

1 AN ACT relating to coverage for cancer detection.

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, "cancer screening, test, or procedure":*

6 *(a) Means any screening, test, or procedure performed for the purpose of*
7 *detecting cancer, including but not limited to lung, breast, cervical, prostate,*
8 *and colorectal cancer, that occurs prior to diagnosis; and*

9 *(b) Includes follow-up screenings, tests, and procedures that occur prior to*
10 *diagnosis.*

11 *(2) A health insurance policy, certificate, plan, or contract, including but not limited*
12 *to a health benefit plan, that provides medical or surgical benefits with respect to*
13 *cancer shall provide coverage for any cancer screening, test, or procedure that is:*

14 *(a) Consistent with nationally recognized clinical practice guidelines; and*

15 *(b) Ordered or prescribed by a health care provider legally authorized to order*
16 *or prescribe the cancer screening, test, or procedure.*

17 *(3) (a) The coverage required under this section shall not be subject to:*

18 *1. Utilization management requirements, including prior authorization;*

19 *or*

20 *2. Except as provided in paragraph (b) of this subsection, any deductible,*
21 *coinsurance, copayment, or other cost-sharing requirement.*

22 *(b) If the application of any requirement of paragraph (a)2. of this subsection*
23 *would be the sole cause of a health insurance policy's, certificate's, plan's,*
24 *or contract's failure to qualify as a Health Savings Account-qualified High*
25 *Deductible Health Plan under 26 U.S.C. sec. 223, as amended, then the*
26 *requirement shall not apply to that health insurance policy, certificate, plan,*
27 *or contract until the minimum deductible under 26 U.S.C. sec. 223, as*

1 amended, is satisfied.

2 (4) If the application of any requirement of subsection (2) of this section to a health
 3 insurance policy, certificate, plan, or contract results in a determination that the
 4 state must make payments to defray the cost of the requirement under 42 U.S.C.
 5 sec. 18031(d)(3), as amended, then the requirement shall not apply to that policy,
 6 certificate, plan, or contract until the cost defrayal requirements are no longer
 7 applicable.

8 (5) (a) This section shall not be construed to limit coverage:

9 1. Provided under a health insurance policy, certificate, plan, or
 10 contract; or

11 2. Required under any other law.

12 (b) In the case of a conflict between this section and any other law, this section
 13 shall control unless application of this section would result in a reduction of
 14 coverage or benefits for any insured.

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

17 Section 1 of this Act shall apply to limited health service benefit plans, including any
 18 limited health service contract, as defined in KRS 304.38A-010.

19 ➔SECTION 3. A NEW SECTION OF SUBTITLE 38A OF KRS CHAPTER 304
 20 IS CREATED TO READ AS FOLLOWS:

21 Limited health service organizations shall comply with Section 1 of this Act.

22 ➔Section 4. KRS 205.522 is amended to read as follows:

23 (1) The Department for Medicaid Services and any managed care organization
 24 contracted to provide Medicaid benefits pursuant to this chapter shall comply with
 25 the provisions of Section 1 of this Act and KRS 304.17A-163, 304.17A-1631,
 26 304.17A-167, 304.17A-235, 304.17A-257, 304.17A-259, 304.17A-515, 304.17A-
 27 580, 304.17A-600, 304.17A-603, 304.17A-607, and 304.17A-740 to 304.17A-743,

1 as applicable.

2 (2) A managed care organization contracted to provide Medicaid benefits pursuant to
3 this chapter shall comply with the reporting requirements of KRS 304.17A-732.

4 ➔Section 5. 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; and

7 (b) Section 1 of this Act.

8 ➔Section 6. KRS 18A.225 is amended to read as follows:

- 9 (1) (a) The term "employee" for purposes of this section means:
- 10 1. Any person, including an elected public official, who is regularly
11 employed by any department, office, board, agency, or branch of state
12 government; or by a public postsecondary educational institution; or by
13 any city, urban-county, charter county, county, or consolidated local
14 government, whose legislative body has opted to participate in the state-
15 sponsored health insurance program pursuant to KRS 79.080; and who
16 is either a contributing member to any one (1) of the retirement systems
17 administered by the state, including but not limited to the Kentucky
18 Retirement Systems, County Employees Retirement System, Kentucky
19 Teachers' Retirement System, the Legislators' Retirement Plan, or the
20 Judicial Retirement Plan; or is receiving a contractual contribution from
21 the state toward a retirement plan; or, in the case of a public
22 postsecondary education institution, is an individual participating in an
23 optional retirement plan authorized by KRS 161.567; or is eligible to
24 participate in a retirement plan established by an employer who ceases
25 participating in the Kentucky Employees Retirement System pursuant to
26 KRS 61.522 whose employees participated in the health insurance plans
27 administered by the Personnel Cabinet prior to the employer's effective

- 1 cessation date in the Kentucky Employees Retirement System;
- 2 2. Any certified or classified employee of a local board of education or a
- 3 public charter school as defined in KRS 160.1590;
- 4 3. Any elected member of a local board of education;
- 5 4. Any person who is a present or future recipient of a retirement
- 6 allowance from the Kentucky Retirement Systems, County Employees
- 7 Retirement System, Kentucky Teachers' Retirement System, the
- 8 Legislators' Retirement Plan, the Judicial Retirement Plan, or the
- 9 Kentucky Community and Technical College System's optional
- 10 retirement plan authorized by KRS 161.567, except that a person who is
- 11 receiving a retirement allowance and who is age sixty-five (65) or older
- 12 shall not be included, with the exception of persons covered under KRS
- 13 61.702(2)(b)3. and 78.5536(2)(b)3., unless he or she is actively
- 14 employed pursuant to subparagraph 1. of this paragraph; and
- 15 5. Any eligible dependents and beneficiaries of participating employees
- 16 and retirees who are entitled to participate in the state-sponsored health
- 17 insurance program;
- 18 (b) The term "health benefit plan" for the purposes of this section means a health
- 19 benefit plan as defined in KRS 304.17A-005;
- 20 (c) The term "insurer" for the purposes of this section means an insurer as defined
- 21 in KRS 304.17A-005; and
- 22 (d) The term "managed care plan" for the purposes of this section means a
- 23 managed care plan as defined in KRS 304.17A-500.
- 24 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
- 25 recommendation of the secretary of the Personnel Cabinet, shall procure, in
- 26 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,
- 27 from one (1) or more insurers authorized to do business in this state, a group

1 health benefit plan that may include but not be limited to health maintenance
2 organization (HMO), preferred provider organization (PPO), point of service
3 (POS), and exclusive provider organization (EPO) benefit plans
4 encompassing all or any class or classes of employees. With the exception of
5 employers governed by the provisions of KRS Chapters 16, 18A, and 151B,
6 all employers of any class of employees or former employees shall enter into
7 a contract with the Personnel Cabinet prior to including that group in the state
8 health insurance group. The contracts shall include but not be limited to
9 designating the entity responsible for filing any federal forms, adoption of
10 policies required for proper plan administration, acceptance of the contractual
11 provisions with health insurance carriers or third-party administrators, and
12 adoption of the payment and reimbursement methods necessary for efficient
13 administration of the health insurance program. Health insurance coverage
14 provided to state employees under this section shall, at a minimum, contain
15 the same benefits as provided under Kentucky Kare Standard as of January 1,
16 1994, and shall include a mail-order drug option as provided in subsection
17 (13) of this section. All employees and other persons for whom the health care
18 coverage is provided or made available shall annually be given an option to
19 elect health care coverage through a self-funded plan offered by the
20 Commonwealth or, if a self-funded plan is not available, from a list of
21 coverage options determined by the competitive bid process under the
22 provisions of KRS 45A.080, 45A.085, and 45A.090 and made available
23 during annual open enrollment.

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

27 (c) Any carrier bidding to offer health care coverage to employees shall agree to

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

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

19 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities
20 for timely analysis of data received from carriers and, to the extent possible,
21 provide in the request-for-proposal specifics relating to data requirements,
22 electronic reporting, and penalties for noncompliance. The Commonwealth
23 shall own the enrollment, claims, and utilization data provided by each carrier
24 and shall develop methods to protect the confidentiality of the individual. The
25 Personnel Cabinet shall include in the October annual report submitted
26 pursuant to the provisions of KRS 18A.226 to the Governor, the General
27 Assembly, and the Chief Justice of the Supreme Court, an analysis of the

1 financial stability of the program, which shall include but not be limited to
2 loss ratios, methods of risk adjustment, measurements of carrier quality of
3 service, prescription coverage and cost management, and statutorily required
4 mandates. If state self-insurance was available as a carrier option, the report
5 also shall provide a detailed financial analysis of the self-insurance fund
6 including but not limited to loss ratios, reserves, and reinsurance agreements.

7 (f) If any agency participating in the state-sponsored employee health insurance
8 program for its active employees terminates participation and there is a state
9 appropriation for the employer's contribution for active employees' health
10 insurance coverage, then neither the agency nor the employees shall receive
11 the state-funded contribution after termination from the state-sponsored
12 employee health insurance program.

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

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

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

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

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

27 (c) Partly from each, except that any premium due for health care coverage or

1 dental coverage, if any, in excess of the premium amount contributed by any
2 department, board, agency, postsecondary education institution, or branch of
3 state, city, urban-county, charter county, county, or consolidated local
4 government for any other health care coverage shall be paid by the employee.

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

11 (5) No payment of premium by any department, board, agency, public postsecondary
12 educational institution, or branch of state, city, urban-county, charter county,
13 county, or consolidated local government shall constitute compensation to an
14 insured employee for the purposes of any statute fixing or limiting the
15 compensation of such an employee. Any premium or other expense incurred by any
16 department, board, agency, public postsecondary educational institution, or branch
17 of state, city, urban-county, charter county, county, or consolidated local
18 government shall be considered a proper cost of administration.

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

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

27 (8) The health care contract or contracts for employees shall be entered into for a

1 period of not less than one (1) year.

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

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

26 (11) Interruption of an established treatment regime with maintenance drugs shall be
27 grounds for an insured to appeal a formulary change through the established appeal

1 procedures approved by the Department of Insurance, if the physician supervising
2 the treatment certifies that the change is not in the best interests of the patient.

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

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

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

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

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

27 (15) Any policy provided to state employees or their dependents pursuant to this section

- 1 shall provide coverage for the diagnosis and treatment of autism spectrum disorders
2 consistent with KRS 304.17A-142.
- 3 (16) Any policy provided to state employees or their dependents pursuant to this section
4 shall provide coverage for obtaining amino acid-based elemental formula pursuant
5 to KRS 304.17A-258.
- 6 (17) If a state employee's residence and place of employment are in the same county,
7 and if the hospital located within that county does not offer surgical services,
8 intensive care services, obstetrical services, level II neonatal services, diagnostic
9 cardiac catheterization services, and magnetic resonance imaging services, the
10 employee may select a plan available in a contiguous county that does provide
11 those services, and the state contribution for the plan shall be the amount available
12 in the county where the plan selected is located.
- 13 (18) If a state employee's residence and place of employment are each located in
14 counties in which the hospitals do not offer surgical services, intensive care
15 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 county contiguous to the county of residence that
18 does provide those services, and the state contribution for the plan shall be the
19 amount available in the county where the plan selected is located.
- 20 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and
21 in the best interests of the state group to allow any carrier bidding to offer health
22 care coverage under this section to submit bids that may vary county by county or
23 by larger geographic areas.
- 24 (20) Notwithstanding any other provision of this section, the bid for proposals for health
25 insurance coverage for calendar year 2004 shall include a bid scenario that reflects
26 the statewide rating structure provided in calendar year 2003 and a bid scenario that
27 allows for a regional rating structure that allows carriers to submit bids that may

- 1 vary by region for a given product offering as described in this subsection:
- 2 (a) The regional rating bid scenario shall not include a request for bid on a
3 statewide option;
- 4 (b) The Personnel Cabinet shall divide the state into geographical regions which
5 shall be the same as the partnership regions designated by the Department for
6 Medicaid Services for purposes of the Kentucky Health Care Partnership
7 Program established pursuant to 907 KAR 1:705;
- 8 (c) The request for proposal shall require a carrier's bid to include every county
9 within the region or regions for which the bid is submitted and include but not
10 be restricted to a preferred provider organization (PPO) option;
- 11 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the
12 carrier all of the counties included in its bid within the region. If the Personnel
13 Cabinet deems the bids submitted in accordance with this subsection to be in
14 the best interests of state employees in a region, the cabinet may award the
15 contract for that region to no more than two (2) carriers; and
- 16 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including
17 other requirements or criteria in the request for proposal.
- 18 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or
19 after July 12, 2006, to public employees pursuant to this section which provides
20 coverage for services rendered by a physician or osteopath duly licensed under KRS
21 Chapter 311 that are within the scope of practice of an optometrist duly licensed
22 under the provisions of KRS Chapter 320 shall provide the same payment of
23 coverage to optometrists as allowed for those services rendered by physicians or
24 osteopaths.
- 25 (22) Any fully insured health benefit plan or self-insured plan issued or renewed to
26 public employees pursuant to this section shall comply with:
- 27 (a) KRS 304.12-237;

- 1 (b) KRS 304.17A-270 and 304.17A-525;
- 2 (c) KRS 304.17A-600 to 304.17A-633;
- 3 (d) KRS 205.593;
- 4 (e) KRS 304.17A-700 to 304.17A-730;
- 5 (f) KRS 304.14-135;
- 6 (g) KRS 304.17A-580 and 304.17A-641;
- 7 (h) KRS 304.99-123;
- 8 (i) KRS 304.17A-138;
- 9 (j) KRS 304.17A-148;
- 10 (k) KRS 304.17A-163 and 304.17A-1631;~~and~~
- 11 (l) **Section 1 of this Act; and**

12 **(m)** Administrative regulations promulgated pursuant to statutes listed in this
13 subsection.

14 ➔Section 7. Sections 1, 5, and 6 of this Act apply to policies, certificates, plans,
15 or contracts issued or renewed on or after January 1, 2024.

16 ➔Section 8. (1) If the Department of Insurance determines that the state
17 would, or would likely, be required to make payments to defray the cost of any
18 requirements under Section 1 of this Act, as provided under 42 U.S.C. sec. 18031(d)(3),
19 as amended, then the department shall, within 90 days of the effective date of this section,
20 apply for a waiver under 42 U.S.C. sec. 18052, as amended, or any other applicable
21 federal law of all or any of the cost defrayal requirements.

22 (2) The application required under this section:

- 23 (a) Shall comply with the requirements of federal law for obtaining a waiver; and
- 24 (b) May propose changes to the state's EHB-benchmark plan, as defined in 45
25 C.F.R. 156.20, that are not in conflict with existing state law.

26 ➔Section 9. If the Cabinet for Health and Family Services determines that a
27 waiver or other authorization from a federal agency is necessary to implement Section 4

1 of this Act for any reason, including the loss of federal funds, the cabinet shall, within 90
2 days of the effective date of this section, request the waiver or authorization, and may
3 only delay implementation of those provisions for which a waiver or authorization was
4 deemed necessary until the waiver or authorization is granted.

5 ➔Section 10. Sections 1 to 7 of this Act take effect January 1, 2024.