

1 AN ACT relating to prescription insulin and declaring an emergency.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO
4 READ AS FOLLOWS:

5 *For the purposes of Sections 1 to 8 of this Act, unless context otherwise requires:*

6 *(1) "Cabinet" means the Cabinet for Health and Family Services;*

7 *(2) "Cost sharing" means the same as in KRS 304.17A-164;*

8 *(3) "Manufacturer":*

9 *(a) Means an entity engaged in the manufacturing of insulin that is self-*
10 *administered on an outpatient basis and that is made available for sale or*
11 *distribution in the state; and*

12 *(b) Shall not include a manufacturer with annual gross revenue of two million*
13 *dollars (\$2,000,000) or less from insulin sales in the state;*

14 *(4) "Pharmacist" means the same as in KRS 315.010;*

15 *(5) "Pharmacy" means the same as in KRS 315.010;*

16 *(6) "Urgent need of insulin" means having readily available for use less than a*
17 *seven (7) day supply of insulin and in need of insulin in order to avoid the*
18 *likelihood of negative health consequences; and*

19 *(7) "Urgent-need supply of insulin" means a thirty (30) day supply of an insulin*
20 *product as prescribed by a health care provider.*

21 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO
22 READ AS FOLLOWS:

23 *(1) The urgent-need insulin program and the continuing access to insulin program*
24 *are hereby established. The urgent-need insulin program shall ensure affordable*
25 *access to insulin to eligible individuals who are in urgent need of insulin. The*
26 *continuing access to insulin program shall ensure affordable access to insulin to*
27 *eligible individuals who have an ongoing need for access to insulin. Both*

1 programs shall be administered and overseen by the Cabinet for Health and
2 Family Services.

3 (2) (a) In order to be eligible to receive insulin under the urgent-need insulin
4 program, an individual shall:

5 1. Be a resident of Kentucky;

6 2. Not be enrolled in the state's medical assistance program or children's
7 health insurance program as established in KRS Chapter 205;

8 3. Not be enrolled in or entitled to any prescription drug coverage that
9 limits the total amount of cost-sharing that the enrollee is required to
10 pay for a thirty (30) day supply of insulin to seventy-five dollars (\$75)
11 or less, regardless of the type or amount of insulin prescribed;

12 4. Not have received an urgent-need supply of insulin through the
13 program within the previous twelve (12) months, except as permitted
14 under paragraph (b) of this subsection; and

15 5. Be in urgent need of insulin.

16 (b) Notwithstanding paragraph (a)4. of this subsection, an individual may
17 receive an additional urgent-need supply of insulin during a twelve (12)
18 month period if:

19 1. a. The individual has applied for the state's medical assistance
20 program or children's health insurance program as established
21 in KRS Chapter 205 but has not been determined eligible or has
22 been determined eligible but coverage has not become effective;
23 or

24 b. The individual has been determined ineligible for a
25 manufacturer's patient assistance program by the manufacturer
26 and the individual has requested a review pursuant to subsection
27 (4) of Section 4 of this Act but the cabinet has not rendered a

- 1 decision; and
- 2 2. The individual meets all other eligibility requirements established in
- 3 paragraph (a) of this subsection.
- 4 (3) (a) In order to be eligible for the continuing access to insulin program, an
- 5 individual shall:
- 6 1. Be a resident of Kentucky;
- 7 2. Have a family income that is equal to or less than four hundred (400)
- 8 percent of the federal poverty guidelines;
- 9 3. Not be enrolled in the state's medical assistance program or children's
- 10 health insurance program as established in KRS Chapter 205;
- 11 4. Not be eligible to receive health care through a federally funded
- 12 program or receive prescription drug benefits through the federal
- 13 Department of Veterans Affairs, except as permitted under paragraph
- 14 (b) of this subsection; and
- 15 5. Not be enrolled in or entitled to any prescription drug coverage that
- 16 limits the total amount of cost-sharing that the enrollee is required to
- 17 pay for a thirty (30) day supply of insulin to seventy-five dollars (\$75)
- 18 or less, regardless of the type or amount of insulin prescribed.
- 19 (b) Notwithstanding paragraph (a)4. of this subsection, an individual who is
- 20 enrolled in Medicare Part D shall be eligible for the continuing access to
- 21 insulin program if the individual has spent one thousand dollars (\$1,000)
- 22 on prescription drugs in the current calendar year and meets the other
- 23 eligibility requirements established in paragraph (a) of this subsection.
- 24 (4) By July 1, 2021, each manufacturer shall establish procedures to make insulin
- 25 available in accordance with Sections 1 to 8 of this Act to eligible individuals who
- 26 are in urgent need of insulin or who are in need of continuing access to an
- 27 affordable insulin supply.

1 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO
2 READ AS FOLLOWS:

3 (1) An eligible individual seeking an urgent supply of insulin through the urgent-
4 need insulin program shall submit the following to a pharmacy:

5 (a) A completed, signed, and dated application form developed by the cabinet
6 pursuant to Section 5 of this Act;

7 (b) A valid insulin prescription; and

8 (c) Proof of residency, or if the person in urgent need of insulin is under
9 eighteen (18) years of age, the individual's parent or legal guardian shall
10 provide proof of residency. Proof of residency shall include but not be
11 limited to a valid Kentucky identification card, driver's license, or driver's
12 permit, a utility agreement or bill, a rental housing agreement, or a signed
13 letter from a homeless shelter, health care facility, or social service agency
14 that is currently providing the individual with treatment or services attesting
15 that the applicant is a resident of Kentucky.

16 (2) Upon receipt of the documents identified in subsection (1) of this section:

17 (a) The pharmacist or pharmacy shall:

18 1. Dispense to the individual the prescribed insulin in an amount that
19 will provide the individual with a thirty (30) day supply;

20 2. Within seventy-two (72) hours, notify the health care practitioner who
21 issued the prescription order that the insulin was dispensed under the
22 urgent-need insulin program;

23 3. Provide the individual with the information sheet developed by the
24 cabinet pursuant to Section 5 of this Act; and

25 4. Retain a copy of the application form and proof of residency submitted
26 by the individual to the pharmacy for reporting and auditing purposes;
27 and

1 (b) The pharmacist or pharmacy may:

- 2 1. Submit to the manufacturer of the dispensed insulin product or to the
 3 manufacturer's vendor a claim for payment that is in accordance with
 4 the National Council for Prescription Drug Program standards for
 5 electronic claims processing, unless the manufacturer agrees to send
 6 to the pharmacy a replacement supply of the same insulin product that
 7 was dispensed in the amount that was dispensed. If the pharmacy
 8 submits an electronic claim to the manufacturer or the
 9 manufacturer's vendor, the manufacturer or vendor shall reimburse
 10 the pharmacy in an amount that is equal to the pharmacy's
 11 acquisition cost for the insulin product that was dispensed no later
 12 than sixty (60) days after receipt of the claim; and
- 13 2. Collect an insulin copayment from the individual to whom the urgent
 14 supply of insulin is dispensed to cover the pharmacy's cost of
 15 processing and dispensing in an amount not to exceed twenty-five
 16 dollars (\$25).

17 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO
 18 READ AS FOLLOWS:

19 (1) By July 1, 2021, each manufacturer shall establish a patient assistance program
 20 which shall be made available to any individual who meets the eligibility
 21 requirements for the continuing access to insulin program established in Section
 22 2 of this Act. Each manufacturer's patient assistance program shall comply with
 23 the requirements of this section, and each manufacturer shall provide the cabinet
 24 with information regarding its patient assistance program, including information
 25 on the application process and contact information for individuals to call for
 26 assistance in accessing or applying for the patient assistance program. Each
 27 manufacturer shall also make the information provided to the cabinet publicly

1 available on its Web site.

2 (2) (a) Upon receipt of a patient assistance program application, the manufacturer
3 shall process the application, determine eligibility, and notify the applicant
4 of the determination within ten (10) business days of receipt of the
5 applicant. If necessary, the manufacturer may request additional
6 information from the application. If additional information is needed, the
7 manufacturer shall notify the applicant within five (5) business days of
8 receipt of the application as to what additional information is being
9 requested. Within three (3) business days of receipt of the requested
10 additional information, the manufacturer shall determine eligibility and
11 notify the applicant of the determination.

12 (b) If the individual is determined to be ineligible, the manufacturer shall
13 include reasons for denying eligibility in the notification. The individual
14 may seek an appeal of the determination in accordance with subsection (4)
15 of this section.

16 (c) Except as provided in paragraph (d) of this subsection, if the individual is
17 determined to be eligible, the manufacturer shall provide the individual with
18 an eligibility statement or other indication that the individual has been
19 determined eligible for the manufacturer's patient assistance program. An
20 individual's eligibility shall be valid for twelve (12) months and is renewable
21 upon a redetermination of eligibility.

22 (d) If an eligible individual has prescription drug coverage through an
23 individual or group health plan, the manufacturer may determine that the
24 individual's insulin needs are better addressed through the use of the
25 manufacturer's copayment assistance program, in which case, the
26 manufacturer shall inform the individual and provide the individual with
27 the necessary coupons to submit to a pharmacy. However, in no instance

1 shall an individual who is eligible for a manufacturer's patient assistance
2 program be required to pay more than the copayment amount specified in
3 subsection (3)(e) of this section.

4 (3) (a) An eligible individual seeking to obtain insulin through the continuing
5 access to insulin program shall submit to a pharmacy the statement of
6 eligibility provided by the manufacturer pursuant to subsection (2) of this
7 section.

8 (b) Upon receipt of an individual's eligibility statement, the pharmacy shall
9 submit an order containing the name of the insulin product and the daily
10 dosage amount as contained in a valid prescription to the product's
11 manufacturer. The order shall contain the following information:

12 1. The pharmacy's name and shipping address;

13 2. A telephone number, fax number, electronic mail address, and a
14 contact name; and

15 3. Any specific days or times when deliveries are not accepted by the
16 pharmacy.

17 (c) Upon receipt of an order from a pharmacy, the manufacturer shall send to
18 the pharmacy a ninety (90) day supply of insulin as ordered, unless a lesser
19 amount is requested in the order, at no charge to the individual or
20 pharmacy, or if the manufacturer provides a mail order service option, the
21 manufacturer may send the insulin as ordered directly to the individual.

22 (d) Upon receipt of the insulin from the manufacturer, the pharmacy shall,
23 except as provided in paragraph (e) of this subsection, provide the insulin to
24 the individual at no charge. The pharmacy shall not provide the insulin
25 received from the manufacturer to anyone other than they individual
26 associated with the specific order, and the pharmacy shall not seek
27 reimbursement for the insulin from the manufacturer or from any third-

1 party payer.

2 (e) The pharmacy may collect a copayment from the individual to cover the
3 pharmacy's costs in processing and dispensing in an amount not to exceed
4 fifty dollars (\$50) for each ninety (90) day supply if the insulin is delivered
5 to the pharmacy.

6 (f) The pharmacy may submit to a manufacturer a reorder for an individual if
7 the individual's eligibility statement has not expired. Upon receipt of a
8 reorder from a pharmacy, the manufacturer shall send to the pharmacy, or
9 directly to the individual, an additional ninety (90) day supply of the
10 product, unless a lesser amount is requested, at no charge to the individual
11 or pharmacy.

12 (4) If an individual disagrees with a manufacturer's determination of eligibility
13 under subsection (2) of this section, the individual may contact the cabinet to
14 request a review of eligibility. The individual requesting the review shall submit
15 to the cabinet, with the request for a review, all documents submitted by the
16 individual to the manufacturer. The cabinet shall render a decision within ten
17 (10) business days of receipt of all the necessary documents from the individual.
18 If the cabinet determines that the individual is eligible, the cabinet shall notify the
19 manufacturer of its decision and request that the manufacturer provide the
20 individual with an eligibility statement within five (5) business days. The decision
21 of the cabinet shall be final.

22 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO
23 READ AS FOLLOWS:

24 By July 1, 2021, the cabinet shall:

25 (1) Develop an application form to be used by an individual who is in urgent need of
26 insulin which shall require the individual to attest to the eligibility requirements
27 for the urgent-need insulin program as established in Section 2(2) of this Act;

- 1 (2) Develop an information sheet on the urgent-need and the continuing access to
2 insulin programs. The information sheet shall contain the following:
- 3 (a) A description of the urgent-need insulin program, including how to access
4 the program;
- 5 (b) A description of each manufacturer's patient assistance program and cost-
6 sharing assistance program, including contact information on accessing the
7 assistance programs for each manufacturer;
- 8 (c) Information on how to contact the cabinet to request a review of eligibility,
9 if a manufacturer determines that an individual is not eligible for the
10 manufacturer's patient assistance program;
- 11 (d) Information on providers who participate in prescription drug discount
12 programs, including providers who are authorized to participate in the 340B
13 program under 42 U.S.C. sec. 256b;
- 14 (e) Information on accessing prescription drug copayment assistance
15 programs; and
- 16 (f) A notification that an individual in need of assistance may contact their
17 local health department for more information or assistance in accessing
18 ongoing affordable insulin options;
- 19 (3) Make the application and information sheet developed pursuant to subsections
20 (1) and (2) of this section accessible on the its Web site and shall make them
21 available to health care providers, pharmacists, and pharmacies that prescribe or
22 dispense insulin, hospital emergency departments, urgent care clinics,
23 community health clinics, and local health departments;
- 24 (4) Regularly update the information sheet developed pursuant to subsection (2) of
25 this section; and
- 26 (5) Promulgate and implement administrative regulations necessary to carry out
27 Sections 1 to 8 of this Act.

1 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO
2 READ AS FOLLOWS:

3 *A manufacturer shall maintain the privacy of all data received from any individual*
4 *applying for the manufacturer's patient assistance program and is prohibited from*
5 *selling, sharing, or disseminating data received under Sections 2, 3, and 4 of this Act.*

6 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO
7 READ AS FOLLOWS:

8 *(1) By July 15, 2022, and annually thereafter, each manufacturer shall submit a*
9 *report to the cabinet containing the following information for the preceding*
10 *calendar year:*

11 *(a) The number of Kentucky residents who accessed and received an insulin*
12 *product produced by the manufacturer through the urgent-need insulin*
13 *program;*

14 *(b) The number of Kentucky residents who applied for the manufacturer's*
15 *patient assistance program and the number of applicants who were*
16 *determined by the manufacturer to be eligible and ineligible;*

17 *(c) The number of Kentucky residents who were determined to be eligible for*
18 *the manufacturer's patient assistance program by the cabinet pursuant to*
19 *Section 4(4) of this Act; and*

20 *(d) The value of the insulin provided to residents of Kentucky by the*
21 *manufacturer under the urgent-need insulin program and the continuing*
22 *access to insulin program. As used in this paragraph "value" means the*
23 *wholesale acquisition cost of the insulin provided.*

24 *(2) Upon receipt of a request from the Legislative Research Commission, the Interim*
25 *Joint Committee on Health, Welfare, and Family Services, or any other*
26 *committee of the Kentucky General Assembly, the cabinet shall submit a report*
27 *containing the following information:*

- 1 (a) The information reported under subsection (1) of this section; and
 2 (b) Any administrative penalties assessed pursuant to Section 8 of this Act,
 3 including the name of the manufacturer and the amount of the penalty
 4 assessed.

5 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO
 6 READ AS FOLLOWS:

7 If a manufacturer fails to comply with Sections 1 to 8 of this Act, the cabinet may
 8 assess an administrative penalty of not more than two hundred thousand dollars
 9 (\$200,000) per month of noncompliance, with the penalty increasing to not more than
 10 four hundred thousand dollars (\$400,000) per month if the manufacturer continues to
 11 be in noncompliance for more than six (6) months, and increasing to not more than six
 12 hundred thousand dollars (\$600,000) per month if the manufacturer continues to be in
 13 noncompliance after one (1) year.

14 ➔Section 9. KRS 304.17A-148 is amended to read as follows:

- 15 (1) All health benefit plans issued or renewed on or after July 15, 1998, shall provide
 16 coverage for equipment, supplies, outpatient self-management training and
 17 education, including medical nutrition therapy, and all medications necessary for the
 18 treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes,
 19 and noninsulin-using diabetes if prescribed by a health care provider legally
 20 authorized to prescribe the items.
- 21 (2) Diabetes outpatient self-management training and education shall be provided by a
 22 certified, registered, or licensed health care professional with expertise in diabetes,
 23 as deemed necessary by a health care provider.
- 24 (3) (a) Except as provided in paragraphs (b) and (c) of this subsection, the benefits
 25 provided in this section shall be subject to the same annual deductibles or
 26 coinsurance established for all other covered benefits within a given health
 27 benefit plan.

1 (b) *For all health benefit plans issued or renewed on or after January 1, 2022,*
 2 *cost sharing for a covered prescription insulin drug shall not exceed thirty*
 3 *dollars (\$30) per thirty (30) day supply of each prescription insulin drug,*
 4 *regardless of the amount or type of insulin needed to meet the covered*
 5 *person's insulin needs.*

6 (c) *If, on the effective date of this Act, a health benefit plan includes a cost-*
 7 *sharing requirement that is less than thirty dollars (\$30) for a thirty (30)*
 8 *day supply of a covered prescription insulin drug, the insurer shall not*
 9 *increase the cost-sharing requirement.*

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

13 (4) Private third-party payors may not reduce or eliminate coverage due to the
 14 requirements of this section.

15 (5) *Except as provided in Section 10 of this Act, paragraphs (b) and (c) of subsection*
 16 *(2) of this section shall not apply to governmental plans, as defined in KRS*
 17 *304.17A-005, that are self-insured.*

18 (6) *As used in this section, "cost sharing" has the same meaning as in 304.17A-164.*

19 ➔Section 10. KRS 18A.225 (Effective April 1, 2021) is amended to read as
 20 follows:

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

22 1. Any person, including an elected public official, who is regularly
 23 employed by any department, office, board, agency, or branch of state
 24 government; or by a public postsecondary educational institution; or by
 25 any city, urban-county, charter county, county, or consolidated local
 26 government, whose legislative body has opted to participate in the state-
 27 sponsored health insurance program pursuant to KRS 79.080; and who

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

- 1 insurance program;
- 2 (b) The term "health benefit plan" for the purposes of this section means a health
3 benefit plan as defined in KRS 304.17A-005;
- 4 (c) The term "insurer" for the purposes of this section means an insurer as defined
5 in KRS 304.17A-005; and
- 6 (d) The term "managed care plan" for the purposes of this section means a
7 managed care plan as defined in KRS 304.17A-500.
- 8 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
9 recommendation of the secretary of the Personnel Cabinet, shall procure, in
10 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,
11 from one (1) or more insurers authorized to do business in this state, a group
12 health benefit plan that may include but not be limited to health maintenance
13 organization (HMO), preferred provider organization (PPO), point of service
14 (POS), and exclusive provider organization (EPO) benefit plans encompassing
15 all or any class or classes of employees. With the exception of employers
16 governed by the provisions of KRS Chapters 16, 18A, and 151B, all
17 employers of any class of employees or former employees shall enter into a
18 contract with the Personnel Cabinet prior to including that group in the state
19 health insurance group. The contracts shall include but not be limited to
20 designating the entity responsible for filing any federal forms, adoption of
21 policies required for proper plan administration, acceptance of the contractual
22 provisions with health insurance carriers or third-party administrators, and
23 adoption of the payment and reimbursement methods necessary for efficient
24 administration of the health insurance program. Health insurance coverage
25 provided to state employees under this section shall, at a minimum, contain
26 the same benefits as provided under Kentucky Kare Standard as of January 1,
27 1994, and shall include a mail-order drug option as provided in subsection

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

- 1 providing stipulated data to the Commonwealth.
- 2 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities
3 for timely analysis of data received from carriers and, to the extent possible,
4 provide in the request-for-proposal specifics relating to data requirements,
5 electronic reporting, and penalties for noncompliance. The Commonwealth
6 shall own the enrollment, claims, and utilization data provided by each carrier
7 and shall develop methods to protect the confidentiality of the individual. The
8 Personnel Cabinet shall include in the October annual report submitted
9 pursuant to the provisions of KRS 18A.226 to the Governor, the General
10 Assembly, and the Chief Justice of the Supreme Court, an analysis of the
11 financial stability of the program, which shall include but not be limited to
12 loss ratios, methods of risk adjustment, measurements of carrier quality of
13 service, prescription coverage and cost management, and statutorily required
14 mandates. If state self-insurance was available as a carrier option, the report
15 also shall provide a detailed financial analysis of the self-insurance fund
16 including but not limited to loss ratios, reserves, and reinsurance agreements.
- 17 (f) If any agency participating in the state-sponsored employee health insurance
18 program for its active employees terminates participation and there is a state
19 appropriation for the employer's contribution for active employees' health
20 insurance coverage, then neither the agency nor the employees shall receive
21 the state-funded contribution after termination from the state-sponsored
22 employee health insurance program.
- 23 (g) Any funds in flexible spending accounts that remain after all reimbursements
24 have been processed shall be transferred to the credit of the state-sponsored
25 health insurance plan's appropriation account.
- 26 (h) Each entity participating in the state-sponsored health insurance program shall
27 provide an amount at least equal to the state contribution rate for the employer

1 portion of the health insurance premium. For any participating entity that used
2 the state payroll system, the employer contribution amount shall be equal to
3 but not greater than the state contribution rate.

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

- 1 government shall be considered a proper cost of administration.
- 2 (6) The policy or policies may contain the provisions with respect to the class or classes
3 of employees covered, amounts of insurance or coverage for designated classes or
4 groups of employees, policy options, terms of eligibility, and continuation of
5 insurance or coverage after retirement.
- 6 (7) Group rates under this section shall be made available to the disabled child of an
7 employee regardless of the child's age if the entire premium for the disabled child's
8 coverage is paid by the state employee. A child shall be considered disabled if he or
9 she has been determined to be eligible for federal Social Security disability benefits.
- 10 (8) The health care contract or contracts for employees shall be entered into for a period
11 of not less than one (1) year.
- 12 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of
13 State Health Insurance Subscribers to advise the secretary or the secretary's designee
14 regarding the state-sponsored health insurance program for employees. The
15 secretary shall appoint, from a list of names submitted by appointing authorities,
16 members representing school districts from each of the seven (7) Supreme Court
17 districts, members representing state government from each of the seven (7)
18 Supreme Court districts, two (2) members representing retirees under age sixty-five
19 (65), one (1) member representing local health departments, two (2) members
20 representing the Kentucky Teachers' Retirement System, and three (3) members at
21 large. The secretary shall also appoint two (2) members from a list of five (5) names
22 submitted by the Kentucky Education Association, two (2) members from a list of
23 five (5) names submitted by the largest state employee organization of nonschool
24 state employees, two (2) members from a list of five (5) names submitted by the
25 Kentucky Association of Counties, two (2) members from a list of five (5) names
26 submitted by the Kentucky League of Cities, and two (2) members from a list of
27 names consisting of five (5) names submitted by each state employee organization

1 that has two thousand (2,000) or more members on state payroll deduction. The
2 advisory committee shall be appointed in January of each year and shall meet
3 quarterly.

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

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

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

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

25 (b) A health insurer shall not discriminate against any retail pharmacy located
26 within the geographic coverage area of the health benefit plan and that meets
27 the terms and conditions for participation established by the insurer, including

1 price, dispensing fee, and copay requirements of a mail-order option. The
2 retail pharmacy shall not be required to dispense by mail.

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

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

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

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

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

23 (18) If a state employee's residence and place of employment are each located in counties
24 in which the hospitals do not offer surgical services, intensive care services,
25 obstetrical services, level II neonatal services, diagnostic cardiac catheterization
26 services, and magnetic resonance imaging services, the employee may select a plan
27 available in a county contiguous to the county of residence that does provide those

1 services, and the state contribution for the plan shall be the amount available in the
2 county where the plan selected is located.

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

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

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

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

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

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

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

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

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

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

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

21 **(25) Any fully insured health benefit plan or self-insured plan issued or renewed on or**
22 **after January 1, 2022, to public employees pursuant to this section shall comply**
23 **with Section 9 of this Act.**

24 ➔Section 11. Whereas there is urgent need to improve affordable access to insulin
25 for the roughly 500,000 Kentuckians diagnosed with diabetes, an emergency is declared
26 to exist, and this Act takes effect upon its passage and approval by the Governor or upon
27 its otherwise becoming a law.