

1 AN ACT relating to coverage for the mailing or delivery of covered prescription
2 drugs.

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) A health benefit plan issued or renewed on or after the effective date of this*
7 *section, that provides benefits for prescription drugs shall include coverage for*
8 *the mailing or delivery of covered prescription drugs to insureds.*

9 *(2) The coverage required by this section shall not be subject to a copayment, fee, or*
10 *other cost-sharing requirement that is higher than the copayment, fee, or other*
11 *cost-sharing requirement an insured would otherwise be subject to if the insured*
12 *did not elect to have the covered prescription drug mailed or delivered.*

13 ➔Section 2. KRS 205.522 is amended to read as follows:

14 *(1)* The Department for Medicaid Services and any managed care organization
15 contracted to provide Medicaid benefits pursuant to this chapter shall comply with
16 the provisions of KRS 304.17A-167, 304.17A-235, 304.17A-515, 304.17A-580,
17 304.17A-600, 304.17A-603, 304.17A-607, and 304.17A-740 to 304.17A-743, as
18 applicable.

19 *(2) A managed care organization contracted to provide Medicaid benefits pursuant to*
20 *this chapter shall comply with the provisions of Section 1 of this Act.*

21 ➔Section 3. KRS 205.6485 is amended to read as follows:

22 (1) The Cabinet for Health and Family Services shall prepare a state child health plan
23 meeting the requirements of Title XXI of the Federal Social Security Act, for
24 submission to the Secretary of the United States Department of Health and Human
25 Services within such time as will permit the state to receive the maximum amounts
26 of federal matching funds available under Title XXI. The cabinet shall, by
27 administrative regulation promulgated in accordance with KRS Chapter 13A,

1 establish the following:

2 (a) The eligibility criteria for children covered by the Kentucky Children's Health
3 Insurance Program. However, no person eligible for services under Title XIX
4 of the Social Security Act 42 U.S.C. 1396 to 1396v, as amended, shall be
5 eligible for services under the Kentucky Children's Health Insurance Program
6 except to the extent that Title XIX coverage is expanded by KRS 205.6481 to
7 205.6495 and KRS 304.17A-340;

8 (b) The schedule of benefits to be covered by the Kentucky Children's Health
9 Insurance Program, which shall include preventive services, vision services
10 including glasses, and dental services including at least sealants, extractions,
11 and fillings, and which shall be at least equivalent to one (1) of the following:

12 1. The standard Blue Cross/Blue Shield preferred provider option under the
13 Federal Employees Health Benefit Plan established by U.S.C. sec.
14 8903(1);

15 2. A mid-range health benefit coverage plan that is offered and generally
16 available to state employees; or

17 3. Health insurance coverage offered by a health maintenance organization
18 that has the largest insured commercial, non-Medicaid enrollment of
19 covered lives in the state;

20 (c) The premium contribution per family of health insurance coverage available
21 under the Kentucky Children's Health Insurance Program with provisions for
22 the payment of premium contributions by families of children eligible for
23 coverage by the program based upon a sliding scale relating to family income.
24 Premium contributions shall be based on a six (6) month period not to exceed:

25 1. Ten dollars (\$10), to be paid by a family with income between one
26 hundred percent (100%) to one hundred thirty-three percent (133%) of
27 the federal poverty level;

- 1 2. Twenty dollars (\$20), to be paid by a family with income between one
2 hundred thirty-four percent (134%) to one hundred forty-nine percent
3 (149%) of the federal poverty level; and
- 4 3. One hundred twenty dollars (\$120), to be paid by a family with income
5 between one hundred fifty percent (150%) to two hundred percent
6 (200%) of the federal poverty level, and which may be made on a partial
7 payment plan of twenty dollars (\$20) per month or sixty dollars (\$60)
8 per quarter;
- 9 (d) The level of copayments for services provided under the Kentucky Children's
10 Health Insurance Program that shall not exceed those allowed by federal law;
11 and
- 12 (e) The criteria for health services providers and insurers wishing to contract with
13 the Commonwealth to provide the children's health insurance coverage.
14 However, the cabinet shall provide, in any contracting process for the
15 preventive health insurance program, the opportunity for a public health
16 department to bid on preventive health services to eligible children within the
17 public health department's service area. A public health department shall not
18 be disqualified from bidding because the department does not currently offer
19 all the services required by paragraph (b) of this subsection. The criteria shall
20 be set forth in administrative regulations under KRS Chapter 13A and shall
21 maximize competition among the providers and insurers. The Cabinet for
22 Finance and Administration shall provide oversight over contracting policies
23 and procedures to assure that the number of applicants for contracts is
24 maximized.
- 25 (2) Within twelve (12) months of federal approval of the state's Title XXI child health
26 plan, the Cabinet for Health and Family Services shall assure that a KCHIP program
27 is available to all eligible children in all regions of the state. If necessary, in order to

1 meet this assurance, the cabinet shall institute its own program.

2 (3) KCHIP recipients shall have direct access without a referral from any gatekeeper
3 primary care provider to dentists for covered primary dental services and to
4 optometrists and ophthalmologists for covered primary eye and vision services.

5 **(4) The Kentucky Children's Health Insurance Program shall comply with the**
6 **provisions of Section 1 of this Act.**

7 ➔Section 4. KRS 18A.225 (Effective April 1, 2021) is amended to read as
8 follows:

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

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

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

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

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

26 (c) Any carrier bidding to offer health care coverage to employees shall agree to
27 provide coverage to all members of the state group, including active

1 employees and retirees and their eligible covered dependents and
2 beneficiaries, within the county or counties specified in its bid. Except as
3 provided in subsection (20) of this section, any carrier bidding to offer health
4 care coverage to employees shall also agree to rate all employees as a single
5 entity, except for those retirees whose former employers insure their active
6 employees outside the state-sponsored health insurance program.

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

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

1 service, prescription coverage and cost management, and statutorily required
2 mandates. If state self-insurance was available as a carrier option, the report
3 also shall provide a detailed financial analysis of the self-insurance fund
4 including but not limited to loss ratios, reserves, and reinsurance agreements.

5 (f) If any agency participating in the state-sponsored employee health insurance
6 program for its active employees terminates participation and there is a state
7 appropriation for the employer's contribution for active employees' health
8 insurance coverage, then neither the agency nor the employees shall receive
9 the state-funded contribution after termination from the state-sponsored
10 employee health insurance program.

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

14 (h) Each entity participating in the state-sponsored health insurance program shall
15 provide an amount at least equal to the state contribution rate for the employer
16 portion of the health insurance premium. For any participating entity that used
17 the state payroll system, the employer contribution amount shall be equal to
18 but not greater than the state contribution rate.

19 (3) The premiums may be paid by the policyholder:

20 (a) Wholly from funds contributed by the employee, by payroll deduction or
21 otherwise;

22 (b) Wholly from funds contributed by any department, board, agency, public
23 postsecondary education institution, or branch of state, city, urban-county,
24 charter county, county, or consolidated local government; or

25 (c) Partly from each, except that any premium due for health care coverage or
26 dental coverage, if any, in excess of the premium amount contributed by any
27 department, board, agency, postsecondary education institution, or branch of

1 state, city, urban-county, charter county, county, or consolidated local
2 government for any other health care coverage shall be paid by the employee.

3 (4) If an employee moves his or her place of residence or employment out of the service
4 area of an insurer offering a managed health care plan, under which he or she has
5 elected coverage, into either the service area of another managed health care plan or
6 into an area of the Commonwealth not within a managed health care plan service
7 area, the employee shall be given an option, at the time of the move or transfer, to
8 change his or her coverage to another health benefit plan.

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

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

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

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

27 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of

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

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

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

- 1 (12) Any employee who is eligible for and elects to participate in the state health
2 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any
3 one (1) of the state-sponsored retirement systems shall not be eligible to receive the
4 state health insurance contribution toward health care coverage as a result of any
5 other employment for which there is a public employer contribution. This does not
6 preclude a retiree and an active employee spouse from using both contributions to
7 the extent needed for purchase of one (1) state sponsored health insurance policy for
8 that plan year.
- 9 (13) (a) The policies of health insurance coverage procured under subsection (2) of
10 this section shall include a mail-order drug option for maintenance drugs for
11 state employees. Maintenance drugs may be dispensed by mail order in
12 accordance with Kentucky law.
- 13 (b) A health insurer shall not discriminate against any retail pharmacy located
14 within the geographic coverage area of the health benefit plan and that meets
15 the terms and conditions for participation established by the insurer, including
16 price, dispensing fee, and copay requirements of a mail-order option. The
17 retail pharmacy shall not be required to dispense by mail.
- 18 (c) The mail-order option shall not permit the dispensing of a controlled
19 substance classified in Schedule II.
- 20 (14) The policy or policies provided to state employees or their dependents pursuant to
21 this section shall provide coverage for obtaining a hearing aid and acquiring hearing
22 aid-related services for insured individuals under eighteen (18) years of age, subject
23 to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months
24 pursuant to KRS 304.17A-132.
- 25 (15) Any policy provided to state employees or their dependents pursuant to this section
26 shall provide coverage for the diagnosis and treatment of autism spectrum disorders
27 consistent with KRS 304.17A-142.

- 1 (16) Any policy provided to state employees or their dependents pursuant to this section
2 shall provide coverage for obtaining amino acid-based elemental formula pursuant
3 to KRS 304.17A-258.
- 4 (17) If a state employee's residence and place of employment are in the same county, and
5 if the hospital located within that county does not offer surgical services, intensive
6 care services, obstetrical services, level II neonatal services, diagnostic cardiac
7 catheterization services, and magnetic resonance imaging services, the employee
8 may select a plan available in a contiguous county that does provide those services,
9 and the state contribution for the plan shall be the amount available in the county
10 where the plan selected is located.
- 11 (18) If a state employee's residence and place of employment are each located in counties
12 in which the hospitals do not offer surgical services, intensive care services,
13 obstetrical services, level II neonatal services, diagnostic cardiac catheterization
14 services, and magnetic resonance imaging services, the employee may select a plan
15 available in a county contiguous to the county of residence that does provide those
16 services, and the state contribution for the plan shall be the amount available in the
17 county where the plan selected is located.
- 18 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and
19 in the best interests of the state group to allow any carrier bidding to offer health
20 care coverage under this section to submit bids that may vary county by county or
21 by larger geographic areas.
- 22 (20) Notwithstanding any other provision of this section, the bid for proposals for health
23 insurance coverage for calendar year 2004 shall include a bid scenario that reflects
24 the statewide rating structure provided in calendar year 2003 and a bid scenario that
25 allows for a regional rating structure that allows carriers to submit bids that may
26 vary by region for a given product offering as described in this subsection:
- 27 (a) The regional rating bid scenario shall not include a request for bid on a

1 statewide option;

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

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

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

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

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

23 (22) Any fully insured health benefit plan or self-insured plan issued or renewed on or
24 after **the effective date of this section**~~[July 12, 2006]~~, to public employees pursuant
25 to this section shall comply with:

26 **(a) Section 1 of this Act;**

27 **(b) [the provisions of] KRS 304.17A-270 and 304.17A-525;**

- 1 (c) KRS 304.17A-600 to 304.17A-633;
 2 (d) KRS 205.593;
 3 (e) KRS 304.17A-700 to 304.17A-730;
 4 (f) KRS 304.14-135;
 5 (g) KRS 304.17A-580 and 304.17A-641;
 6 (h) KRS 304.99-123;
 7 (i) KRS 304.17A-138; and
 8 (j) Administrative regulations promulgated pursuant to statutes listed in this
 9 subsection.

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

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

20 ➔Section 5. Sections 1 and 4 of this Act take effect on January 1, 2022.

21 ➔Section 6. The Cabinet for Health and Family Services or the Department for
 22 Medicaid Services shall implement Sections 2 and 3 of this Act on or before January 1,
 23 2022. If the cabinet or department determines that a waiver or any other authorization
 24 from a federal agency is necessary to implement Section 2 or 3 of this Act without the
 25 loss of federal funds, the cabinet or department shall, within 90 days after the effective
 26 date of this section, request the waiver or authorization, and may only delay
 27 implementation of those provisions for which a waiver or authorization was deemed

1 necessary beyond January 1, 2022, until the waiver or authorization is granted.