

1 AN ACT relating to coverage for medical services.

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

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

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

6 *(a) "Health benefit plan" has the same meaning as in KRS 304.17A-005,*
7 *except that for purposes of this section, the term includes student health*
8 *insurance offered by a Kentucky-licensed insurer under written contract*
9 *with a university or college whose students it proposes to insure;*

10 *(b) "Iatrogenic infertility" means an impairment of fertility caused by surgery,*
11 *radiation, chemotherapy, or any other medical treatment affecting*
12 *reproductive organs or processes;*

13 *(c) "May directly or indirectly cause" means the treatment has a likely side*
14 *effect of infertility as established by the American Society for Reproductive*
15 *Medicine, the American Society of Clinical Oncology, or any other*
16 *reputable professional medical organization;*

17 *(d) "Oocyte and sperm preservation services" means oocyte and sperm*
18 *preservation procedures that are consistent with established medical*
19 *practices and professional guidelines published by the American Society for*
20 *Reproductive Medicine, the American Society of Clinical Oncology, or any*
21 *other reputable professional medical organization; and*

22 *(e) "Religious organization" includes but is not limited to a religious group,*
23 *corporation, association, school or educational institution, ministry, order,*
24 *society, or similar entity, regardless of whether it is integrated or affiliated*
25 *with a church or other house of worship.*

26 *(2) Except as provided in subsection (5) of this section, all health benefit plans shall*
27 *provide coverage for oocyte and sperm preservation services when a medically*

1 necessary treatment may directly or indirectly cause iatrogenic infertility to an
2 insured.

3 (3) The coverage required by subsection (2) of this section:

4 (a) Shall include:

5 1. Evaluation expenses;

6 2. Laboratory assessments; and

7 3. Medications and treatment associated with oocyte and sperm
8 cryopreservation procedures, including obtaining, freezing, and
9 storing gametes for up to one (1) year; and

10 (b) May:

11 1. Exclude costs associated with storage of oocytes or sperm after one (1)
12 year;

13 2. Include age restrictions in accordance with guidelines set forth by the
14 American Society for Reproductive Medicine or the American Society
15 of Clinical Oncology;

16 3. Include a lifetime limit of one (1) oocyte or sperm cryopreservation
17 procedure per eligible insured; and

18 4. Be limited to nonexperimental procedures, as defined by the American
19 Society for Reproductive Medicine or the American Society of Clinical
20 Oncology.

21 (4) Procedures covered by this section shall:

22 (a) Be performed at a health facility licensed or certified in Kentucky or
23 another state; and

24 (b) Conform to the guidelines of the American Society for Reproductive
25 Medicine or the American Society of Clinical Oncology.

26 (5) This section shall not apply to an employer-sponsored health benefit plan if the
27 employer is a religious organization.

1 ➔SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304
2 IS CREATED TO READ AS FOLLOWS:

3 *(1) All insurers issuing or renewing a health insurance policy or plan, including but*
4 *not limited to a health benefit plan, that provides coverage for orchiectomy or*
5 *orchidectomy as treatment for testicular or other urological cancer shall provide*
6 *coverage, in a manner determined in consultation with the attending physician*
7 *and the insured patient and subject to applicable cost sharing that is consistent*
8 *with the cost sharing established for other benefits under the coverage, for the*
9 *following:*

10 *(a) All stages of surgical reconstruction related to the orchiectomy or*
11 *orchidectomy, including testicular or other urological prostheses; and*

12 *(b) Physical complications of all stages of orchiectomy or orchidectomy,*
13 *including any related surgical reconstruction.*

14 *(2) An insurer shall provide written notice to an insured of the availability of*
15 *coverage for an orchiectomy or orchidectomy upon enrollment and annually*
16 *thereafter.*

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

19 *Section 2 of this Act shall apply to limited health service benefit plans, including any*
20 *limited health service contract, as defined in KRS 304.38A-010.*

21 ➔SECTION 4. A NEW SECTION OF SUBTITLE 38A OF KRS CHAPTER 304
22 IS CREATED TO READ AS FOLLOWS:

23 *Limited health service organizations shall comply with Section 2 of this Act.*

24 ➔Section 5. KRS 18A.225 is amended to read as follows:

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

- 26 1. Any person, including an elected public official, who is regularly
27 employed by any department, office, board, agency, or branch of state

- 1 government; or by a public postsecondary educational institution; or by
2 any city, urban-county, charter county, county, or consolidated local
3 government, whose legislative body has opted to participate in the state-
4 sponsored health insurance program pursuant to KRS 79.080; and who
5 is either a contributing member to any one (1) of the retirement systems
6 administered by the state, including but not limited to the Kentucky
7 Retirement Systems, County Employees Retirement System, Kentucky
8 Teachers' Retirement System, the Legislators' Retirement Plan, or the
9 Judicial Retirement Plan; or is receiving a contractual contribution from
10 the state toward a retirement plan; or, in the case of a public
11 postsecondary education institution, is an individual participating in an
12 optional retirement plan authorized by KRS 161.567; or is eligible to
13 participate in a retirement plan established by an employer who ceases
14 participating in the Kentucky Employees Retirement System pursuant to
15 KRS 61.522 whose employees participated in the health insurance plans
16 administered by the Personnel Cabinet prior to the employer's effective
17 cessation date in the Kentucky Employees Retirement System;
- 18 2. Any certified or classified employee of a local board of education or a
19 public charter school as defined in KRS 160.1590;
- 20 3. Any elected member of a local board of education;
- 21 4. Any person who is a present or future recipient of a retirement
22 allowance from the Kentucky Retirement Systems, County Employees
23 Retirement System, Kentucky Teachers' Retirement System, the
24 Legislators' Retirement Plan, the Judicial Retirement Plan, or the
25 Kentucky Community and Technical College System's optional
26 retirement plan authorized by KRS 161.567, except that a person who is
27 receiving a retirement allowance and who is age sixty-five (65) or older

- 1 shall not be included, with the exception of persons covered under KRS
2 61.702(2)(b)3. and 78.5536(2)(b)3., unless he or she is actively
3 employed pursuant to subparagraph 1. of this paragraph; and
- 4 5. Any eligible dependents and beneficiaries of participating employees
5 and retirees who are entitled to participate in the state-sponsored health
6 insurance program;
- 7 (b) The term "health benefit plan" for the purposes of this section means a health
8 benefit plan as defined in KRS 304.17A-005;
- 9 (c) The term "insurer" for the purposes of this section means an insurer as defined
10 in KRS 304.17A-005; and
- 11 (d) The term "managed care plan" for the purposes of this section means a
12 managed care plan as defined in KRS 304.17A-500.
- 13 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
14 recommendation of the secretary of the Personnel Cabinet, shall procure, in
15 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,
16 from one (1) or more insurers authorized to do business in this state, a group
17 health benefit plan that may include but not be limited to health maintenance
18 organization (HMO), preferred provider organization (PPO), point of service
19 (POS), and exclusive provider organization (EPO) benefit plans
20 encompassing all or any class or classes of employees. With the exception of
21 employers governed by the provisions of KRS Chapters 16, 18A, and 151B,
22 all employers of any class of employees or former employees shall enter into
23 a contract with the Personnel Cabinet prior to including that group in the state
24 health insurance group. The contracts shall include but not be limited to
25 designating the entity responsible for filing any federal forms, adoption of
26 policies required for proper plan administration, acceptance of the contractual
27 provisions with health insurance carriers or third-party administrators, and

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

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

16 (c) Any carrier bidding to offer health care coverage to employees shall agree to
17 provide coverage to all members of the state group, including active
18 employees and retirees and their eligible covered dependents and
19 beneficiaries, within the county or counties specified in its bid. Except as
20 provided in subsection (20) of this section, any carrier bidding to offer health
21 care coverage to employees shall also agree to rate all employees as a single
22 entity, except for those retirees whose former employers insure their active
23 employees outside the state-sponsored health insurance program and as
24 otherwise provided in KRS 61.702(2)(b)3.b. and 78.5536(2)(b)3.b.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (13) (a) The policies of health insurance coverage procured under subsection (2) of

1 this section shall include a mail-order drug option for maintenance drugs for
2 state employees. Maintenance drugs may be dispensed by mail order in
3 accordance with Kentucky law.

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

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

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

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

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

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

1 in the county where the plan selected is located.

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

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

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

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

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

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

27 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the

1 carrier all of the counties included in its bid within the region. If the Personnel
2 Cabinet deems the bids submitted in accordance with this subsection to be in
3 the best interests of state employees in a region, the cabinet may award the
4 contract for that region to no more than two (2) carriers; and

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

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

14 (22) Any fully insured health benefit plan or self-insured plan issued or renewed to
15 public employees pursuant to this section shall comply with:

- 16 (a) KRS 304.12-237;
- 17 (b) KRS 304.17A-270 and 304.17A-525;
- 18 (c) KRS 304.17A-600 to 304.17A-633;
- 19 (d) KRS 205.593;
- 20 (e) KRS 304.17A-700 to 304.17A-730;
- 21 (f) KRS 304.14-135;
- 22 (g) KRS 304.17A-580 and 304.17A-641;
- 23 (h) KRS 304.99-123;
- 24 (i) KRS 304.17A-138;
- 25 (j) KRS 304.17A-148;
- 26 (k) KRS 304.17A-163 and 304.17A-1631;~~and~~
- 27 (l) **Section 1 of this Act;**

1 (m) Section 2 of this Act; and

2 (n) Administrative regulations promulgated pursuant to statutes listed in this
3 subsection.

4 ➔Section 6. KRS 164.2871 is amended to read as follows:

5 (1) The governing board of each state postsecondary educational institution is
6 authorized to purchase liability insurance for the protection of the individual
7 members of the governing board, faculty, and staff of such institutions from liability
8 for acts and omissions committed in the course and scope of the individual's
9 employment or service. Each institution may purchase the type and amount of
10 liability coverage deemed to best serve the interest of such institution.

11 (2) All retirement annuity allowances accrued or accruing to any employee of a state
12 postsecondary educational institution through a retirement program sponsored by
13 the state postsecondary educational institution are hereby exempt from any state,
14 county, or municipal tax, and shall not be subject to execution, attachment,
15 garnishment, or any other process whatsoever, nor shall any assignment thereof be
16 enforceable in any court. Except retirement benefits accrued or accruing to any
17 employee of a state postsecondary educational institution through a retirement
18 program sponsored by the state postsecondary educational institution on or after
19 January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent
20 provided in KRS 141.010 and 141.0215.

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

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

- 1 (a) Conform to the requirements of Subtitle 32 of KRS Chapter 304; and
- 2 (b) Except as provided in subsection (5) of this section, be exempt from
- 3 conformity with Subtitle 17A of KRS Chapter 304.

4 (5) A self-insured employer group health plan provided by the governing board of a
5 state postsecondary education institution to its employees shall comply with:

6 (a) KRS 304.17A-163 and 304.17A-1631;

7 (b) Section 1 of this Act; and

8 (c) Section 2 of this Act.

9 ➔Section 7. This Act applies to policies and plans issued or renewed on or after
10 January 1, 2024.

11 ➔Section 8. This Act takes effect January 1, 2024.