

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 whom***  
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 certain services rendered by certified community health workers,  
19 as defined in KRS 309.460, equivalent to the coverage requirements  
20 established in KRS 205.648; **and**

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

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

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

27 ***(a) Means any health insurance policy, certificate, contract, or plan that offers***

1 or provides coverage in this state for a well-child visit, including well-baby  
 2 visits, whether such coverage is by direct payment, reimbursement, or  
 3 otherwise; and

4 (b) Shall include but not be limited to health benefit plans.

5 (2) Coverage under a health plan for a well-child visit, including a well-baby visit,  
 6 shall include coverage for a depression screening of the child's parent or legal  
 7 guardian if the covered child is less than five (5) years of age.

8 (3) (a) Except as provided in paragraph (b) of this subsection, the coverage  
 9 required under this section shall not be subject to cost sharing.

10 (b) If the application of paragraph (a) of this subsection would be the sole  
 11 cause of a health plan's failure to qualify as a Health Savings Account-  
 12 qualified High Deductible Health Plan under 26 U.S.C. sec. 223, as  
 13 amended, then the requirements of that paragraph shall not apply to that  
 14 health plan until the minimum deductible under 26 U.S.C. sec. 223, as  
 15 amended, is satisfied.

16 ➔Section 4. KRS 164.2871 (Effective January 1, 2023) is amended to read as  
 17 follows:

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

24 (2) All retirement annuity allowances accrued or accruing to any employee of a state  
 25 postsecondary educational institution through a retirement program sponsored by  
 26 the state postsecondary educational institution are hereby exempt from any state,  
 27 county, or municipal tax, and shall not be subject to execution, attachment,

1 garnishment, or any other process whatsoever, nor shall any assignment thereof be  
2 enforceable in any court. Except retirement benefits accrued or accruing to any  
3 employee of a state postsecondary educational institution through a retirement  
4 program sponsored by the state postsecondary educational institution on or after  
5 January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent  
6 provided in KRS 141.010 and 141.0215.

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

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

14 (a) Conform to the requirements of Subtitle 32 of KRS Chapter 304; and

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

17 (5) A self-insured employer group health plan provided by the governing board of a  
18 state postsecondary education institution to its employees shall comply with KRS  
19 304.17A-163, ~~and~~ 304.17A-1631, **and Section 3 of this Act.**

20 ➔Section 5. KRS 18A.225 (Effective January 1, 2023) is amended to read as  
21 follows:

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

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

- 1 sponsored health insurance program pursuant to KRS 79.080; and who  
2 is either a contributing member to any one (1) of the retirement systems  
3 administered by the state, including but not limited to the Kentucky  
4 Retirement Systems, County Employees Retirement System, Kentucky  
5 Teachers' Retirement System, the Legislators' Retirement Plan, or the  
6 Judicial Retirement Plan; or is receiving a contractual contribution from  
7 the state toward a retirement plan; or, in the case of a public  
8 postsecondary education institution, is an individual participating in an  
9 optional retirement plan authorized by KRS 161.567; or is eligible to  
10 participate in a retirement plan established by an employer who ceases  
11 participating in the Kentucky Employees Retirement System pursuant to  
12 KRS 61.522 whose employees participated in the health insurance plans  
13 administered by the Personnel Cabinet prior to the employer's effective  
14 cessation date in the Kentucky Employees Retirement System;
- 15 2. Any certified or classified employee of a local board of education or a  
16 public charter school as defined in KRS 160.1590;
- 17 3. Any elected member of a local board of education;
- 18 4. Any person who is a present or future recipient of a retirement  
19 allowance from the Kentucky Retirement Systems, County Employees  
20 Retirement System, Kentucky Teachers' Retirement System, the  
21 Legislators' Retirement Plan, the Judicial Retirement Plan, or the  
22 Kentucky Community and Technical College System's optional  
23 retirement plan authorized by KRS 161.567, except that a person who is  
24 receiving a retirement allowance and who is age sixty-five (65) or older  
25 shall not be included, with the exception of persons covered under KRS  
26 61.702(2)(b)3. and 78.5536(2)(b)3., unless he or she is actively  
27 employed pursuant to subparagraph 1. of this paragraph; and

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

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

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

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

22 (d) Any carrier bidding to offer health care coverage to employees shall agree to  
23 provide enrollment, claims, and utilization data to the Commonwealth in a  
24 format specified by the Personnel Cabinet with the understanding that the data  
25 shall be owned by the Commonwealth; to provide data in an electronic form  
26 and within a time frame specified by the Personnel Cabinet; and to be subject  
27 to penalties for noncompliance with data reporting requirements as specified

1 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions  
2 to protect the confidentiality of each individual employee; however,  
3 confidentiality assertions shall not relieve a carrier from the requirement of  
4 providing stipulated data to the Commonwealth.

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

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

26 (g) Any funds in flexible spending accounts that remain after all reimbursements  
27 have been processed shall be transferred to the credit of the state-sponsored

1 health insurance plan's appropriation account.

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

7 (3) The premiums may be paid by the policyholder:

8 (a) Wholly from funds contributed by the employee, by payroll deduction or  
9 otherwise;

10 (b) Wholly from funds contributed by any department, board, agency, public  
11 postsecondary education institution, or branch of state, city, urban-county,  
12 charter county, county, or consolidated local government; or

13 (c) Partly from each, except that any premium due for health care coverage or  
14 dental coverage, if any, in excess of the premium amount contributed by any  
15 department, board, agency, postsecondary education institution, or branch of  
16 state, city, urban-county, charter county, county, or consolidated local  
17 government for any other health care coverage shall be paid by the employee.

18 (4) If an employee moves his or her place of residence or employment out of the service  
19 area of an insurer offering a managed health care plan, under which he or she has  
20 elected coverage, into either the service area of another managed health care plan or  
21 into an area of the Commonwealth not within a managed health care plan service  
22 area, the employee shall be given an option, at the time of the move or transfer, to  
23 change his or her coverage to another health benefit plan.

24 (5) No payment of premium by any department, board, agency, public postsecondary  
25 educational institution, or branch of state, city, urban-county, charter county,  
26 county, or consolidated local government shall constitute compensation to an  
27 insured employee for the purposes of any statute fixing or limiting the



1 compensation of such an employee. Any premium or other expense incurred by any  
2 department, board, agency, public postsecondary educational institution, or branch  
3 of state, city, urban-county, charter county, county, or consolidated local  
4 government shall be considered a proper cost of administration.

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

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

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

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

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

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

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

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

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

- 1 (b) A health insurer shall not discriminate against any retail pharmacy located  
2 within the geographic coverage area of the health benefit plan and that meets  
3 the terms and conditions for participation established by the insurer, including  
4 price, dispensing fee, and copay requirements of a mail-order option. The  
5 retail pharmacy shall not be required to dispense by mail.
- 6 (c) The mail-order option shall not permit the dispensing of a controlled  
7 substance classified in Schedule II.
- 8 (14) The policy or policies provided to state employees or their dependents pursuant to  
9 this section shall provide coverage for obtaining a hearing aid and acquiring hearing  
10 aid-related services for insured individuals under eighteen (18) years of age, subject  
11 to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months  
12 pursuant to KRS 304.17A-132.
- 13 (15) Any policy provided to state employees or their dependents pursuant to this section  
14 shall provide coverage for the diagnosis and treatment of autism spectrum disorders  
15 consistent with KRS 304.17A-142.
- 16 (16) Any policy provided to state employees or their dependents pursuant to this section  
17 shall provide coverage for obtaining amino acid-based elemental formula pursuant  
18 to KRS 304.17A-258.
- 19 (17) If a state employee's residence and place of employment are in the same county, and  
20 if the hospital located within that county does not offer surgical services, intensive  
21 care services, obstetrical services, level II neonatal services, diagnostic cardiac  
22 catheterization services, and magnetic resonance imaging services, the employee  
23 may select a plan available in a contiguous county that does provide those services,  
24 and the state contribution for the plan shall be the amount available in the county  
25 where the plan selected is located.
- 26 (18) If a state employee's residence and place of employment are each located in counties  
27 in which the hospitals do not offer surgical services, intensive care services,

1       obstetrical services, level II neonatal services, diagnostic cardiac catheterization  
2       services, and magnetic resonance imaging services, the employee may select a plan  
3       available in a county contiguous to the county of residence that does provide those  
4       services, and the state contribution for the plan shall be the amount available in the  
5       county where the plan selected is located.

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

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

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

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

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

24       (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the  
25       carrier all of the counties included in its bid within the region. If the Personnel  
26       Cabinet deems the bids submitted in accordance with this subsection to be in  
27       the best interests of state employees in a region, the cabinet may award the

1 contract for that region to no more than two (2) carriers; and

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

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

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

13 (a) KRS 304.12-237;

14 (b) KRS 304.17A-270 and 304.17A-525;

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

16 (d) KRS 205.593;

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

18 (f) KRS 304.14-135;

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

20 (h) KRS 304.99-123;

21 (i) KRS 304.17A-138;

22 (j) KRS 304.17A-148;

23 (k) KRS 304.17A-163 and 304.17A-1631;~~and~~

24 (l) **Section 3 of this Act; and**

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

27 ➔Section 6. If the Cabinet for Health and Family Services or the Department for

1 Medicaid Services determines that a state plan amendment, waiver, or any other form of  
2 approval or authorization from a federal agency is necessary prior to the implementation  
3 of Section 1 or 2 of this Act, the cabinet or department shall, within 90 days after the  
4 effective date of Sections 1 and 2 of this Act, request the state plan amendment, waiver,  
5 approval, or authorization and shall only delay full implementation of those provisions for  
6 which a state plan amendment, waiver, approval, or authorization was deemed necessary  
7 until the state plan amendment, waiver, approval, or authorization is granted. The cabinet  
8 shall, in accordance with KRS 205.525, provide a copy of any state plan amendment,  
9 waiver, or other approval or authorization submitted pursuant to this section to the  
10 Interim Joint Committee on Health, Welfare, and Family Services and the Interim Joint  
11 Committee on Appropriations and Revenue and shall provide an update on the status or  
12 any application submitted pursuant to this section upon request.

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

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

19       ➔Section 9. Sections 3 to 5 of this Act shall take effect January 1, 2024.