

1 AN ACT relating to prescription insulin.

2 WHEREAS, approximately 450,000 people in Kentucky, or 1 out of every 8
3 Kentuckians, have been diagnosed with diabetes; and

4 WHEREAS, an additional 26,000 people in Kentucky are diagnosed with diabetes
5 each year; and

6 WHEREAS, every Kentuckian with type 1 diabetes and many with type 2 diabetes
7 rely on daily doses of insulin to survive; and

8 WHEREAS, the cost of treating diabetes increased by 26% from 2012 to 2017, and
9 the annual medical cost related to diabetes in Kentucky now exceeds \$5 billion per year;
10 and

11 WHEREAS, care for people with diabetes accounts for 1 out of every 4 health care
12 dollars spent in the United States; and

13 WHEREAS, insulin prices rose by 45% between 2014 and 2017, and over the last
14 14 years, the price of insulin has increased by 550%, adjusted for inflation; and

15 WHEREAS, according to research published in the British Medical Journal Global
16 Health, the average cost to produce a vial of insulin is \$6; and

17 WHEREAS, according to the Centers for Disease Control and Prevention, the high
18 price of insulin can lead some patients to begin rationing their diabetes medication or not
19 fully comply with dosing as prescribed by their doctors; and

20 WHEREAS, a 10% increase in insulin adherence rates can produce up to a 29%
21 decrease in overall health care costs related to diabetes; and

22 WHEREAS, it is important to enact policies to reduce the costs for Kentuckians
23 with diabetes to obtain life-saving and life-sustaining insulin;

24 NOW, THEREFORE,

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

26 ➔Section 1. KRS 304.17A-148 is amended to read as follows:

27 (1) All health benefit plans issued or renewed on or after ***the effective date of this***

1 ~~Act~~~~[July 15, 1998]~~, shall provide coverage for equipment, supplies, outpatient self-
 2 management training and education, including medical nutrition therapy, and all
 3 medications necessary for the treatment of insulin-dependent diabetes, insulin-using
 4 diabetes, gestational diabetes, and noninsulin-using diabetes if prescribed by a
 5 health care provider legally authorized to prescribe the items.

6 (2) Diabetes outpatient self-management training and education shall be provided by a
 7 certified, registered, or licensed health care professional with expertise in diabetes,
 8 as deemed necessary by a health care provider.

9 (3) (a) **Except as provided in paragraph (b) of this subsection,** the benefits provided
 10 in this section shall be subject to the same annual deductibles or coinsurance
 11 established for all other covered benefits within a given health benefit plan.

12 (b) **Cost sharing for all covered prescription insulin drugs shall not exceed a**
 13 **total of one hundred dollars (\$100) per thirty (30) day supply of insulin,**
 14 **regardless of the number of prescriptions or amount or type of insulin**
 15 **needed to meet the covered person's insulin needs.**

16 (c) Private third-party payors may not reduce or eliminate coverage due to the
 17 requirements of this section.

18 (d) **Nothing in this subsection shall prevent an insurer from establishing cost-**
 19 **sharing requirements for covered prescription insulin drugs below the**
 20 **amount specified in paragraph (b) of this subsection.**

21 (4) **As used in this section, "cost sharing" has the same meaning as in KRS 304.17A-**
 22 **164.**

23 ➔Section 2. KRS 18A.225 is amended to read as follows:

24 (1) (a) The term "employee" for purposes of this section means:

25 1. Any person, including an elected public official, who is regularly
 26 employed by any department, office, board, agency, or branch of state
 27 government; or by a public postsecondary educational institution; or by

- 1 any city, urban-county, charter county, county, or consolidated local
2 government, whose legislative body has opted to participate in the state-
3 sponsored health insurance program pursuant to KRS 79.080; and who
4 is either a contributing member to any one (1) of the retirement systems
5 administered by the state, including but not limited to the Kentucky
6 Retirement Systems, Kentucky Teachers' Retirement System, the
7 Legislators' Retirement Plan, or the Judicial Retirement Plan; or is
8 receiving a contractual contribution from the state toward a retirement
9 plan; or, in the case of a public postsecondary education institution, is an
10 individual participating in an optional retirement plan authorized by
11 KRS 161.567; or is eligible to participate in a retirement plan
12 established by an employer who ceases participating in the Kentucky
13 Employees Retirement System pursuant to KRS 61.522 whose
14 employees participated in the health insurance plans administered by the
15 Personnel Cabinet prior to the employer's effective cessation date in the
16 Kentucky Employees Retirement System;
- 17 2. Any certified or classified employee of a local board of education;
- 18 3. Any elected member of a local board of education;
- 19 4. Any person who is a present or future recipient of a retirement
20 allowance from the Kentucky Retirement Systems, Kentucky Teachers'
21 Retirement System, the Legislators' Retirement Plan, the Judicial
22 Retirement Plan, or the Kentucky Community and Technical College
23 System's optional retirement plan authorized by KRS 161.567, except
24 that a person who is receiving a retirement allowance and who is age
25 sixty-five (65) or older shall not be included, with the exception of
26 persons covered under KRS 61.702(4)(c), unless he or she is actively
27 employed pursuant to subparagraph 1. of this paragraph; and

- 1 5. Any eligible dependents and beneficiaries of participating employees
2 and retirees who are entitled to participate in the state-sponsored health
3 insurance program;
- 4 (b) The term "health benefit plan" for the purposes of this section means a health
5 benefit plan as defined in KRS 304.17A-005;
- 6 (c) The term "insurer" for the purposes of this section means an insurer as defined
7 in KRS 304.17A-005; and
- 8 (d) The term "managed care plan" for the purposes of this section means a
9 managed care plan as defined in KRS 304.17A-500.
- 10 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
11 recommendation of the secretary of the Personnel Cabinet, shall procure, in
12 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,
13 from one (1) or more insurers authorized to do business in this state, a group
14 health benefit plan that may include but not be limited to health maintenance
15 organization (HMO), preferred provider organization (PPO), point of service
16 (POS), and exclusive provider organization (EPO) benefit plans encompassing
17 all or any class or classes of employees. With the exception of employers
18 governed by the provisions of KRS Chapters 16, 18A, and 151B, all
19 employers of any class of employees or former employees shall enter into a
20 contract with the Personnel Cabinet prior to including that group in the state
21 health insurance group. The contracts shall include but not be limited to
22 designating the entity responsible for filing any federal forms, adoption of
23 policies required for proper plan administration, acceptance of the contractual
24 provisions with health insurance carriers or third-party administrators, and
25 adoption of the payment and reimbursement methods necessary for efficient
26 administration of the health insurance program. Health insurance coverage
27 provided to state employees under this section shall, at a minimum, contain

1 the same benefits as provided under Kentucky Kare Standard as of January 1,
2 1994, and shall include a mail-order drug option as provided in subsection
3 (13) of this section. All employees and other persons for whom the health care
4 coverage is provided or made available shall annually be given an option to
5 elect health care coverage through a self-funded plan offered by the
6 Commonwealth or, if a self-funded plan is not available, from a list of
7 coverage options determined by the competitive bid process under the
8 provisions of KRS 45A.080, 45A.085, and 45A.090 and made available
9 during annual open enrollment.

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

13 (c) Any carrier bidding to offer health care coverage to employees shall agree to
14 provide coverage to all members of the state group, including active
15 employees and retirees and their eligible covered dependents and
16 beneficiaries, within the county or counties specified in its bid. Except as
17 provided in subsection (20) of this section, any carrier bidding to offer health
18 care coverage to employees shall also agree to rate all employees as a single
19 entity, except for those retirees whose former employers insure their active
20 employees outside the state-sponsored health insurance program.

21 (d) Any carrier bidding to offer health care coverage to employees shall agree to
22 provide enrollment, claims, and utilization data to the Commonwealth in a
23 format specified by the Personnel Cabinet with the understanding that the data
24 shall be owned by the Commonwealth; to provide data in an electronic form
25 and within a time frame specified by the Personnel Cabinet; and to be subject
26 to penalties for noncompliance with data reporting requirements as specified
27 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions

1 to protect the confidentiality of each individual employee; however,
2 confidentiality assertions shall not relieve a carrier from the requirement of
3 providing stipulated data to the Commonwealth.

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

19 (f) If any agency participating in the state-sponsored employee health insurance
20 program for its active employees terminates participation and there is a state
21 appropriation for the employer's contribution for active employees' health
22 insurance coverage, then neither the agency nor the employees shall receive
23 the state-funded contribution after termination from the state-sponsored
24 employee health insurance program.

25 (g) Any funds in flexible spending accounts that remain after all reimbursements
26 have been processed shall be transferred to the credit of the state-sponsored
27 health insurance plan's appropriation account.

- 1 (h) Each entity participating in the state-sponsored health insurance program shall
2 provide an amount at least equal to the state contribution rate for the employer
3 portion of the health insurance premium. For any participating entity that used
4 the state payroll system, the employer contribution amount shall be equal to
5 but not greater than the state contribution rate.
- 6 (3) The premiums may be paid by the policyholder:
- 7 (a) Wholly from funds contributed by the employee, by payroll deduction or
8 otherwise;
- 9 (b) Wholly from funds contributed by any department, board, agency, public
10 postsecondary education institution, or branch of state, city, urban-county,
11 charter county, county, or consolidated local government; or
- 12 (c) Partly from each, except that any premium due for health care coverage or
13 dental coverage, if any, in excess of the premium amount contributed by any
14 department, board, agency, postsecondary education institution, or branch of
15 state, city, urban-county, charter county, county, or consolidated local
16 government for any other health care coverage shall be paid by the employee.
- 17 (4) If an employee moves his place of residence or employment out of the service area
18 of an insurer offering a managed health care plan, under which he has elected
19 coverage, into either the service area of another managed health care plan or into an
20 area of the Commonwealth not within a managed health care plan service area, the
21 employee shall be given an option, at the time of the move or transfer, to change his
22 or her coverage to another health benefit plan.
- 23 (5) No payment of premium by any department, board, agency, public postsecondary
24 educational institution, or branch of state, city, urban-county, charter county,
25 county, or consolidated local government shall constitute compensation to an
26 insured employee for the purposes of any statute fixing or limiting the
27 compensation of such an employee. Any premium or other expense incurred by any

1 department, board, agency, public postsecondary educational institution, or branch
2 of state, city, urban-county, charter county, county, or consolidated local
3 government shall be considered a proper cost of administration.

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

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

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

14 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of
15 State Health Insurance Subscribers to advise the secretary or his designee regarding
16 the state-sponsored health insurance program for employees. The secretary shall
17 appoint, from a list of names submitted by appointing authorities, members
18 representing school districts from each of the seven (7) Supreme Court districts,
19 members representing state government from each of the seven (7) Supreme Court
20 districts, two (2) members representing retirees under age sixty-five (65), one (1)
21 member representing local health departments, two (2) members representing the
22 Kentucky Teachers' Retirement System, and three (3) members at large. The
23 secretary shall also appoint two (2) members from a list of five (5) names submitted
24 by the Kentucky Education Association, two (2) members from a list of five (5)
25 names submitted by the largest state employee organization of nonschool state
26 employees, two (2) members from a list of five (5) names submitted by the
27 Kentucky Association of Counties, two (2) members from a list of five (5) names

1 submitted by the Kentucky League of Cities, and two (2) members from a list of
2 names consisting of five (5) names submitted by each state employee organization
3 that has two thousand (2,000) or more members on state payroll deduction. The
4 advisory committee shall be appointed in January of each year and shall meet
5 quarterly.

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

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

15 (12) Any employee who is eligible for and elects to participate in the state health
16 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any
17 one (1) of the state-sponsored retirement systems shall not be eligible to receive the
18 state health insurance contribution toward health care coverage as a result of any
19 other employment for which there is a public employer contribution. This does not
20 preclude a retiree and an active employee spouse from using both contributions to
21 the extent needed for purchase of one (1) state sponsored health insurance policy for
22 that plan year.

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

27 (b) A health insurer shall not discriminate against any retail pharmacy located

1 within the geographic coverage area of the health benefit plan and that meets
2 the terms and conditions for participation established by the insurer, including
3 price, dispensing fee, and copay requirements of a mail-order option. The
4 retail pharmacy shall not be required to dispense by mail.

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

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

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

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

18 (17) If a state employee's residence and place of employment are in the same county, and
19 if the hospital located within that county does not offer surgical services, intensive
20 care services, obstetrical services, level II neonatal services, diagnostic cardiac
21 catheterization services, and magnetic resonance imaging services, the employee
22 may select a plan available in a contiguous county that does provide those services,
23 and the state contribution for the plan shall be the amount available in the county
24 where the plan selected is located.

25 (18) If a state employee's residence and place of employment are each located in counties
26 in which the hospitals do not offer surgical services, intensive care services,
27 obstetrical services, level II neonatal services, diagnostic cardiac catheterization

1 services, and magnetic resonance imaging services, the employee may select a plan
2 available in a county contiguous to the county of residence that does provide those
3 services, and the state contribution for the plan shall be the amount available in the
4 county where the plan selected is located.

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

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

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

16 (b) The Personnel Cabinet shall divide the state into geographical regions which
17 shall be the same as the partnership regions designated by the Department for
18 Medicaid Services for purposes of the Kentucky Health Care Partnership
19 Program established pursuant to 907 KAR 1:705;

20 (c) The request for proposal shall require a carrier's bid to include every county
21 within the region or regions for which the bid is submitted and include but not
22 be restricted to a preferred provider organization (PPO) option;

23 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the
24 carrier all of the counties included in its bid within the region. If the Personnel
25 Cabinet deems the bids submitted in accordance with this subsection to be in
26 the best interests of state employees in a region, the cabinet may award the
27 contract for that region to no more than two (2) carriers; and

1 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including
2 other requirements or criteria in the request for proposal.

3 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or
4 after July 12, 2006, to public employees pursuant to this section which provides
5 coverage for services rendered by a physician or osteopath duly licensed under KRS
6 Chapter 311 that are within the scope of practice of an optometrist duly licensed
7 under the provisions of KRS Chapter 320 shall provide the same payment of
8 coverage to optometrists as allowed for those services rendered by physicians or
9 osteopaths.

10 (22) Any fully insured health benefit plan or self-insured plan issued or renewed on or
11 after July 12, 2006, to public employees pursuant to this section shall comply with
12 the provisions of KRS 304.17A-270 and 304.17A-525.

13 (23) Any fully insured health benefit plan or self -insured plan issued or renewed on or
14 after July 12, 2006, to public employees shall comply with KRS 304.17A-600 to
15 304.17A-633 pertaining to utilization review, KRS 205.593 and 304.17A-700 to
16 304.17A-730 pertaining to payment of claims, KRS 304.14-135 pertaining to
17 uniform health insurance claim forms, KRS 304.17A-580 and 304.17A-641
18 pertaining to emergency medical care, KRS 304.99-123, and any administrative
19 regulations promulgated thereunder.

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

23 **(25) Any fully insured health benefit plan or self-insured plan issued or renewed on or**
24 **after the effective date of this Act, to public employees pursuant to this section**
25 **shall comply with Section 1 of this Act.**

26 ➔Section 3. This Act takes effect January 1, 2021.