

1 AN ACT relating to consumer protections in health insurance.

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, "health benefit plan" has the same meaning as in KRS*
6 *304.17A-005, except the term includes student health insurance offered by a*
7 *Kentucky-licensed insurer under written contract with a university or college*
8 *whose students it proposes to insure.*

9 *(2) A premium rate for a health benefit plan originally issued on or after January 1,*
10 *2014, to an individual or small group shall be subject to the following provisions:*

11 *(a) The rate shall vary with respect to the particular plan only by the following*
12 *case characteristics:*

- 13 *1. Family composition;*
- 14 *2. Geographic region;*
- 15 *3. Age, except that the ratio of the highest rate factor to the lowest rate*
16 *factor shall not exceed three to one (3:1); and*
- 17 *4. Tobacco use, except that the ratio of the highest rate factor to the*
18 *lowest rate factor shall not exceed one and four-tenths to one (1.4:1);*
19 *and*

20 *(b) The commissioner may promulgate an administrative regulation to*
21 *establish the following:*

- 22 *1. The family composition tiers for purposes of paragraph (a)1. of this*
23 *subsection;*
- 24 *2. The geographic regions for purposes of paragraph (a)2. of this*
25 *subsection; and*
- 26 *3. The age bands for purposes of paragraph (a)3. of this subsection.*

27 ➔SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304

1 IS CREATED TO READ AS FOLLOWS:

2 (1) As used in this section, "health benefit plan" has the same meaning as in KRS
 3 304.17A-005, except the term includes student health insurance offered by a
 4 Kentucky-licensed insurer under written contract with a university or college
 5 whose students it proposes to insure.

6 (2) An insurer offering a health benefit plan in the group or individual market shall
 7 continue to make coverage available for an adult child until the attainment of age
 8 twenty-six (26).

9 (3) Nothing in this section shall require an insurer to make coverage available for
 10 the child of a child receiving dependent coverage under a health benefit plan.

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

13 (1) As used in this section, "health benefit plan" has the same meaning as in KRS
 14 304.17A-005, except the term includes student health insurance offered by a
 15 Kentucky-licensed insurer under written contract with a university or college
 16 whose students it proposes to insure.

17 (2) Except as provided in subsection (3) of this section, an insurer offering a health
 18 benefit plan shall provide benefits for, and shall not impose any cost-sharing
 19 requirements on, preventive services, including:

20 (a) Evidence-based items or services that have in effect a rating of A or B in the
 21 current recommendations of the United States Preventive Services Task
 22 Force with respect to the individual involved, except as provided in 45
 23 C.F.R. sec. 147.130, as amended;

24 (b) Immunizations for routine use in children, adolescents, and adults that
 25 have in effect a recommendation from the federal Centers for Disease
 26 Control and Prevention's Advisory Committee on Immunization Practices
 27 with respect to the individual involved if it is listed on the immunization

1 schedules of the federal Centers for Disease Control and Prevention;

2 (c) With respect to infants, children, and adolescents, evidence-informed
 3 preventive care and screenings provided for in comprehensive guidelines
 4 supported by the federal Health Resources and Services Administration;
 5 and

6 (d) With respect to women, to the extent not described in paragraph (a) of this
 7 subsection, evidence-informed preventive care and screenings provided for
 8 in comprehensive guidelines supported by the federal Health Resources and
 9 Services Administration.

10 (3) (a) Subsection (2) of this section shall not apply to:

11 1. A health benefit plan originally issued prior to March 23, 2010; or

12 2. Services delivered by an out-of-network provider if a health benefit
 13 plan utilizes a network of providers.

14 (b) Student administrative health fees, as defined in 45 C.F.R. sec. 147.145, as
 15 amended, shall not be considered a cost-sharing requirement under
 16 subsection (2) of this section.

17 ➔Section 4. KRS 304.17A-200 is amended to read as follows:

18 (1) (a) As used in this subsection, "health benefit plan" has the same meaning as
 19 in KRS 304.17A-005, except the term includes student health insurance
 20 offered by a Kentucky-licensed insurer under written contract with a
 21 university or college whose students it proposes to insure.

22 (b) An insurer that offers health benefit plan coverage in the small group, large
 23 group,~~or~~ association, or individual market may not establish rules for
 24 eligibility, including continued eligibility, of any individual to enroll under
 25 the terms of the plan based on any of the following health status-related
 26 factors in relation to the individual or the dependent of the individual:

27 1.~~(a)~~ Health status;

- 1 ~~2.(b)~~ Medical condition, including both physical and mental illness;
- 2 ~~3.(c)~~ Claims experience;
- 3 ~~4.(d)~~ Receipt of health care;
- 4 ~~5.(e)~~ Medical history;
- 5 ~~6.(f)~~ Genetic information;
- 6 ~~7.(g)~~ Evidence of insurability, including conditions arising out of acts of
- 7 domestic violence; and
- 8 ~~8.(h)~~ Disability.

9 ~~(c)(2)~~ An insurer that offers health benefit plan coverage in the small group,

10 large group, ~~or~~ association, or individual market shall not require any

11 individual, as a condition of enrollment or continued enrollment under the

12 plan, to pay a premium or contribution which is greater than the premium or

13 contribution for a similarly situated individual enrolled in the plan on the basis

14 of any health status-related factor in relation to the individual or a dependent

15 of the individual. Nothing in this paragraph~~subsection~~ shall prevent a group

16 health benefit plan~~the~~ insurer from establishing premium discounts or

17 rebates or modifying otherwise applicable copayments or deductibles in return

18 for adherence to programs of health promotion and disease prevention.

19 ~~(2)(3)~~ Subject to subsections ~~(3)(4)~~ to ~~(6)(7)~~ of this section, each insurer that

20 offers health benefit plan coverage in the small groups market shall accept every

21 small employer that applies for coverage and shall accept for enrollment under this

22 coverage every individual eligible for the coverage who applies for enrollment

23 during the period in which the individual first becomes eligible to enroll under the

24 terms of the group health benefit plan.

25 (a) Notwithstanding any other provision of this subsection, the insurer may

26 establish group participation rules requiring a minimum number of

27 participants or beneficiaries that must be enrolled in relation to a specified

1 percentage or number of those eligible for enrollment.

2 (b) The terms and participation rules of the group health benefit plan shall be
3 uniformly applicable to small employers in the small group market.

4 (c) This subsection shall not apply to health benefit plan coverage offered by an
5 insurer if the coverage is made available in the small group market only
6 through one (1) or more bona fide associations.

7 ~~(3)~~~~(4)~~ In the case of an insurer that offers health benefit plan coverage in the small
8 group market through a network plan, the insurer may:

9 (a) Limit the employers that may apply for coverage to those with individuals
10 who live, work, or reside in the service area of the network plan; and

11 (b) Within the service area of the network plan, deny coverage to employers if the
12 insurer has demonstrated to the commissioner that:

13 1. The network plan will not have the capacity to deliver services
14 adequately to enrollees of any additional groups because of its
15 obligations to existing group contract holders and enrollees; and

16 2. The insurer is applying this denial uniformly to all employers.

17 ~~(4)~~~~(5)~~ An insurer, upon denying health benefit plan coverage in any service area in
18 accordance with subsection ~~(3)~~~~(4)~~ of this section, shall not offer coverage in the
19 small group market within the service area for a period of one hundred eighty (180)
20 days after the date the coverage is denied.

21 ~~(5)~~~~(6)~~ An insurer may deny health benefit plan coverage in the small group market if
22 the insurer has demonstrated to the commissioner that:

23 (a) The insurer does not have the financial reserves necessary to underwrite
24 additional coverage; and

25 (b) The insurer is applying this denial uniformly to all employers in the small
26 group market.

27 ~~(6)~~~~(7)~~ An insurer, upon denying health benefit plan coverage in connection with

1 group health plans in accordance with subsection ~~(5)~~~~(6)~~ of this section, shall not
2 offer coverage in the small group market for a period of one hundred eighty (180)
3 days after the date the coverage is denied or until the insurer has demonstrated to
4 the commissioner that the insurer has sufficient financial reserves to underwrite
5 additional coverage, whichever is later.

6 ~~(7)~~~~(8)~~ A health benefit plan issued as an individual policy to individual employees or
7 their dependents through or with the permission of a small employer shall be issued
8 on a guaranteed-issue basis to all full-time employees and shall comply with the
9 pre-existing condition provisions of KRS 304.17A-220.

10 ~~(8)~~~~(9)~~ (a) In connection with the offering of any health benefit plan to a small
11 employer, an insurer:

- 12 1. Shall make a reasonable disclosure to a small employer, as part of its
13 solicitation and sales materials, of the availability of information
14 described in paragraph (b) of this subsection; and
- 15 2. Upon request of a small employer, provide the information described in
16 paragraph (b) of this subsection.

17 (b) Subject to paragraph (c) of this subsection, with respect to an insurer offering
18 a health benefit plan to a small employer, information described in this
19 subsection is information concerning:

- 20 1. The provisions of the coverage concerning the insurer's right to change
21 premium rates and the factors that may affect changes in premium rates;
- 22 2. The provisions of the health benefit plan relating to renewability of
23 coverage;
- 24 3. The provisions of the health benefit plan relating to any preexisting
25 condition exclusion; and
- 26 4. The benefits and premiums available under all health benefit plans for
27 which the small employer is qualified.

1 (c) Information described in paragraph (b) of this subsection shall be provided to
2 a small employer in a manner determined to be understandable by the average
3 small employer and shall be sufficient to reasonably inform a small employer
4 of his or her rights and obligations under the health benefit plan.

5 (d) An insurer is not required under this section to disclose any information that is
6 proprietary and trade secret information under applicable law.

7 ➔Section 5. KRS 304.17-030 is amended to read as follows:

8 **Except as provided in Section 2 of this Act,** no policy of health insurance shall be
9 delivered or issued for delivery to any person in this state unless it otherwise complies
10 with this title, and complies with the following:

11 (1) The entire money and other considerations therefor shall be expressed therein;

12 (2) The time when the insurance takes effect and terminates shall be expressed therein;

13 (3) It shall purport to insure only one (1) person, except that a policy may insure,
14 originally or by subsequent amendment, upon the application of an adult member of
15 a family, who shall be deemed the policyholder, any two (2) or more eligible
16 members of that family, including husband, wife, unmarried dependent children to
17 age nineteen (19), unmarried children from nineteen (19) to twenty-five (25) years
18 of age who are full-time students enrolled in and attending an accredited
19 educational institution and who are primarily dependent on the policyholder for
20 maintenance and support, and any other person dependent upon the policyholder as
21 provided pursuant to KRS 304.17-310;

22 (4) The style, arrangement, and overall appearance of the policy shall give no undue
23 prominence to any portion of the text, and every printed portion of the text of the
24 policy and of any indorsements or attached papers shall be plainly printed in light-
25 faced type of a style in general use, the size of which shall be uniform and not less
26 than ten (10) point with a lower case unspaced alphabet length not less than one
27 hundred and twenty (120) point (the "text" shall include all printed matter except

1 the name and address of the insurer, name on title of the policy, the brief
2 description, if any, and captions and subcaptions);

3 (5) The exceptions and reductions of indemnity shall be set forth in the policy and other
4 than those contained in KRS 304.17-050 to 304.17-290, inclusive, shall be printed,
5 at the insurer's option, either included with the benefit provision to which they
6 apply, or under an appropriate caption such as "Exceptions," or "Exceptions and
7 Reductions," except that if an exception or reduction specifically applies only to a
8 particular benefit of the policy, a statement of the exception or reduction shall be
9 included with the benefit provision to which it applies;

10 (6) Each form, including riders and indorsements, shall be identified by a form number
11 in the lower left-hand corner of the first page thereof; and

12 (7) The policy shall contain no provision purporting to make any portion of the charter,
13 rules, constitution, or bylaws of the insurer a part of the policy unless the portion is
14 set forth in full in the policy, except in the case of the incorporation of, or reference
15 to, a statement of rates or classification of risks~~[,]~~ or short-rate table filed with the
16 commissioner.

17 ➔Section 6. KRS 304.17-310 is amended to read as follows:

18 (1) Family expense health insurance is that provided under a policy issued to one (1) of
19 the family members insured, who shall be deemed the policyholder, covering any
20 two (2) or more eligible members of a family, including husband, wife, unmarried
21 dependent children, to age nineteen (19), unmarried children from nineteen (19) to
22 twenty-five (25) years of age who are full-time students enrolled in and attending an
23 accredited educational institution and who are primarily dependent on the
24 policyholder for maintenance and support, and any other person dependent upon the
25 policyholder. Any authorized health insurer may issue the insurance.

26 (2) An individual hospital or medical expense insurance policy or hospital or medical
27 service plan contract delivered or issued for delivery in this state more than 120

1 days after June 13, 1968, which provides that coverage of a dependent child shall
2 terminate upon attainment of the limiting age for dependent children specified in the
3 policy or contract shall also provide in substance that attainment of the limiting age
4 shall not operate to terminate the coverage of the child while the child is and
5 continues to be both (a) incapable of self-sustaining employment by reason of an
6 intellectual or physical disability and (b) chiefly dependent upon the policyholder or
7 subscriber for support and maintenance, provided proof of the incapacity and
8 dependency is furnished to the insurer or corporation by the policyholder or
9 subscriber within thirty-one (31) days of the child's attainment of the limiting age
10 and subsequently as may be required by the insurer or corporation but not more
11 frequently than annually after the two (2) year period following the child's
12 attainment of the limiting age.

13 (3) **Except as provided in Section 2 of this Act,** insurers offering family expense health
14 insurance shall offer the applicant the option to purchase coverage for unmarried
15 dependent children until age twenty-five (25).

16 ➔Section 7. KRS 304.17A-0952 is amended to read as follows:

17 **Except as provided in Section 1 of this Act,** premium rates for a health benefit plan
18 issued or renewed to an individual, a small group, or an association on or after April 10,
19 1998, shall be subject to the following provisions:

20 (1) The premium rates charged during a rating period to an individual with similar case
21 characteristics for the same coverage, or the rates that could be charged to that
22 individual under the rating system for that class of business, shall not vary from the
23 index rate by more than thirty-five percent (35%) of the index rate upon any policy
24 issuance or renewal, on or after January 1, 2003.

25 (2) Notwithstanding the thirty-five percent (35%) variance limitation in subsection (1)
26 of this section, insurers offering an individual health benefit plan that is state-
27 elected under sec. 35(e)(1)F of the Trade Act of 2002, Pub. L. No. 107-210 sec.

1 201, may vary from the index rate by more than thirty-five percent (35%) for
2 individuals who are eligible for the health coverage tax credit under the following
3 conditions:

4 (a) The insurer certifies that the individual does not meet the insurer's
5 underwriting guidelines for issuance of an individual policy;

6 (b) The policy meets the requirements for state-elected coverage under the Trade
7 Act of 2002; and

8 (c) The premium rate is actuarially justified and has been approved by the
9 Department of Insurance pursuant to KRS 304.17A-095.

10 (3) The percentage increase in the premium rate charged to an individual for a new
11 rating period shall not exceed the sum of the following:

12 (a) The percentage change in the new business premium rate measured from the
13 first day of the prior rating period to the first day of the new rating period. In
14 the case of a class of business for which the insurer is not issuing new
15 policies, the insurer shall use the percentage change in the base premium rate;

16 (b) Any adjustment, not to exceed twenty percent (20%) annually and adjusted
17 pro rata for rating periods of less than one (1) year, due to the claim
18 experience, mental and physical condition, including medical condition,
19 medical history, and health service utilization, or duration of coverage of the
20 individual and dependents as determined from the insurer's rate manual for the
21 class of business; and

22 (c) Any adjustment due to change in coverage or change in the case
23 characteristics of the individual as determined from the insurer's rate manual
24 for the class of business.

25 (4) The premium rates charged during a rating period to a small group or to an
26 association member with similar case characteristics for the same coverage, or the
27 rates that could be charged to that small group or that association member under the

1 rating system for that class of business, shall not vary from the index rate by more
2 than fifty percent (50%) of the index rate.

3 (5) The percentage increase in the premium rate charged to a small group or to an
4 association member for a new rating period shall not exceed the sum of the
5 following:

6 (a) The percentage change in the new business premium rate measured from the
7 first day of the prior rating period to the first day of the new rating period. In
8 the case of a class of business for which the insurer is not issuing new
9 policies, the insurer shall use the percentage change in the base premium rate;

10 (b) Any adjustment, not to exceed twenty percent (20%) annually and adjusted
11 pro rata for rating periods of less than one (1) year, due to the claims
12 experience, mental and physical condition, including medical condition,
13 medical history, and health service utilization, or duration of coverage of the
14 employee, association member, or dependents as determined from the insurer's
15 rate manual for the class of business; and

16 (c) Any adjustment due to change in coverage or change in the case
17 characteristics of the small group or association member as determined from
18 the insurer's rate manual for the class of business.

19 (6) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate
20 factor within a class of business shall not exceed five to one (5:1). For purpose of
21 this limitation, case characteristics include age, gender, occupation or industry, and
22 geographic area.

23 (7) Adjustments in rates for claims experience, mental and physical condition,
24 including medical condition, medical history, and health service utilization, health
25 status, and duration of coverage shall not be charged to an individual group member
26 or the member's dependents. Any adjustment shall be applied uniformly to the rates
27 charged for all individuals and dependents of the small group.

1 (8) (a) The commissioner may approve establishment of additional classes of
2 business upon application to the commissioner and a finding by the
3 commissioner that the additional class would enhance the efficiency and
4 fairness for the applicable market segment.

5 ~~(b)(a)~~ The index rate for a rating period for any class of business shall not
6 exceed the index rate for any other class of business in that market segment by
7 more than ten percent (10%).

8 ~~(c)(b)~~ An insurer may establish a separate class of business only to reflect
9 substantial differences in expected claims experience or administrative cost
10 related to the following reasons:

- 11 1. The insurer uses more than one (1) type of system for the marketing and
12 sale of the health benefit plans;
- 13 2. The insurer has acquired a class of business from another insurer; or
- 14 3. The insurer is offering a state-elected plan under the provisions of the
15 Trade Act of 2002, Pub. L. No. 107-210 sec. 201.

16 ~~(d)(e)~~ Notwithstanding any other provision of this subsection, beginning
17 January 1, 2001, a GAP participating insurer may establish a separate class of
18 business for the purpose of separating guaranteed acceptance program
19 qualified individuals from other individuals enrolled in their plan prior to
20 January 1, 2001. The index rate for the separate class created under this
21 paragraph shall be established taking into consideration expected claims
22 experience and administrative costs of the new class of business and the
23 previous class of business.

24 (9) For the purpose of this section, a health benefit plan that utilizes a restricted
25 provider network shall not be considered similar coverage to a health benefit plan
26 that does not utilize a restricted provider network if utilization of the restricted
27 provider network results in substantial differences in claims costs.

1 (10) Notwithstanding any other subsection~~[provision]~~ of this section, an insurer shall not
2 be required to utilize the experience of those individuals with high-cost conditions
3 who enrolled in its plans between July 15, 1995, and April 10, 1998, to develop the
4 insurer's index rate for its individual policies.

5 (11) Nothing in this section shall be construed to prevent an insurer from offering
6 incentives to participate in a program of disease prevention or health improvement.

7 ➔Section 8. The following KRS section is repealed:

8 304.17A-256 Options for dependent coverage under group health benefit plans --
9 Disclaimer.

10 ➔Section 9. KRS 304.17A-200, as amended in Section 4 of this Act, shall be
11 retroactive to health benefit plans issued on or after January 1, 2014.