

1 AN ACT relating to mental health coverage in connection with pregnancy.

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

3 ➔Section 1. KRS 304.17A-145 is amended to read as follows:

- 4 (1) A health benefit plan issued or renewed on or after *the effective date of this*
5 *section*~~[July 15, 1996]~~, that provides maternity coverage shall provide coverage for:
6 *(a)* Inpatient care for a mother and her newly-born child for a minimum of forty-
7 eight (48) hours after vaginal delivery and a minimum of ninety-six (96) hours
8 after delivery by Cesarean section; *and*
9 *(b) Counseling interventions for pregnant and postpartum persons at increased*
10 *risk of perinatal depression, which shall include persons who have suffered*
11 *a miscarriage or stillbirth.*

- 12 (2) The provisions of subsection (1)*(a)* of this section shall not apply to a health benefit
13 plan if the health benefit plan authorizes an initial postpartum home visit which
14 would include the collection of an adequate sample for the hereditary and metabolic
15 newborn screening and if the attending physician, with the consent of the mother of
16 the newly-born child, authorizes a shorter length of stay than that required of health
17 benefit plans in subsection (1)*(a)* of this section upon the physician's determination
18 that the mother and newborn meet the criteria for medical stability in the most
19 current version of "Guidelines for Perinatal Care" prepared by the American
20 Academy of Pediatrics and the American College of Obstetricians and
21 Gynecologists.

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

23 The Department for Medicaid Services and any managed care organization contracted to
24 provide Medicaid benefits pursuant to this chapter shall comply with the provisions of
25 *subsection (1)(b) of Section 1 of this Act and* KRS 304.17A-167, 304.17A-235,
26 304.17A-515, 304.17A-580, 304.17A-600, 304.17A-603, 304.17A-607, and 304.17A-740
27 to 304.17A-743, as applicable.

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

- 2 (1) The Cabinet for Health and Family Services shall prepare a state child health plan
3 meeting the requirements of Title XXI of the Federal Social Security Act, for
4 submission to the Secretary of the United States Department of Health and Human
5 Services within such time as will permit the state to receive the maximum amounts
6 of federal matching funds available under Title XXI. The cabinet shall, by
7 administrative regulation promulgated in accordance with KRS Chapter 13A,
8 establish the following:
- 9 (a) The eligibility criteria for children covered by the Kentucky Children's Health
10 Insurance Program. However, no person eligible for services under Title XIX
11 of the Social Security Act 42 U.S.C. 1396 to 1396v, as amended, shall be
12 eligible for services under the Kentucky Children's Health Insurance Program
13 except to the extent that Title XIX coverage is expanded by KRS 205.6481 to
14 205.6495 and KRS 304.17A-340;
- 15 (b) The schedule of benefits to be covered by the Kentucky Children's Health
16 Insurance Program, which shall include preventive services, vision services
17 including glasses, and dental services including at least sealants, extractions,
18 and fillings, and which shall be at least equivalent to one (1) of the following:
- 19 1. The standard Blue Cross/Blue Shield preferred provider option under the
20 Federal Employees Health Benefit Plan established by U.S.C. sec.
21 8903(1);
- 22 2. A mid-range health benefit coverage plan that is offered and generally
23 available to state employees; or
- 24 3. Health insurance coverage offered by a health maintenance organization
25 that has the largest insured commercial, non-Medicaid enrollment of
26 covered lives in the state;
- 27 (c) The premium contribution per family of health insurance coverage available

- 1 under the Kentucky Children's Health Insurance Program with provisions for
2 the payment of premium contributions by families of children eligible for
3 coverage by the program based upon a sliding scale relating to family income.
4 Premium contributions shall be based on a six (6) month period not to exceed:
- 5 1. Ten dollars (\$10), to be paid by a family with income between one
6 hundred percent (100%) to one hundred thirty-three percent (133%) of
7 the federal poverty level;
 - 8 2. Twenty dollars (\$20), to be paid by a family with income between one
9 hundred thirty-four percent (134%) to one hundred forty-nine percent
10 (149%) of the federal poverty level; and
 - 11 3. One hundred twenty dollars (\$120), to be paid by a family with income
12 between one hundred fifty percent (150%) to two hundred percent
13 (200%) of the federal poverty level, and which may be made on a partial
14 payment plan of twenty dollars (\$20) per month or sixty dollars (\$60)
15 per quarter;
- 16 (d) The level of copayments for services provided under the Kentucky Children's
17 Health Insurance Program that shall not exceed those allowed by federal law;
18 and
- 19 (e) The criteria for health services providers and insurers wishing to contract with
20 the Commonwealth to provide the children's health insurance coverage.
21 However, the cabinet shall provide, in any contracting process for the
22 preventive health insurance program, the opportunity for a public health
23 department to bid on preventive health services to eligible children within the
24 public health department's service area. A public health department shall not
25 be disqualified from bidding because the department does not currently offer
26 all the services required by paragraph (b) of this subsection. The criteria shall
27 be set forth in administrative regulations under KRS Chapter 13A and shall

1 maximize competition among the providers and insurers. The Cabinet for
2 Finance and Administration shall provide oversight over contracting policies
3 and procedures to assure that the number of applicants for contracts is
4 maximized.

5 (2) Within twelve (12) months of federal approval of the state's Title XXI child health
6 plan, the Cabinet for Health and Family Services shall assure that a KCHIP program
7 is available to all eligible children in all regions of the state. If necessary, in order to
8 meet this assurance, the cabinet shall institute its own program.

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

12 **(4) The Kentucky Children's Health Insurance Program shall comply with**
13 **subsection (1)(b) of Section 1 of this Act.**

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

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

17 1. Any person, including an elected public official, who is regularly
18 employed by any department, office, board, agency, or branch of state
19 government; or by a public postsecondary educational institution; or by
20 any city, urban-county, charter county, county, or consolidated local
21 government, whose legislative body has opted to participate in the state-
22 sponsored health insurance program pursuant to KRS 79.080; and who
23 is either a contributing member to any one (1) of the retirement systems
24 administered by the state, including but not limited to the Kentucky
25 Retirement Systems, County Employees Retirement System, Kentucky
26 Teachers' Retirement System, the Legislators' Retirement Plan, or the
27 Judicial Retirement Plan; or is receiving a contractual contribution from

- 1 the state toward a retirement plan; or, in the case of a public
2 postsecondary education institution, is an individual participating in an
3 optional retirement plan authorized by KRS 161.567; or is eligible to
4 participate in a retirement plan established by an employer who ceases
5 participating in the Kentucky Employees Retirement System pursuant to
6 KRS 61.522 whose employees participated in the health insurance plans
7 administered by the Personnel Cabinet prior to the employer's effective
8 cessation date in the Kentucky Employees Retirement System;
- 9 2. Any certified or classified employee of a local board of education;
- 10 3. Any elected member of a local board of education;
- 11 4. Any person who is a present or future recipient of a retirement
12 allowance from the Kentucky Retirement Systems, County Employees
13 Retirement System, Kentucky Teachers' Retirement System, the
14 Legislators' Retirement Plan, the Judicial Retirement Plan, or the
15 Kentucky Community and Technical College System's optional
16 retirement plan authorized by KRS 161.567, except that a person who is
17 receiving a retirement allowance and who is age sixty-five (65) or older
18 shall not be included, with the exception of persons covered under KRS
19 61.702(4)(c), unless he or she is actively employed pursuant to
20 subparagraph 1. of this paragraph; and
- 21 5. Any eligible dependents and beneficiaries of participating employees
22 and retirees who are entitled to participate in the state-sponsored health
23 insurance program;
- 24 (b) The term "health benefit plan" for the purposes of this section means a health
25 benefit plan as defined in KRS 304.17A-005;
- 26 (c) The term "insurer" for the purposes of this section means an insurer as defined
27 in KRS 304.17A-005; and

- 1 (d) The term "managed care plan" for the purposes of this section means a
2 managed care plan as defined in KRS 304.17A-500.
- 3 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
4 recommendation of the secretary of the Personnel Cabinet, shall procure, in
5 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,
6 from one (1) or more insurers authorized to do business in this state, a group
7 health benefit plan that may include but not be limited to health maintenance
8 organization (HMO), preferred provider organization (PPO), point of service
9 (POS), and exclusive provider organization (EPO) benefit plans encompassing
10 all or any class or classes of employees. With the exception of employers
11 governed by the provisions of KRS Chapters 16, 18A, and 151B, all
12 employers of any class of employees or former employees shall enter into a
13 contract with the Personnel Cabinet prior to including that group in the state
14 health insurance group. The contracts shall include but not be limited to
15 designating the entity responsible for filing any federal forms, adoption of
16 policies required for proper plan administration, acceptance of the contractual
17 provisions with health insurance carriers or third-party administrators, and
18 adoption of the payment and reimbursement methods necessary for efficient
19 administration of the health insurance program. Health insurance coverage
20 provided to state employees under this section shall, at a minimum, contain
21 the same benefits as provided under Kentucky Kare Standard as of January 1,
22 1994, and shall include a mail-order drug option as provided in subsection
23 (13) of this section. All employees and other persons for whom the health care
24 coverage is provided or made available shall annually be given an option to
25 elect health care coverage through a self-funded plan offered by the
26 Commonwealth or, if a self-funded plan is not available, from a list of
27 coverage options determined by the competitive bid process under the

- 1 provisions of KRS 45A.080, 45A.085, and 45A.090 and made available
2 during annual open enrollment.
- 3 (b) The policy or policies shall be approved by the commissioner of insurance and
4 may contain the provisions the commissioner of insurance approves, whether
5 or not otherwise permitted by the insurance laws.
- 6 (c) Any carrier bidding to offer health care coverage to employees shall agree to
7 provide coverage to all members of the state group, including active
8 employees and retirees and their eligible covered dependents and
9 beneficiaries, within the county or counties specified in its bid. Except as
10 provided in subsection (20) of this section, any carrier bidding to offer health
11 care coverage to employees shall also agree to rate all employees as a single
12 entity, except for those retirees whose former employers insure their active
13 employees outside the state-sponsored health insurance program.
- 14 (d) Any carrier bidding to offer health care coverage to employees shall agree to
15 provide enrollment, claims, and utilization data to the Commonwealth in a
16 format specified by the Personnel Cabinet with the understanding that the data
17 shall be owned by the Commonwealth; to provide data in an electronic form
18 and within a time frame specified by the Personnel Cabinet; and to be subject
19 to penalties for noncompliance with data reporting requirements as specified
20 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions
21 to protect the confidentiality of each individual employee; however,
22 confidentiality assertions shall not relieve a carrier from the requirement of
23 providing stipulated data to the Commonwealth.
- 24 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities
25 for timely analysis of data received from carriers and, to the extent possible,
26 provide in the request-for-proposal specifics relating to data requirements,
27 electronic reporting, and penalties for noncompliance. The Commonwealth

1 shall own the enrollment, claims, and utilization data provided by each carrier
2 and shall develop methods to protect the confidentiality of the individual. The
3 Personnel Cabinet shall include in the October annual report submitted
4 pursuant to the provisions of KRS 18A.226 to the Governor, the General
5 Assembly, and the Chief Justice of the Supreme Court, an analysis of the
6 financial stability of the program, which shall include but not be limited to
7 loss ratios, methods of risk adjustment, measurements of carrier quality of
8 service, prescription coverage and cost management, and statutorily required
9 mandates. If state self-insurance was available as a carrier option, the report
10 also shall provide a detailed financial analysis of the self-insurance fund
11 including but not limited to loss ratios, reserves, and reinsurance agreements.

12 (f) If any agency participating in the state-sponsored employee health insurance
13 program for its active employees terminates participation and there is a state
14 appropriation for the employer's contribution for active employees' health
15 insurance coverage, then neither the agency nor the employees shall receive
16 the state-funded contribution after termination from the state-sponsored
17 employee health insurance program.

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

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

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

27 (a) Wholly from funds contributed by the employee, by payroll deduction or

- 1 otherwise;
- 2 (b) Wholly from funds contributed by any department, board, agency, public
3 postsecondary education institution, or branch of state, city, urban-county,
4 charter county, county, or consolidated local government; or
- 5 (c) Partly from each, except that any premium due for health care coverage or
6 dental coverage, if any, in excess of the premium amount contributed by any
7 department, board, agency, postsecondary education institution, or branch of
8 state, city, urban-county, charter county, county, or consolidated local
9 government for any other health care coverage shall be paid by the employee.
- 10 (4) If an employee moves his or her place of residence or employment out of the service
11 area of an insurer offering a managed health care plan, under which he or she has
12 elected coverage, into either the service area of another managed health care plan or
13 into an area of the Commonwealth not within a managed health care plan service
14 area, the employee shall be given an option, at the time of the move or transfer, to
15 change his or her coverage to another health benefit plan.
- 16 (5) No payment of premium by any department, board, agency, public postsecondary
17 educational institution, or branch of state, city, urban-county, charter county,
18 county, or consolidated local government shall constitute compensation to an
19 insured employee for the purposes of any statute fixing or limiting the
20 compensation of such an employee. Any premium or other expense incurred by any
21 department, board, agency, public postsecondary educational institution, or branch
22 of state, city, urban-county, charter county, county, or consolidated local
23 government shall be considered a proper cost of administration.
- 24 (6) The policy or policies may contain the provisions with respect to the class or classes
25 of employees covered, amounts of insurance or coverage for designated classes or
26 groups of employees, policy options, terms of eligibility, and continuation of
27 insurance or coverage after retirement.

- 1 (7) Group rates under this section shall be made available to the disabled child of an
2 employee regardless of the child's age if the entire premium for the disabled child's
3 coverage is paid by the state employee. A child shall be considered disabled if he or
4 she has been determined to be eligible for federal Social Security disability benefits.
- 5 (8) The health care contract or contracts for employees shall be entered into for a period
6 of not less than one (1) year.
- 7 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of
8 State Health Insurance Subscribers to advise the secretary or the secretary's designee
9 regarding the state-sponsored health insurance program for employees. The
10 secretary shall appoint, from a list of names submitted by appointing authorities,
11 members representing school districts from each of the seven (7) Supreme Court
12 districts, members representing state government from each of the seven (7)
13 Supreme Court districts, two (2) members representing retirees under age sixty-five
14 (65), one (1) member representing local health departments, two (2) members
15 representing the Kentucky Teachers' Retirement System, and three (3) members at
16 large. The secretary shall also appoint two (2) members from a list of five (5) names
17 submitted by the Kentucky Education Association, two (2) members from a list of
18 five (5) names submitted by the largest state employee organization of nonschool
19 state employees, two (2) members from a list of five (5) names submitted by the
20 Kentucky Association of Counties, two (2) members from a list of five (5) names
21 submitted by the Kentucky League of Cities, and two (2) members from a list of
22 names consisting of five (5) names submitted by each state employee organization
23 that has two thousand (2,000) or more members on state payroll deduction. The
24 advisory committee shall be appointed in January of each year and shall meet
25 quarterly.
- 26 (10) Notwithstanding any other provision of law to the contrary, the policy or policies
27 provided to employees pursuant to this section shall not provide coverage for

1 obtaining or performing an abortion, nor shall any state funds be used for the
2 purpose of obtaining or performing an abortion on behalf of employees or their
3 dependents.

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

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

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

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

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

27 (14) The policy or policies provided to state employees or their dependents pursuant to

1 this section shall provide coverage for obtaining a hearing aid and acquiring hearing
2 aid-related services for insured individuals under eighteen (18) years of age, subject
3 to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months
4 pursuant to KRS 304.17A-132.

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

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

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

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

25 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and
26 in the best interests of the state group to allow any carrier bidding to offer health
27 care coverage under this section to submit bids that may vary county by county or

1 by larger geographic areas.

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

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

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

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

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

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

23 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or
24 after July 12, 2006, to public employees pursuant to this section which provides
25 coverage for services rendered by a physician or osteopath duly licensed under KRS
26 Chapter 311 that are within the scope of practice of an optometrist duly licensed
27 under the provisions of KRS Chapter 320 shall provide the same payment of

1 coverage to optometrists as allowed for those services rendered by physicians or
2 osteopaths.

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

6 (a) Subsection (1)(b) of Section 1 of this Act;

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

8 (c) KRS 304.17A-600 to 304.17A-633;

9 (d) KRS 205.593;

10 (e) KRS 304.17A-700 to 304.17A-730;

11 (f) KRS 304.14-135;

12 (g) KRS 304.17A-580 and 304.17A-641;

13 (h) KRS 304.99-123;

14 (i) KRS 304.17A-138; and

15 (j) Administrative regulations promulgated pursuant to the statutes listed in
16 this subsection.

17 ~~[(23) Any fully insured health benefit plan or self-insured plan issued or renewed on or~~
18 ~~after July 12, 2006, to public employees shall comply with KRS 304.17A-600 to~~
19 ~~304.17A-633 pertaining to utilization review, KRS 205.593 and 304.17A-700 to~~
20 ~~304.17A-730 pertaining to payment of claims, KRS 304.14-135 pertaining to~~
21 ~~uniform health insurance claim forms, KRS 304.17A-580 and 304.17A-641~~
22 ~~pertaining to emergency medical care, KRS 304.99-123, and any administrative~~
23 ~~regulations promulgated thereunder.~~

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

27 ➔Section 5. If the Cabinet for Health and Family Services determines that a

1 waiver or any other authorization from a federal agency is necessary to implement
2 Section 2 or 3 of this Act for any reason, including the loss of federal funds, the Cabinet
3 shall, within 90 days after the effective date of this section, request the waiver or
4 authorization, and may only delay implementation of those provisions for which a waiver
5 or authorization was deemed necessary until the waiver or authorization is granted.

6 ➔Section 6. Section 1 of this Act takes effect January 1, 2022.