

1 AN ACT relating to coverage for diabetes.

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

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

4 (1) ~~A[All]~~ health benefit ***plan***~~[plans]~~ issued or renewed on or after ***the effective date of***
 5 ***this Act***~~[July 15, 1998]~~, shall provide coverage for equipment, supplies, outpatient
 6 self-management training and education, including medical nutrition therapy, and
 7 all ***prescription drugs***~~[medications]~~ necessary for the treatment of insulin-
 8 dependent diabetes, insulin-using diabetes, gestational diabetes, and noninsulin-
 9 using diabetes if prescribed by a health care provider legally authorized to prescribe
 10 the items.

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

14 (3) (a) ***Except as provided in paragraph (b) of this subsection, the coverage***
 15 ***provided under this section shall not be subject to any cost sharing***
 16 ***requirements***~~[The benefits provided in this section shall be subject to the~~
 17 ~~same annual deductibles or coinsurance established for all other covered~~
 18 ~~benefits within a given health benefit plan].~~

19 (b) ***Except as provided in paragraph (c) of this subsection, a health benefit plan***
 20 ***may impose a copayment that shall not exceed:***

21 ***1. Twenty-five dollars (\$25) for a thirty (30) day supply of a preferred***
 22 ***prescription drug; and***

23 ***3. Forty-five dollars (\$45) for a thirty (30) day supply of any other***
 24 ***prescription drug.***

25 (c) ***In no event shall a health benefit plan impose a copayment or other cost***
 26 ***sharing:***

27 ***1. For a generic prescription drug; or***

1 **2. In excess of the amount permitted under KRS 304.17A-164.**

2 **(4) Health benefit plans shall**~~[Private third party payors may]~~ not reduce or eliminate
3 coverage due to the requirements of this section.

4 ➔Section 2. KRS 18A.225 (Effective April 1, 2021) is amended to read as
5 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, County Employees Retirement System, Kentucky
- 16 Teachers' Retirement System, the Legislators' Retirement Plan, or the
- 17 Judicial Retirement Plan; or is receiving a contractual contribution from
- 18 the state toward a retirement plan; or, in the case of a public
- 19 postsecondary education institution, is an individual participating in an
- 20 optional retirement plan authorized by KRS 161.567; or is eligible to
- 21 participate in a retirement plan established by an employer who ceases
- 22 participating in the Kentucky Employees Retirement System pursuant to
- 23 KRS 61.522 whose employees participated in the health insurance plans
- 24 administered by the Personnel Cabinet prior to the employer's effective
- 25 cessation date in the 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, County Employees
3 Retirement System, Kentucky Teachers' Retirement System, the
4 Legislators' Retirement Plan, the Judicial Retirement Plan, or the
5 Kentucky Community and Technical College System's optional
6 retirement plan authorized by KRS 161.567, except that a person who is
7 receiving a retirement allowance and who is age sixty-five (65) or older
8 shall not be included, with the exception of persons covered under KRS
9 61.702(4)(c), unless he or she is actively employed pursuant to
10 subparagraph 1. of this paragraph; and
- 11 5. Any eligible dependents and beneficiaries of participating employees
12 and retirees who are entitled to participate in the state-sponsored health
13 insurance program;
- 14 (b) The term "health benefit plan" for the purposes of this section means a health
15 benefit plan as defined in KRS 304.17A-005;
- 16 (c) The term "insurer" for the purposes of this section means an insurer as defined
17 in KRS 304.17A-005; and
- 18 (d) The term "managed care plan" for the purposes of this section means a
19 managed care plan as defined in KRS 304.17A-500.
- 20 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
21 recommendation of the secretary of the Personnel Cabinet, shall procure, in
22 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,
23 from one (1) or more insurers authorized to do business in this state, a group
24 health benefit plan that may include but not be limited to health maintenance
25 organization (HMO), preferred provider organization (PPO), point of service
26 (POS), and exclusive provider organization (EPO) benefit plans encompassing
27 all or any class or classes of employees. With the exception of employers

1 governed by the provisions of KRS Chapters 16, 18A, and 151B, all
2 employers of any class of employees or former employees shall enter into a
3 contract with the Personnel Cabinet prior to including that group in the state
4 health insurance group. The contracts shall include but not be limited to
5 designating the entity responsible for filing any federal forms, adoption of
6 policies required for proper plan administration, acceptance of the contractual
7 provisions with health insurance carriers or third-party administrators, and
8 adoption of the payment and reimbursement methods necessary for efficient
9 administration of the health insurance program. Health insurance coverage
10 provided to state employees under this section shall, at a minimum, contain
11 the same benefits as provided under Kentucky Kare Standard as of January 1,
12 1994, and shall include a mail-order drug option as provided in subsection
13 (13) of this section. All employees and other persons for whom the health care
14 coverage is provided or made available shall annually be given an option to
15 elect health care coverage through a self-funded plan offered by the
16 Commonwealth or, if a self-funded plan is not available, from a list of
17 coverage options determined by the competitive bid process under the
18 provisions of KRS 45A.080, 45A.085, and 45A.090 and made available
19 during annual open enrollment.

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

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

1 care coverage to employees shall also agree to rate all employees as a single
2 entity, except for those retirees whose former employers insure their active
3 employees outside the state-sponsored health insurance program.

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

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

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

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

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

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

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

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

24 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of
25 State Health Insurance Subscribers to advise the secretary or the secretary's designee
26 regarding the state-sponsored health insurance program for employees. The
27 secretary shall appoint, from a list of names submitted by appointing authorities,

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

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

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

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

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

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

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

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

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

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

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

- 1 (17) If a state employee's residence and place of employment are in the same county, and
2 if the hospital located within that county does not offer surgical services, intensive
3 care services, obstetrical services, level II neonatal services, diagnostic cardiac
4 catheterization services, and magnetic resonance imaging services, the employee
5 may select a plan available in a contiguous county that does provide those services,
6 and the state contribution for the plan shall be the amount available in the county
7 where the plan selected is located.
- 8 (18) If a state employee's residence and place of employment are each located in counties
9 in which the hospitals do not offer surgical services, intensive care services,
10 obstetrical services, level II neonatal services, diagnostic cardiac catheterization
11 services, and magnetic resonance imaging services, the employee may select a plan
12 available in a county contiguous to the county of residence that does provide those
13 services, and the state contribution for the plan shall be the amount available in the
14 county where the plan selected is located.
- 15 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and
16 in the best interests of the state group to allow any carrier bidding to offer health
17 care coverage under this section to submit bids that may vary county by county or
18 by larger geographic areas.
- 19 (20) Notwithstanding any other provision of this section, the bid for proposals for health
20 insurance coverage for calendar year 2004 shall include a bid scenario that reflects
21 the statewide rating structure provided in calendar year 2003 and a bid scenario that
22 allows for a regional rating structure that allows carriers to submit bids that may
23 vary by region for a given product offering as described in this subsection:
- 24 (a) The regional rating bid scenario shall not include a request for bid on a
25 statewide option;
- 26 (b) The Personnel Cabinet shall divide the state into geographical regions which
27 shall be the same as the partnership regions designated by the Department for

- 1 Medicaid Services for purposes of the Kentucky Health Care Partnership
 2 Program established pursuant to 907 KAR 1:705;
- 3 (c) The request for proposal shall require a carrier's bid to include every county
 4 within the region or regions for which the bid is submitted and include but not
 5 be restricted to a preferred provider organization (PPO) option;
- 6 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the
 7 carrier all of the counties included in its bid within the region. If the Personnel
 8 Cabinet deems the bids submitted in accordance with this subsection to be in
 9 the best interests of state employees in a region, the cabinet may award the
 10 contract for that region to no more than two (2) carriers; and
- 11 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including
 12 other requirements or criteria in the request for proposal.
- 13 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or
 14 after July 12, 2006, to public employees pursuant to this section which provides
 15 coverage for services rendered by a physician or osteopath duly licensed under KRS
 16 Chapter 311 that are within the scope of practice of an optometrist duly licensed
 17 under the provisions of KRS Chapter 320 shall provide the same payment of
 18 coverage to optometrists as allowed for those services rendered by physicians or
 19 osteopaths.
- 20 (22) Any fully insured health benefit plan or self-insured plan issued or renewed on or
 21 after **the effective date of this Act**~~[July 12, 2006]~~, to public employees pursuant to
 22 this section shall comply with:
- 23 **(a) Section 1 of this Act;**
- 24 **(b) [the provisions of] 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 3. This Act takes effect January 1, 2022.