secretary of the Personnel Cabinet, shall procure, in
21 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,
22 from one (1) or more insurers authorized to do business in this state, a group
23 health benefit plan that may include but not be limited to health maintenance
24 organization (HMO), preferred provider organization (PPO), point of service
25 (POS), and exclusive provider organization (EPO) benefit plans encompassing
26 all or any class or classes of employees. With the exception of employers
27 governed by the provisions of KRS Chapters 16, 18A, and 151B, all

1 employers of any class of employees or former employees shall enter into a
2 contract with the Personnel Cabinet prior to including that group in the state
3 health insurance group. The contracts shall include but not be limited to
4 designating the entity responsible for filing any federal forms, adoption of
5 policies required for proper plan administration, acceptance of the contractual
6 provisions with health insurance carriers or third-party administrators, and
7 adoption of the payment and reimbursement methods necessary for efficient
8 administration of the health insurance program. Health insurance coverage
9 provided to state employees under this section shall, at a minimum, contain
10 the same benefits as provided under Kentucky Kare Standard as of January 1,
11 1994, and shall include a mail-order drug option as provided in subsection
12 (13) of this section. All employees and other persons for whom the health care
13 coverage is provided or made available shall annually be given an option to
14 elect health care coverage through a self-funded plan offered by the
15 Commonwealth or, if a self-funded plan is not available, from a list of
16 coverage options determined by the competitive bid process under the
17 provisions of KRS 45A.080, 45A.085, and 45A.090 and made available
18 during annual open enrollment.

19 (b) The policy or policies shall be approved by the commissioner of insurance and
20 may contain the provisions the commissioner of insurance approves, whether
21 or not otherwise permitted by the insurance laws.

22 (c) Any carrier bidding to offer health care coverage to employees shall agree to
23 provide coverage to all members of the state group, including active
24 employees and retirees and their eligible covered dependents and
25 beneficiaries, within the county or counties specified in its bid. Except as
26 provided in subsection (20) of this section, any carrier bidding to offer health
27 care coverage to employees shall also agree to rate all employees as a single

1 entity, except for those retirees whose former employers insure their active
2 employees outside the state-sponsored health insurance program.

3 (d) Any carrier bidding to offer health care coverage to employees shall agree to
4 provide enrollment, claims, and utilization data to the Commonwealth in a
5 format specified by the Personnel Cabinet with the understanding that the data
6 shall be owned by the Commonwealth; to provide data in an electronic form
7 and within a time frame specified by the Personnel Cabinet; and to be subject
8 to penalties for noncompliance with data reporting requirements as specified
9 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions
10 to protect the confidentiality of each individual employee; however,
11 confidentiality assertions shall not relieve a carrier from the requirement of
12 providing stipulated data to the Commonwealth.

13 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities
14 for timely analysis of data received from carriers and, to the extent possible,
15 provide in the request-for-proposal specifics relating to data requirements,
16 electronic reporting, and penalties for noncompliance. The Commonwealth
17 shall own the enrollment, claims, and utilization data provided by each carrier
18 and shall develop methods to protect the confidentiality of the individual. The
19 Personnel Cabinet shall include in the October annual report submitted
20 pursuant to the provisions of KRS 18A.226 to the Governor, the General
21 Assembly, and the Chief Justice of the Supreme Court, an analysis of the
22 financial stability of the program, which shall include but not be limited to
23 loss ratios, methods of risk adjustment, measurements of carrier quality of
24 service, prescription coverage and cost management, and statutorily required
25 mandates. If state self-insurance was available as a carrier option, the report
26 also shall provide a detailed financial analysis of the self-insurance fund
27 including but not limited to loss ratios, reserves, and reinsurance agreements.

- 1 (f) If any agency participating in the state-sponsored employee health insurance
2 program for its active employees terminates participation and there is a state
3 appropriation for the employer's contribution for active employees' health
4 insurance coverage, then neither the agency nor the employees shall receive
5 the state-funded contribution after termination from the state-sponsored
6 employee health insurance program.
- 7 (g) Any funds in flexible spending accounts that remain after all reimbursements
8 have been processed shall be transferred to the credit of the state-sponsored
9 health insurance plan's appropriation account.
- 10 (h) Each entity participating in the state-sponsored health insurance program shall
11 provide an amount at least equal to the state contribution rate for the employer
12 portion of the health insurance premium. For any participating entity that used
13 the state payroll system, the employer contribution amount shall be equal to
14 but not greater than the state contribution rate.
- 15 (3) The premiums may be paid by the policyholder:
- 16 (a) Wholly from funds contributed by the employee, by payroll deduction or
17 otherwise;
- 18 (b) Wholly from funds contributed by any department, board, agency, public
19 postsecondary education institution, or branch of state, city, urban-county,
20 charter county, county, or consolidated local government; or
- 21 (c) Partly from each, except that any premium due for health care coverage or
22 dental coverage, if any, in excess of the premium amount contributed by any
23 department, board, agency, postsecondary education institution, or branch of
24 state, city, urban-county, charter county, county, or consolidated local
25 government for any other health care coverage shall be paid by the employee.
- 26 (4) If an employee moves his place of residence or employment out of the service area
27 of an insurer offering a managed health care plan, under which he has elected

1 coverage, into either the service area of another managed health care plan or into an
2 area of the Commonwealth not within a managed health care plan service area, the
3 employee shall be given an option, at the time of the move or transfer, to change his
4 or her coverage to another health benefit plan.

5 (5) No payment of premium by any department, board, agency, public postsecondary
6 educational institution, or branch of state, city, urban-county, charter county,
7 county, or consolidated local government shall constitute compensation to an
8 insured employee for the purposes of any statute fixing or limiting the
9 compensation of such an employee. Any premium or other expense incurred by any
10 department, board, agency, public postsecondary educational institution, or branch
11 of state, city, urban-county, charter county, county, or consolidated local
12 government shall be considered a proper cost of administration.

13 (6) The policy or policies may contain the provisions with respect to the class or classes
14 of employees covered, amounts of insurance or coverage for designated classes or
15 groups of employees, policy options, terms of eligibility, and continuation of
16 insurance or coverage after retirement.

17 (7) Group rates under this section shall be made available to the disabled child of an
18 employee regardless of the child's age if the entire premium for the disabled child's
19 coverage is paid by the state employee. A child shall be considered disabled if he
20 has been determined to be eligible for federal Social Security disability benefits.

21 (8) The health care contract or contracts for employees shall be entered into for a period
22 of not less than one (1) year.

23 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of
24 State Health Insurance Subscribers to advise the secretary or his designee regarding
25 the state-sponsored health insurance program for employees. The secretary shall
26 appoint, from a list of names submitted by appointing authorities, members
27 representing school districts from each of the seven (7) Supreme Court districts,

1 members representing state government from each of the seven (7) Supreme Court
2 districts, two (2) members representing retirees under age sixty-five (65), one (1)
3 member representing local health departments, two (2) members representing the
4 Kentucky Teachers' Retirement System, and three (3) members at large. The
5 secretary shall also appoint two (2) members from a list of five (5) names submitted
6 by the Kentucky Education Association, two (2) members from a list of five (5)
7 names submitted by the largest state employee organization of nonschool state
8 employees, two (2) members from a list of five (5) names submitted by the
9 Kentucky Association of Counties, two (2) members from a list of five (5) names
10 submitted by the Kentucky League of Cities, and two (2) members from a list of
11 names consisting of five (5) names submitted by each state employee organization
12 that has two thousand (2,000) or more members on state payroll deduction. The
13 advisory committee shall be appointed in January of each year and shall meet
14 quarterly.

15 (10) Notwithstanding any other provision of law to the contrary, the policy or policies
16 provided to employees pursuant to this section shall not provide coverage for
17 obtaining or performing an abortion, nor shall any state funds be used for the
18 purpose of obtaining or performing an abortion on behalf of employees or their
19 dependents.

20 (11) Interruption of an established treatment regime with maintenance drugs shall be
21 grounds for an insured to appeal a formulary change through the established appeal
22 procedures approved by the Department of Insurance, if the physician supervising
23 the treatment certifies that the change is not in the best interests of the patient.

24 (12) Any employee who is eligible for and elects to participate in the state health
25 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any
26 one (1) of the state-sponsored retirement systems shall not be eligible to receive the
27 state health insurance contribution toward health care coverage as a result of any

1 other employment for which there is a public employer contribution. This does not
2 preclude a retiree and an active employee spouse from using both contributions to
3 the extent needed for purchase of one (1) state sponsored health insurance policy for
4 that plan year.

5 (13) (a) The policies of health insurance coverage procured under subsection (2) of
6 this section shall include a mail-order drug option for maintenance drugs for
7 state employees. Maintenance drugs may be dispensed by mail order in
8 accordance with Kentucky law.

9 (b) A health insurer shall not discriminate against any retail pharmacy located
10 within the geographic coverage area of the health benefit plan and that meets
11 the terms and conditions for participation established by the insurer, including
12 price, dispensing fee, and copay requirements of a mail-order option. The
13 retail pharmacy shall not be required to dispense by mail.

14 (c) The mail-order option shall not permit the dispensing of a controlled
15 substance classified in Schedule II.

16 (14) The policy or policies provided to state employees or their dependents pursuant to
17 this section shall provide coverage for obtaining a hearing aid and acquiring hearing
18 aid-related services for insured individuals under eighteen (18) years of age, subject
19 to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months
20 pursuant to KRS 304.17A-132.

21 (15) Any policy provided to state employees or their dependents pursuant to this section
22 shall provide coverage for the diagnosis and treatment of autism spectrum disorders
23 consistent with KRS 304.17A-142.

24 (16) Any policy provided to state employees or their dependents pursuant to this section
25 shall provide coverage for obtaining amino acid-based elemental formula pursuant
26 to KRS 304.17A-258.

27 (17) If a state employee's residence and place of employment are in the same county, and

1 if the hospital located within that county does not offer surgical services, intensive
2 care services, obstetrical services, level II neonatal services, diagnostic cardiac
3 catheterization services, and magnetic resonance imaging services, the employee
4 may select a plan available in a contiguous county that does provide those services,
5 and the state contribution for the plan shall be the amount available in the county
6 where the plan selected is located.

7 (18) If a state employee's residence and place of employment are each located in counties
8 in which the hospitals do not offer surgical services, intensive care services,
9 obstetrical services, level II neonatal services, diagnostic cardiac catheterization
10 services, and magnetic resonance imaging services, the employee may select a plan
11 available in a county contiguous to the county of residence that does provide those
12 services, and the state contribution for the plan shall be the amount available in the
13 county where the plan selected is located.

14 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and
15 in the best interests of the state group to allow any carrier bidding to offer health
16 care coverage under this section to submit bids that may vary county by county or
17 by larger geographic areas.

18 (20) Notwithstanding any other provision of this section, the bid for proposals for health
19 insurance coverage for calendar year 2004 shall include a bid scenario that reflects
20 the statewide rating structure provided in calendar year 2003 and a bid scenario that
21 allows for a regional rating structure that allows carriers to submit bids that may
22 vary by region for a given product offering as described in this subsection:

23 (a) The regional rating bid scenario shall not include a request for bid on a
24 statewide option;

25 (b) The Personnel Cabinet shall divide the state into geographical regions which
26 shall be the same as the partnership regions designated by the Department for
27 Medicaid Services for purposes of the Kentucky Health Care Partnership

- 1 Program established pursuant to 907 KAR 1:705;
- 2 (c) The request for proposal shall require a carrier's bid to include every county
3 within the region or regions for which the bid is submitted and include but not
4 be restricted to a preferred provider organization (PPO) option;
- 5 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the
6 carrier all of the counties included in its bid within the region. If the Personnel
7 Cabinet deems the bids submitted in accordance with this subsection to be in
8 the best interests of state employees in a region, the cabinet may award the
9 contract for that region to no more than two (2) carriers; and
- 10 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including
11 other requirements or criteria in the request for proposal.
- 12 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or
13 after July 12, 2006, to public employees pursuant to this section which provides
14 coverage for services rendered by a physician or osteopath duly licensed under KRS
15 Chapter 311 that are within the scope of practice of an optometrist duly licensed
16 under the provisions of KRS Chapter 320 shall provide the same payment of
17 coverage to optometrists as allowed for those services rendered by physicians or
18 osteopaths.
- 19 (22) Any fully insured health benefit plan or self-insured plan issued or renewed on or
20 after ***the effective date of this Act***~~[July 12, 2006]~~, to public employees pursuant to
21 this section shall comply with:~~[the provisions of KRS 304.17A-270 and 304.17A-~~
22 ~~525.]~~
- 23 ***(a) Section 1 of this Act;***
- 24 ***(b) KRS 304.17A-270 and 304.17A-525;***
- 25 ***(c) KRS 304.17A-600 to 304.17A-633;***
- 26 ***(d) KRS 205.593;***
- 27 ***(e) KRS 304.17A-700 to 304.17A-730;***

- 1 (f) KRS 304.14-135;
- 2 (g) KRS 304.17A-580 and 304.17A-641;
- 3 (h) KRS 304.99-123;
- 4 (i) KRS 304.17A-138; and
- 5 (j) Administrative regulations promulgated pursuant to statutes listed in this
- 6 subsection.

7 ~~[(23) Any fully insured health benefit plan or self-insured plan issued or renewed on or~~
 8 ~~after July 12, 2006, to public employees shall comply with KRS 304.17A 600 to~~
 9 ~~304.17A 633 pertaining to utilization review, KRS 205.593 and 304.17A 700 to~~
 10 ~~304.17A 730 pertaining to payment of claims, KRS 304.14 135 pertaining to~~
 11 ~~uniform health insurance claim forms, KRS 304.17A 580 and 304.17A 641~~
 12 ~~pertaining to emergency medical care, KRS 304.99 123, and any administrative~~
 13 ~~regulations promulgated thereunder.~~

14 ~~(24) Any fully insured health benefit plan or self-insured plan issued or renewed on or~~
 15 ~~after July 1, 2019, to public employees pursuant to this section shall comply with~~
 16 ~~KRS 304.17A 138.]~~

17 ➔Section 4. This Act takes effect on January 1, 2021.