

1 AN ACT relating to coverage for parental and guardian depression screenings.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO  
4 READ AS FOLLOWS:

5 *The Department for Medicaid Services and any managed care organization with which*  
6 *the department contracts for the delivery of Medicaid services shall allow depression*  
7 *screenings for a parent or legal guardian to be claimed as a service for the child as part*  
8 *of the early and periodic screening, diagnostic and treatment benefit if the covered*  
9 *child is less than five (5) years of age.*

10 ➔Section 2. KRS 205.6497 is amended to read as follows:

11 (1) As permitted by federal law, in any plan submitted for federal Title XXI approval of  
12 a children's health insurance program for Kentucky, the cabinet shall include  
13 provisions for a preventive health insurance program for children with no  
14 copayment, deductible, coinsurance, or premium.

15 (2) The plan referred to in subsection (1) of this section shall include:

16 (a) Preventive dental services, tooth extraction, and emergency dental services;

17 *and*

18 (b) *Coverage for depression screenings for a parent or legal guardian if*  
19 *provided in conjunction with preventive services rendered to a beneficiary*  
20 *that is less than five (5) years of age.*

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

23 (1) *As used in this section, "health plan":*

24 (a) *Means any health insurance policy, certificate, contract, or plan that offers*  
25 *or provides coverage in this state for a well-child visit, including well-baby*  
26 *visits, whether such coverage is by direct payment, reimbursement, or*  
27 *otherwise; and*

- 1       **(b) Shall include but not be limited to health benefit plans.**
- 2       **(2) Coverage under a health plan for a well-child visit, including a well-baby visit,**  
3       **shall include coverage for a depression screening of the child's parent or legal**  
4       **guardian if the covered child is less than five (5) years of age.**
- 5       **(3) (a) Except as provided in paragraph (b) of this subsection, the coverage**  
6       **required under this section shall not be subject to cost sharing.**
- 7       **(b) If the application of paragraph (a) of this subsection would be the sole**  
8       **cause of a health plan's failure to qualify as a health savings account-**  
9       **qualified high deductible health plan under 26 U.S.C. sec. 223, as amended,**  
10       **then the requirements of that paragraph shall not apply to that health plan**  
11       **until the minimum deductible under 26 U.S.C. sec. 223, as amended, is**  
12       **satisfied.**

13       ➔Section 4. KRS 164.2871 is amended to read as follows:

- 14       (1) The governing board of each state postsecondary educational institution is  
15       authorized to purchase liability insurance for the protection of the individual  
16       members of the governing board, faculty, and staff of such institutions from liability  
17       for acts and omissions committed in the course and scope of the individual's  
18       employment or service. Each institution may purchase the type and amount of  
19       liability coverage deemed to best serve the interest of such institution.
- 20       (2) All retirement annuity allowances accrued or accruing to any employee of a state  
21       postsecondary educational institution through a retirement program sponsored by  
22       the state postsecondary educational institution are hereby exempt from any state,  
23       county, or municipal tax, and shall not be subject to execution, attachment,  
24       garnishment, or any other process whatsoever, nor shall any assignment thereof be  
25       enforceable in any court. Except retirement benefits accrued or accruing to any  
26       employee of a state postsecondary educational institution through a retirement  
27       program sponsored by the state postsecondary educational institution on or after

1 January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent  
2 provided in KRS 141.010 and 141.0215.

3 (3) Except as provided in KRS Chapter 44, the purchase of liability insurance for  
4 members of governing boards, faculty and staff of institutions of higher education in  
5 this state shall not be construed to be a waiver of sovereign immunity or any other  
6 immunity or privilege.

7 (4) The governing board of each state postsecondary education institution is authorized  
8 to provide a self-insured employer group health plan to its employees, which plan  
9 shall:

10 (a) Conform to the requirements of Subtitle 32 of KRS Chapter 304; and ~~shall~~

11 (b) Except as provided by subsection (5) of this section, be exempt from  
12 conformity with Subtitle 17A of KRS Chapter 304.

13 (5) A self-insured employer group health plan provided by the governing board of a  
14 state postsecondary education institution to its employees shall comply with  
15 Section 3 of this Act.

16 ➔Section 5. KRS 18A.225 (Effective January 1, 2022) is amended to read as  
17 follows:

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

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

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

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

1 Commonwealth or, if a self-funded plan is not available, from a list of  
2 coverage options determined by the competitive bid process under the  
3 provisions of KRS 45A.080, 45A.085, and 45A.090 and made available  
4 during annual open enrollment.

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

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

16 (d) Any carrier bidding to offer health care coverage to employees shall agree to  
17 provide enrollment, claims, and utilization data to the Commonwealth in a  
18 format specified by the Personnel Cabinet with the understanding that the data  
19 shall be owned by the Commonwealth; to provide data in an electronic form  
20 and within a time frame specified by the Personnel Cabinet; and to be subject  
21 to penalties for noncompliance with data reporting requirements as specified  
22 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions  
23 to protect the confidentiality of each individual employee; however,  
24 confidentiality assertions shall not relieve a carrier from the requirement of  
25 providing stipulated data to the Commonwealth.

26 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities  
27 for timely analysis of data received from carriers and, to the extent possible,

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

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

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

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

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

1 groups of employees, policy options, terms of eligibility, and continuation of  
2 insurance or coverage after retirement.

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

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

9 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of  
10 State Health Insurance Subscribers to advise the secretary or the secretary's designee  
11 regarding the state-sponsored health insurance program for employees. The  
12 secretary shall appoint, from a list of names submitted by appointing authorities,  
13 members representing school districts from each of the seven (7) Supreme Court  
14 districts, members representing state government from each of the seven (7)  
15 Supreme Court districts, two (2) members representing retirees under age sixty-five  
16 (65), one (1) member representing local health departments, two (2) members  
17 representing the Kentucky Teachers' Retirement System, and three (3) members at  
18 large. The secretary shall also appoint two (2) members from a list of five (5) names  
19 submitted by the Kentucky Education Association, two (2) members from a list of  
20 five (5) names submitted by the largest state employee organization of nonschool  
21 state employees, two (2) members from a list of five (5) names submitted by the  
22 Kentucky Association of Counties, two (2) members from a list of five (5) names  
23 submitted by the Kentucky League of Cities, and two (2) members from a list of  
24 names consisting of five (5) names submitted by each state employee organization  
25 that has two thousand (2,000) or more members on state payroll deduction. The  
26 advisory committee shall be appointed in January of each year and shall meet  
27 quarterly.

- 1 (10) Notwithstanding any other provision of law to the contrary, the policy or policies  
2 provided to employees pursuant to this section shall not provide coverage for  
3 obtaining or performing an abortion, nor shall any state funds be used for the  
4 purpose of obtaining or performing an abortion on behalf of employees or their  
5 dependents.
- 6 (11) Interruption of an established treatment regime with maintenance drugs shall be  
7 grounds for an insured to appeal a formulary change through the established appeal  
8 procedures approved by the Department of Insurance, if the physician supervising  
9 the treatment certifies that the change is not in the best interests of the patient.
- 10 (12) Any employee who is eligible for and elects to participate in the state health  
11 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any  
12 one (1) of the state-sponsored retirement systems shall not be eligible to receive the  
13 state health insurance contribution toward health care coverage as a result of any  
14 other employment for which there is a public employer contribution. This does not  
15 preclude a retiree and an active employee spouse from using both contributions to  
16 the extent needed for purchase of one (1) state sponsored health insurance policy for  
17 that plan year.
- 18 (13) (a) The policies of health insurance coverage procured under subsection (2) of  
19 this section shall include a mail-order drug option for maintenance drugs for  
20 state employees. Maintenance drugs may be dispensed by mail order in  
21 accordance with Kentucky law.
- 22 (b) A health insurer shall not discriminate against any retail pharmacy located  
23 within the geographic coverage area of the health benefit plan and that meets  
24 the terms and conditions for participation established by the insurer, including  
25 price, dispensing fee, and copay requirements of a mail-order option. The  
26 retail pharmacy shall not be required to dispense by mail.
- 27 (c) The mail-order option shall not permit the dispensing of a controlled

- 1 substance classified in Schedule II.
- 2 (14) The policy or policies provided to state employees or their dependents pursuant to  
3 this section shall provide coverage for obtaining a hearing aid and acquiring hearing  
4 aid-related services for insured individuals under eighteen (18) years of age, subject  
5 to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months  
6 pursuant to KRS 304.17A-132.
- 7 (15) Any policy provided to state employees or their dependents pursuant to this section  
8 shall provide coverage for the diagnosis and treatment of autism spectrum disorders  
9 consistent with KRS 304.17A-142.
- 10 (16) Any policy provided to state employees or their dependents pursuant to this section  
11 shall provide coverage for obtaining amino acid-based elemental formula pursuant  
12 to KRS 304.17A-258.
- 13 (17) If a state employee's residence and place of employment are in the same county, and  
14 if the hospital located within that county does not offer surgical services, intensive  
15 care services, obstetrical services, level II neonatal services, diagnostic cardiac  
16 catheterization services, and magnetic resonance imaging services, the employee  
17 may select a plan available in a contiguous county that does provide those services,  
18 and the state contribution for the plan shall be the amount available in the county  
19 where the plan selected is located.
- 20 (18) If a state employee's residence and place of employment are each located in counties  
21 in which the hospitals do not offer surgical services, intensive care services,  
22 obstetrical services, level II neonatal services, diagnostic cardiac catheterization  
23 services, and magnetic resonance imaging services, the employee may select a plan  
24 available in a county contiguous to the county of residence that does provide those  
25 services, and the state contribution for the plan shall be the amount available in the  
26 county where the plan selected is located.
- 27 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and

1 in the best interests of the state group to allow any carrier bidding to offer health  
2 care coverage under this section to submit bids that may vary county by county or  
3 by larger geographic areas.

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

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

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

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

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

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

25 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or  
26 after July 12, 2006, to public employees pursuant to this section which provides  
27 coverage for services rendered by a physician or osteopath duly licensed under KRS

1 Chapter 311 that are within the scope of practice of an optometrist duly licensed  
 2 under the provisions of KRS Chapter 320 shall provide the same payment of  
 3 coverage to optometrists as allowed for those services rendered by physicians or  
 4 osteopaths.

5 (22) Any fully insured health benefit plan or self-insured plan issued or renewed on or  
 6 after June 29, 2021, to public employees pursuant to this section shall comply with:

- 7 (a) KRS 304.12-237;
- 8 (b) KRS 304.17A-270 and 304.17A-525;
- 9 (c) KRS 304.17A-600 to 304.17A-633;
- 10 (d) KRS 205.593;
- 11 (e) KRS 304.17A-700 to 304.17A-730;
- 12 (f) KRS 304.14-135;
- 13 (g) KRS 304.17A-580 and 304.17A-641;
- 14 (h) KRS 304.99-123;
- 15 (i) KRS 304.17A-138; ~~and~~
- 16 (j) **KRS 304.17A-148;**
- 17 **(k) Section 3 of this Act; and**

18 **(L)** Administrative regulations promulgated pursuant to statutes listed in this  
 19 subsection.

20 ~~[(23) Any fully insured health benefit plan or self-insured plan issued or renewed on or~~  
 21 ~~after January 1, 2022, to public employees pursuant to this section shall comply~~  
 22 ~~with KRS 304.17A-148.]~~

23 ➔Section 6. If the Cabinet for Health and Family Services or the Department for  
 24 Medicaid Services determines that a waiver or any other authorization from a federal  
 25 agency is necessary prior to the implementation of any provision of Sections 1 or 2 of this  
 26 Act, the cabinet or department shall, within 90 days after the effective date of Sections 1  
 27 and 2 of this Act, request the waiver or authorization and shall only delay full

1 implementation of those provisions for which a waiver or authorization was deemed  
2 necessary until the waiver or authorization is granted.

3       ➔Section 7. If any provision of this Act, or this Act's application to any person or  
4 circumstance, is held invalid, the invalidity shall not affect other provisions or  
5 applications of the Act, which shall be given effect without the invalid provision or  
6 application, and to this end the provisions and applications of this Act are severable.

7       ➔Section 8. Sections 3 to 5 of this Act shall apply to health plans issued or  
8 renewed on or after the effective date established under Section 9 of this Act.

9       ➔Section 9. Sections 3 to 5 of this Act shall take effect January 1, 2023.