

1 AN ACT relating to coverage for injectable epinephrine devices.

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, "injectable epinephrine device" has the same meaning as**
6 **in KRS 311.645.**

7 **(2) A health benefit plan shall provide coverage for injectable epinephrine devices**
8 **for persons eighteen (18) years of age and under.**

9 **(3) Except as provided in subsection (4) of this section, coverage required by this**
10 **section shall not be subject to copayments, coinsurance, deductibles, or any other**
11 **cost-sharing requirements.**

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

17 ➔Section 2. KRS 205.522 (Effective January 1, 2023) is amended to read as
18 follows:

19 (1) The Department for Medicaid Services and any managed care organization
20 contracted to provide Medicaid benefits pursuant to this chapter shall comply with
21 the provisions of **Section 1 of this Act and** KRS 304.17A-163, 304.17A-1631,
22 304.17A-167, 304.17A-235, 304.17A-257, 304.17A-259, 304.17A-515, 304.17A-
23 580, 304.17A-600, 304.17A-603, 304.17A-607, and 304.17A-740 to 304.17A-743,
24 as applicable.

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

27 ➔Section 3. KRS 205.6485 (Effective January 1, 2023) is amended to read as

1 follows:

- 2 (1) The Cabinet for Health and Family Services shall prepare a state child health plan
3 meeting the requirements of Title XXI of the Federal Social Security Act, for
4 submission to the Secretary of the United States Department of Health and Human
5 Services within such time as will permit the state to receive the maximum amounts
6 of federal matching funds available under Title XXI. The cabinet shall, by
7 administrative regulation promulgated in accordance with KRS Chapter 13A,
8 establish the following:
- 9 (a) The eligibility criteria for children covered by the Kentucky Children's Health
10 Insurance Program. However, no person eligible for services under Title XIX
11 of the Social Security Act, 42 U.S.C. secs. 1396 to 1396v, as amended, shall
12 be eligible for services under the Kentucky Children's Health Insurance
13 Program except to the extent that Title XIX coverage is expanded by KRS
14 205.6481 to 205.6495 and KRS 304.17A-340;
- 15 (b) The schedule of benefits to be covered by the Kentucky Children's Health
16 Insurance Program, which shall include preventive services, vision services
17 including glasses, and dental services including at least sealants, extractions,
18 and fillings, and which shall be at least equivalent to one (1) of the following:
- 19 1. The standard Blue Cross/Blue Shield preferred provider option under the
20 Federal Employees Health Benefit Plan established by 5 U.S.C. sec.
21 8903(1);
- 22 2. A mid-range health benefit coverage plan that is offered and generally
23 available to state employees; or
- 24 3. Health insurance coverage offered by a health maintenance organization
25 that has the largest insured commercial, non-Medicaid enrollment of
26 covered lives in the state;
- 27 (c) The premium contribution per family of health insurance coverage available

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

1 Finance and Administration shall provide oversight over contracting policies
2 and procedures to assure that the number of applicants for contracts is
3 maximized.

4 (2) Within twelve (12) months of federal approval of the state's Title XXI child health
5 plan, the Cabinet for Health and Family Services shall assure that a KCHIP program
6 is available to all eligible children in all regions of the state. If necessary, in order to
7 meet this assurance, the cabinet shall institute its own program.

8 (3) KCHIP recipients shall have direct access without a referral from any gatekeeper
9 primary care provider to dentists for covered primary dental services and to
10 optometrists and ophthalmologists for covered primary eye and vision services.

11 (4) The Kentucky Children's Health Insurance ~~Program~~Plan shall comply with:

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

13 (b) Section 1 of this Act.

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

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

22 (2) All retirement annuity allowances accrued or accruing to any employee of a state
23 postsecondary educational institution through a retirement program sponsored by
24 the state postsecondary educational institution are hereby exempt from any state,
25 county, or municipal tax, and shall not be subject to execution, attachment,
26 garnishment, or any other process whatsoever, nor shall any assignment thereof be
27 enforceable in any court. Except retirement benefits accrued or accruing to any

1 employee of a state postsecondary educational institution through a retirement
2 program sponsored by the state postsecondary educational institution on or after
3 January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent
4 provided in KRS 141.010 and 141.0215.

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

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

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

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

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

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

18 (b) Section 1 of this Act.

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

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

22 1. Any person, including an elected public official, who is regularly
23 employed by any department, office, board, agency, or branch of state
24 government; or by a public postsecondary educational institution; or by
25 any city, urban-county, charter county, county, or consolidated local
26 government, whose legislative body has opted to participate in the state-
27 sponsored health insurance program pursuant to KRS 79.080; and who

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

1 and retirees who are entitled to participate in the state-sponsored health
2 insurance program;

3 (b) The term "health benefit plan" for the purposes of this section means a health
4 benefit plan as defined in KRS 304.17A-005;

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

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

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

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

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

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

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

1 to protect the confidentiality of each individual employee; however,
2 confidentiality assertions shall not relieve a carrier from the requirement of
3 providing stipulated data to the Commonwealth.

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

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

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

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

1 department, board, agency, public postsecondary educational institution, or branch
2 of state, city, urban-county, charter county, county, or consolidated local
3 government shall be considered a proper cost of administration.

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

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

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

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

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

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

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

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

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

27 (b) A health insurer shall not discriminate against any retail pharmacy located

1 within the geographic coverage area of the health benefit plan and that meets
2 the terms and conditions for participation established by the insurer, including
3 price, dispensing fee, and copay requirements of a mail-order option. The
4 retail pharmacy shall not be required to dispense by mail.

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

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

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

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

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

25 (18) If a state employee's residence and place of employment are each located in counties
26 in which the hospitals do not offer surgical services, intensive care services,
27 obstetrical services, level II neonatal services, diagnostic cardiac catheterization

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

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

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

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

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

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

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

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

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

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

12 (a) KRS 304.12-237;

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

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

15 (d) KRS 205.593;

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

17 (f) KRS 304.14-135;

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

19 (h) KRS 304.99-123;

20 (i) KRS 304.17A-138;

21 (j) KRS 304.17A-148;

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

23 (l) **Section 1 of this Act; and**

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

26 ➔Section 6. This Act applies to health benefit plans issued or renewed on or after
27 January 1, 2024.

1 ➔Section 7. This Act takes effect on January 1, 2024.