

1 AN ACT relating to coverage of mental health wellness examinations.

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

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

5 **(1) As used in this section:**

6 **(a) "Health insurance policy":**

7 **1. Means any policy, contract, or plan that provides reimbursement or**
8 **benefits for health care services received by persons covered under the**
9 **policy, contract, or plan; and**

10 **2. Shall include but not be limited to a health benefit plan as defined in**
11 **KRS 304.17A-005;**

12 **(b) "Mental health professional" means any of the following persons engaged**
13 **in providing mental health services:**

14 **1. A physician or psychiatrist, licensed under KRS Chapter 311 to**
15 **practice medicine or osteopathy;**

16 **2. A medical officer of the government of the United States;**

17 **3. A licensed psychologist, licensed psychological practitioner, certified**
18 **psychologist, or licensed psychological associate, licensed under KRS**
19 **Chapter 319;**

20 **4. A certified nurse practitioner or clinical nurse specialist, with a**
21 **psychiatric or mental health population focus who is licensed to**
22 **engage in advanced practice nursing under KRS 314.042;**

23 **5. A licensed clinical social worker licensed under KRS 335.100 or a**
24 **certified social worker licensed under KRS 335.080;**

25 **6. A licensed marriage and family therapist licensed under KRS 335.330**
26 **or a marriage and family therapist associate holding a permit under**
27 **KRS 335.332;**

- 1 7. A licensed professional clinical counselor or licensed professional
2 counselor associate, licensed under KRS 335.500 to 335.599;
- 3 8. A licensed professional art therapist licensed under KRS 309.133 or a
4 licensed professional art therapist associate licensed under KRS
5 309.134;
- 6 9. A Kentucky licensed pastoral counselor licensed under KRS 335.600
7 to 335.699;
- 8 10. A licensed clinical alcohol and drug counselor, licensed clinical
9 alcohol and drug counselor associate, or certified alcohol and drug
10 counselor, licensed or certified under KRS 309.080 to 309.089; or
- 11 11. A physician assistant licensed under KRS 311.840 to 311.862 who
12 meets the criteria for being a qualified mental health professional
13 under KRS 202A.011(12)(h); and
- 14 (c) "Mental health wellness examination" shall include but not be limited to:
- 15 1. A behavioral health screening;
- 16 2. Education and consultation on healthy lifestyle changes;
- 17 3. Referrals to ongoing treatment, mental health services, and other
18 supports; or
- 19 4. Discussion of potential options for medication.
- 20 (2) To the extent permitted by federal law, all health insurance policies issued or
21 renewed on or after the effective date of this Act that provide coverage for both
22 medical and surgical benefits and mental health or substance use disorder
23 benefits shall provide coverage for an annual mental health wellness
24 examination of at least forty-five (45) minutes that is performed by a mental
25 health professional.
- 26 (3) The coverage required by this section shall:
- 27 (a) Be no less extensive than the coverage provided for medical and surgical

1 *benefits and comply with the Mental Health Parity and Addiction Equity*
2 *Act of 2008, 42 U.S.C. sec. 300gg-26, as amended; and*

3 *(b) Not be subject to copayments, coinsurance, deductibles, or any other cost-*
4 *sharing requirements.*

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

6 The Department for Medicaid Services and any managed care organization contracted to
7 provide Medicaid benefits pursuant to this chapter shall comply with the provisions of
8 *Section 1 of this Act and* KRS 304.17A-167, 304.17A-235, 304.17A-515, 304.17A-580,
9 304.17A-600, 304.17A-603, 304.17A-607, and 304.17A-740 to 304.17A-743, as
10 applicable.

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

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

19 (a) The eligibility criteria for children covered by the Kentucky Children's Health
20 Insurance Program. However, no person eligible for services under Title XIX
21 of the Social Security Act 42 U.S.C. 1396 to 1396v, as amended, shall be
22 eligible for services under the Kentucky Children's Health Insurance Program
23 except to the extent that Title XIX coverage is expanded by KRS 205.6481 to
24 205.6495 and KRS 304.17A-340;

25 (b) The schedule of benefits to be covered by the Kentucky Children's Health
26 Insurance Program, which shall include preventive services, vision services
27 including glasses, and dental services including at least sealants, extractions,

1 and fillings, and which shall be at least equivalent to one (1) of the following:

- 2 1. The standard Blue Cross/Blue Shield preferred provider option under the
3 Federal Employees Health Benefit Plan established by U.S.C. sec.
4 8903(1);
- 5 2. A mid-range health benefit coverage plan that is offered and generally
6 available to state employees; or
- 7 3. Health insurance coverage offered by a health maintenance organization
8 that has the largest insured commercial, non-Medicaid enrollment of
9 covered lives in the state;

10 (c) The premium contribution per family of health insurance coverage available
11 under the Kentucky Children's Health Insurance Program with provisions for
12 the payment of premium contributions by families of children eligible for
13 coverage by the program based upon a sliding scale relating to family income.

14 Premium contributions shall be based on a six (6) month period not to exceed:

- 15 1. Ten dollars (\$10), to be paid by a family with income between one
16 hundred percent (100%) to one hundred thirty-three percent (133%) of
17 the federal poverty level;
- 18 2. Twenty dollars (\$20), to be paid by a family with income between one
19 hundred thirty-four percent (134%) to one hundred forty-nine percent
20 (149%) of the federal poverty level; and
- 21 3. One hundred twenty dollars (\$120), to be paid by a family with income
22 between one hundred fifty percent (150%) to two hundred percent
23 (200%) of the federal poverty level, and which may be made on a partial
24 payment plan of twenty dollars (\$20) per month or sixty dollars (\$60)
25 per quarter;

26 (d) The level of copayments for services provided under the Kentucky Children's
27 Health Insurance Program that shall not exceed those allowed by federal law;

1 and

2 (e) The criteria for health services providers and insurers wishing to contract with
3 the Commonwealth to provide the children's health insurance coverage.
4 However, the cabinet shall provide, in any contracting process for the
5 preventive health insurance program, the opportunity for a public health
6 department to bid on preventive health services to eligible children within the
7 public health department's service area. A public health department shall not
8 be disqualified from bidding because the department does not currently offer
9 all the services required by paragraph (b) of this subsection. The criteria shall
10 be set forth in administrative regulations under KRS Chapter 13A and shall
11 maximize competition among the providers and insurers. The Cabinet for
12 Finance and Administration shall provide oversight over contracting policies
13 and procedures to assure that the number of applicants for contracts is
14 maximized.

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

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

22 **(4) The Kentucky Children's Health Insurance Program shall comply with Section 1**
23 **of this Act.**

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

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

27 1. Any person, including an elected public official, who is regularly

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

- 1 shall not be included, with the exception of persons covered under KRS
2 61.702(4)(c), unless he or she is actively employed pursuant to
3 subparagraph 1. of this paragraph; and
- 4 5. Any eligible dependents and beneficiaries of participating employees
5 and retirees who are entitled to participate in the state-sponsored health
6 insurance program;
- 7 (b) The term "health benefit plan" for the purposes of this section means a health
8 benefit plan as defined in KRS 304.17A-005;
- 9 (c) The term "insurer" for the purposes of this section means an insurer as defined
10 in KRS 304.17A-005; and
- 11 (d) The term "managed care plan" for the purposes of this section means a
12 managed care plan as defined in KRS 304.17A-500.
- 13 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
14 recommendation of the secretary of the Personnel Cabinet, shall procure, in
15 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,
16 from one (1) or more insurers authorized to do business in this state, a group
17 health benefit plan that may include but not be limited to health maintenance
18 organization (HMO), preferred provider organization (PPO), point of service
19 (POS), and exclusive provider organization (EPO) benefit plans encompassing
20 all or any class or classes of employees. With the exception of employers
21 governed by the provisions of KRS Chapters 16, 18A, and 151B, all
22 employers of any class of employees or former employees shall enter into a
23 contract with the Personnel Cabinet prior to including that group in the state
24 health insurance group. The contracts shall include but not be limited to
25 designating the entity responsible for filing any federal forms, adoption of
26 policies required for proper plan administration, acceptance of the contractual
27 provisions with health insurance carriers or third-party administrators, and

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

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

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

24 (d) Any carrier bidding to offer health care coverage to employees shall agree to
25 provide enrollment, claims, and utilization data to the Commonwealth in a
26 format specified by the Personnel Cabinet with the understanding that the data
27 shall be owned by the Commonwealth; to provide data in an electronic form

1 and within a time frame specified by the Personnel Cabinet; and to be subject
2 to penalties for noncompliance with data reporting requirements as specified
3 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions
4 to protect the confidentiality of each individual employee; however,
5 confidentiality assertions shall not relieve a carrier from the requirement of
6 providing stipulated data to the Commonwealth.

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

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

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

1 county, or consolidated local government shall constitute compensation to an
2 insured employee for the purposes of any statute fixing or limiting the
3 compensation of such an employee. Any premium or other expense incurred by any
4 department, board, agency, public postsecondary educational institution, or branch
5 of state, city, urban-county, charter county, county, or consolidated local
6 government shall be considered a proper cost of administration.

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

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

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

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

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

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

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

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

26 (13) (a) The policies of health insurance coverage procured under subsection (2) of
27 this section shall include a mail-order drug option for maintenance drugs for

1 state employees. Maintenance drugs may be dispensed by mail order in
2 accordance with Kentucky law.

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

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

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

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

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

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

- 1 (18) If a state employee's residence and place of employment are each located in counties
2 in which the hospitals do not offer surgical services, intensive care services,
3 obstetrical services, level II neonatal services, diagnostic cardiac catheterization
4 services, and magnetic resonance imaging services, the employee may select a plan
5 available in a county contiguous to the county of residence that does provide those
6 services, and the state contribution for the plan shall be the amount available in the
7 county where the plan selected is located.
- 8 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and
9 in the best interests of the state group to allow any carrier bidding to offer health
10 care coverage under this section to submit bids that may vary county by county or
11 by larger geographic areas.
- 12 (20) Notwithstanding any other provision of this section, the bid for proposals for health
13 insurance coverage for calendar year 2004 shall include a bid scenario that reflects
14 the statewide rating structure provided in calendar year 2003 and a bid scenario that
15 allows for a regional rating structure that allows carriers to submit bids that may
16 vary by region for a given product offering as described in this subsection:
- 17 (a) The regional rating bid scenario shall not include a request for bid on a
18 statewide option;
- 19 (b) The Personnel Cabinet shall divide the state into geographical regions which
20 shall be the same as the partnership regions designated by the Department for
21 Medicaid Services for purposes of the Kentucky Health Care Partnership
22 Program established pursuant to 907 KAR 1:705;
- 23 (c) The request for proposal shall require a carrier's bid to include every county
24 within the region or regions for which the bid is submitted and include but not
25 be restricted to a preferred provider organization (PPO) option;
- 26 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the
27 carrier all of the counties included in its bid within the region. If the Personnel

1 Cabinet deems the bids submitted in accordance with this subsection to be in
 2 the best interests of state employees in a region, the cabinet may award the
 3 contract for that region to no more than two (2) carriers; and

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

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

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

16 (a) Section 1 of this Act;

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

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

19 (d) KRS 205.593;

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

21 (f) KRS 304.14-135;

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

23 (h) KRS 304.99-123;

24 (i) KRS 304.17A-138; and

25 (j) Administrative regulations promulgated pursuant to statutes listed in this
 26 subsection.

27 ~~[(23) Any fully insured health benefit plan or self-insured plan issued or renewed on or~~

1 ~~after July 12, 2006, to public employees shall comply with KRS 304.17A 600 to~~
2 ~~304.17A 633 pertaining to utilization review, KRS 205.593 and 304.17A 700 to~~
3 ~~304.17A 730 pertaining to payment of claims, KRS 304.14 135 pertaining to~~
4 ~~uniform health insurance claim forms, KRS 304.17A 580 and 304.17A 641~~
5 ~~pertaining to emergency medical care, KRS 304.99 123, and any administrative~~
6 ~~regulations promulgated thereunder.~~

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

10 ➔Section 5. This Act takes effect January 1, 2022.