

1 AN ACT relating to coverage for cranial conditions.

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) All health benefit plans shall provide coverage for the treatment of plagiocephaly.**

6 **(2) The coverage required under this section shall not be restricted, through**
7 **utilization review or otherwise, based on a determination that the treatment is**
8 **cosmetic or any other equivalent determination.**

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

11 **(1) All health benefit plans shall provide coverage for cranial banding when**
12 **prescribed by a health care provider.**

13 **(2) The coverage required under this section shall not be restricted, through**
14 **utilization review or otherwise, based on a determination that cranial banding is**
15 **cosmetic or any other equivalent determination.**

16 ➔Section 3. KRS 205.522 is amended to read as follows:

17 (1) The Department for Medicaid Services and any managed care organization
18 contracted to provide Medicaid benefits pursuant to this chapter shall comply with
19 the provisions of **Sections 1 and 2 of this Act and** KRS 304.17A-163, 304.17A-
20 1631, 304.17A-167, 304.17A-235, 304.17A-257, 304.17A-259, 304.17A-515,
21 304.17A-580, 304.17A-600, 304.17A-603, 304.17A-607, and 304.17A-740 to
22 304.17A-743, as applicable.

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

25 ➔Section 4. KRS 205.6485 is amended to read as follows:

26 (1) The Cabinet for Health and Family Services shall prepare a state child health plan
27 meeting the requirements of Title XXI of the Federal Social Security Act, for

1 submission to the Secretary of the United States Department of Health and Human
2 Services within such time as will permit the state to receive the maximum amounts
3 of federal matching funds available under Title XXI. The cabinet shall, by
4 administrative regulation promulgated in accordance with KRS Chapter 13A,
5 establish the following:

6 (a) The eligibility criteria for children covered by the Kentucky Children's Health
7 Insurance Program. However, no person eligible for services under Title XIX
8 of the Social Security Act 42 U.S.C. secs. 1396 to 1396v, as amended, shall
9 be eligible for services under the Kentucky Children's Health Insurance
10 Program except to the extent that Title XIX coverage is expanded by KRS
11 205.6481 to 205.6495 and KRS 304.17A-340;

12 (b) The schedule of benefits to be covered by the Kentucky Children's Health
13 Insurance Program, which shall include preventive services, vision services
14 including glasses, and dental services including at least sealants, extractions,
15 and fillings, and which shall be at least equivalent to one (1) of the following:

- 16 1. The standard Blue Cross/Blue Shield preferred provider option under
17 the Federal Employees Health Benefit Plan established by 5 U.S.C. sec.
18 8903(1);
- 19 2. A mid-range health benefit coverage plan that is offered and generally
20 available to state employees; or
- 21 3. Health insurance coverage offered by a health maintenance organization
22 that has the largest insured commercial, non-Medicaid enrollment of
23 covered lives in the state;

24 (c) The premium contribution per family of health insurance coverage available
25 under the Kentucky Children's Health Insurance Program with provisions for
26 the payment of premium contributions by families of children eligible for
27 coverage by the program based upon a sliding scale relating to family income.

- 1 Premium contributions shall be based on a six (6) month period not to exceed:
- 2 1. Ten dollars (\$10), to be paid by a family with income between one
3 hundred percent (100%) to one hundred thirty-three percent (133%) of
4 the federal poverty level;
 - 5 2. Twenty dollars (\$20), to be paid by a family with income between one
6 hundred thirty-four percent (134%) to one hundred forty-nine percent
7 (149%) of the federal poverty level; and
 - 8 3. One hundred twenty dollars (\$120), to be paid by a family with income
9 between one hundred fifty percent (150%) to two hundred percent
10 (200%) of the federal poverty level, and which may be made on a partial
11 payment plan of twenty dollars (\$20) per month or sixty dollars (\$60)
12 per quarter;
- 13 (d) There shall be no copayments for services provided under the Kentucky
14 Children's Health Insurance Program; and
- 15 (e) The criteria for health services providers and insurers wishing to contract with
16 the Commonwealth to provide the children's health insurance coverage.
17 However, the cabinet shall provide, in any contracting process for the
18 preventive health insurance program, the opportunity for a public health
19 department to bid on preventive health services to eligible children within the
20 public health department's service area. A public health department shall not
21 be disqualified from bidding because the department does not currently offer
22 all the services required by paragraph (b) of this subsection. The criteria shall
23 be set forth in administrative regulations under KRS Chapter 13A and shall
24 maximize competition among the providers and insurers. The Cabinet for
25 Finance and Administration shall provide oversight over contracting policies
26 and procedures to assure that the number of applicants for contracts is
27 maximized.

- 1 (2) Within twelve (12) months of federal approval of the state's Title XXI child health
2 plan, the Cabinet for Health and Family Services shall assure that a KCHIP
3 program is available to all eligible children in all regions of the state. If necessary,
4 in order to meet this assurance, the cabinet shall institute its own program.
- 5 (3) KCHIP recipients shall have direct access without a referral from any gatekeeper
6 primary care provider to dentists for covered primary dental services and to
7 optometrists and ophthalmologists for covered primary eye and vision services.
- 8 (4) The Kentucky Children's Health Insurance ~~Program~~~~Plan~~ shall comply with:
- 9 (a) KRS 304.17A-163 and 304.17A-1631;
- 10 (b) Section 1 of this Act; and
- 11 (c) Section 2 of this Act.
- 12 ➔Section 5. KRS 164.2871 is amended to read as follows:
- 13 (1) The governing board of each state postsecondary educational institution is
14 authorized to purchase liability insurance for the protection of the individual
15 members of the governing board, faculty, and staff of such institutions from liability
16 for acts and omissions committed in the course and scope of the individual's
17 employment or service. Each institution may purchase the type and amount of
18 liability coverage deemed to best serve the interest of such institution.
- 19 (2) All retirement annuity allowances accrued or accruing to any employee of a state
20 postsecondary educational institution through a retirement program sponsored by
21 the state postsecondary educational institution are hereby exempt from any state,
22 county, or municipal tax, and shall not be subject to execution, attachment,
23 garnishment, or any other process whatsoever, nor shall any assignment thereof be
24 enforceable in any court. Except retirement benefits accrued or accruing to any
25 employee of a state postsecondary educational institution through a retirement
26 program sponsored by the state postsecondary educational institution on or after
27 January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent

1 provided in KRS 141.010 and 141.0215.

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

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

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

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

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

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

15 (b) Section 1 of this Act; and

16 (c) Section 2 of this Act.

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

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

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

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

1 benefit plan as defined in KRS 304.17A-005;

2 (c) The term "insurer" for the purposes of this section means an insurer as defined
3 in KRS 304.17A-005; and

4 (d) The term "managed care plan" for the purposes of this section means a
5 managed care plan as defined in KRS 304.17A-500.

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

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

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

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

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

- 1 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities
2 for timely analysis of data received from carriers and, to the extent possible,
3 provide in the request-for-proposal specifics relating to data requirements,
4 electronic reporting, and penalties for noncompliance. The Commonwealth
5 shall own the enrollment, claims, and utilization data provided by each carrier
6 and shall develop methods to protect the confidentiality of the individual. The
7 Personnel Cabinet shall include in the October annual report submitted
8 pursuant to the provisions of KRS 18A.226 to the Governor, the General
9 Assembly, and the Chief Justice of the Supreme Court, an analysis of the
10 financial stability of the program, which shall include but not be limited to
11 loss ratios, methods of risk adjustment, measurements of carrier quality of
12 service, prescription coverage and cost management, and statutorily required
13 mandates. If state self-insurance was available as a carrier option, the report
14 also shall provide a detailed financial analysis of the self-insurance fund
15 including but not limited to loss ratios, reserves, and reinsurance agreements.
- 16 (f) If any agency participating in the state-sponsored employee health insurance
17 program for its active employees terminates participation and there is a state
18 appropriation for the employer's contribution for active employees' health
19 insurance coverage, then neither the agency nor the employees shall receive
20 the state-funded contribution after termination from the state-sponsored
21 employee health insurance program.
- 22 (g) Any funds in flexible spending accounts that remain after all reimbursements
23 have been processed shall be transferred to the credit of the state-sponsored
24 health insurance plan's appropriation account.
- 25 (h) Each entity participating in the state-sponsored health insurance program shall
26 provide an amount at least equal to the state contribution rate for the employer
27 portion of the health insurance premium. For any participating entity that used

1 the state payroll system, the employer contribution amount shall be equal to
2 but not greater than the state contribution rate.

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

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

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

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

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

20 (5) No payment of premium by any department, board, agency, public postsecondary
21 educational institution, or branch of state, city, urban-county, charter county,
22 county, or consolidated local government shall constitute compensation to an
23 insured employee for the purposes of any statute fixing or limiting the
24 compensation of such an employee. Any premium or other expense incurred by any
25 department, board, agency, public postsecondary educational institution, or branch
26 of state, city, urban-county, charter county, county, or consolidated local
27 government shall be considered a proper cost of administration.

- 1 (6) The policy or policies may contain the provisions with respect to the class or classes
2 of employees covered, amounts of insurance or coverage for designated classes or
3 groups of employees, policy options, terms of eligibility, and continuation of
4 insurance or coverage after retirement.
- 5 (7) Group rates under this section shall be made available to the disabled child of an
6 employee regardless of the child's age if the entire premium for the disabled child's
7 coverage is paid by the state employee. A child shall be considered disabled if he or
8 she has been determined to be eligible for federal Social Security disability benefits.
- 9 (8) The health care contract or contracts for employees shall be entered into for a
10 period of not less than one (1) year.
- 11 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of
12 State Health Insurance Subscribers to advise the secretary or the secretary's
13 designee regarding the state-sponsored health insurance program for employees.
14 The secretary shall appoint, from a list of names submitted by appointing
15 authorities, members representing school districts from each of the seven (7)
16 Supreme Court districts, members representing state government from each of the
17 seven (7) Supreme Court districts, two (2) members representing retirees under age
18 sixty-five (65), one (1) member representing local health departments, two (2)
19 members representing the Kentucky Teachers' Retirement System, and three (3)
20 members at large. The secretary shall also appoint two (2) members from a list of
21 five (5) names submitted by the Kentucky Education Association, two (2) members
22 from a list of five (5) names submitted by the largest state employee organization of
23 nonschool state employees, two (2) members from a list of five (5) names submitted
24 by the Kentucky Association of Counties, two (2) members from a list of five (5)
25 names submitted by the Kentucky League of Cities, and two (2) members from a
26 list of names consisting of five (5) names submitted by each state employee
27 organization that has two thousand (2,000) or more members on state payroll

1 deduction. The advisory committee shall be appointed in January of each year and
2 shall meet quarterly.

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

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

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

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

24 (b) A health insurer shall not discriminate against any retail pharmacy located
25 within the geographic coverage area of the health benefit plan and that meets
26 the terms and conditions for participation established by the insurer, including
27 price, dispensing fee, and copay requirements of a mail-order option. The

1 retail pharmacy shall not be required to dispense by mail.

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

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

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

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

15 (17) If a state employee's residence and place of employment are in the same county,
16 and if the hospital located within that county does not offer surgical services,
17 intensive care services, obstetrical services, level II neonatal services, diagnostic
18 cardiac catheterization services, and magnetic resonance imaging services, the
19 employee may select a plan available in a contiguous county that does provide
20 those services, and the state contribution for the plan shall be the amount available
21 in the county where the plan selected is located.

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

1 amount available in the county where the plan selected is located.

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

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

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

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

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

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

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

27 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or

1 after July 12, 2006, to public employees pursuant to this section which provides
2 coverage for services rendered by a physician or osteopath duly licensed under KRS
3 Chapter 311 that are within the scope of practice of an optometrist duly licensed
4 under the provisions of KRS Chapter 320 shall provide the same payment of
5 coverage to optometrists as allowed for those services rendered by physicians or
6 osteopaths.

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

- 9 (a) KRS 304.12-237;
- 10 (b) KRS 304.17A-270 and 304.17A-525;
- 11 (c) KRS 304.17A-600 to 304.17A-633;
- 12 (d) KRS 205.593;
- 13 (e) KRS 304.17A-700 to 304.17A-730;
- 14 (f) KRS 304.14-135;
- 15 (g) KRS 304.17A-580 and 304.17A-641;
- 16 (h) KRS 304.99-123;
- 17 (i) KRS 304.17A-138;
- 18 (j) KRS 304.17A-148;
- 19 (k) KRS 304.17A-163 and 304.17A-1631;~~and~~
- 20 (l) **Section 1 of this Act;**
- 21 **(m) Section 2 of this Act; and**
- 22 **(n)** Administrative regulations promulgated pursuant to statutes listed in this
23 subsection.

24 ➔Section 7. Sections 1, 2, 5, and 6 of this Act apply to health benefit plans issued
25 or renewed on or after January 1, 2024.

26 ➔Section 8. 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 2

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

5 ➔Section 9. Sections 1 to 7 of this Act take effect January 1, 2024.