

1 AN ACT relating to coverage for reproductive health care.

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:

6 (a) In vitro fertilization;

7 (b) Intrauterine insemination; and

8 (c) Any other process using assisted reproductive technology.

9 (2) The coverage required under this section shall include coverage for:

10 (a) At a minimum, two (2) cycles; and

11 (b) All health care services necessary to complete each cycle.

12 (3) If the application of any requirement of this section to a qualified health plan, as
13 defined in 42 U.S.C. sec. 18021(a)(1), as amended, results, or would result, in a
14 determination that the state must make payments to defray the cost of the
15 requirement under 42 U.S.C. sec. 18031(d)(3) and 45 C.F.R. sec. 155.170, as
16 amended, then the requirement shall not apply to the qualified health plan until
17 the requirement to make cost defrayment payments is no longer applicable.

18 ➔ Section 2. KRS 304.17A-099 is amended to read as follows:

19 (1) As used in this section, "qualified health plan" has the same meaning as in 42
20 U.S.C. sec. 18021(a)(1), as amended.

21 (2) Notwithstanding any other provision of this chapter:

22 (a) Except as provided in paragraph (b) of this subsection, if the application of a
23 provision of this chapter results, or would result, in a determination that the
24 state must make payments to defray the cost of the provision under 42 U.S.C.
25 sec. 18031(d)(3) and 45 C.F.R. sec. 155.170, as amended, then the provision
26 shall not apply to a qualified health plan or any other health insurance policy,
27 certificate, plan, or contract until the requirement to make cost defrayment

1 payments is no longer applicable; and

2 (b) This subsection shall not apply to any of the following:

3 1. A provision of this chapter that became effective on or before January 1,
4 2024; or

5 2. Section 1 of this Act.

6 (3) To the extent permitted by federal law, if the state is required under 42 U.S.C. sec.
7 18031(d)(3) and 45 C.F.R. sec. 155.170, as amended, to make payments to defray
8 the cost of a provision of this chapter:

9 (a) 1. Each qualified health plan issuer shall determine, and provide to the
10 commissioner, the cost attributable to the provision for the qualified
11 health plan.

12 2. The cost attributable to a provision for a qualified health plan under
13 subparagraph 1. of this paragraph shall be:

14 a. Calculated in accordance with generally accepted actuarial
15 principles and methodologies;

16 b. Conducted by a member of the American Academy of Actuaries;
17 and

18 c. Reported by the qualified health plan issuer to:

19 i. The commissioner; and

20 ii. The Division of Health Benefit Exchange within the Office
21 of Data Analytics;

22 (b) The commissioner shall use the information obtained under paragraph (a) of
23 this subsection to determine the statewide average of the cost attributable to
24 the provision for all qualified health plan issuers to which the provision is
25 applicable; and

26 (c) The required payments shall be:

27 1. Calculated based on the statewide average of the cost attributable to the

1 provision as determined by the commissioner under paragraph (b) of this
2 subsection; and

3 2. Submitted directly to qualified health plan issuers by the department
4 through a process established by the commissioner.

5 (4) A qualified health plan issuer that receives a payment under subsection (3)(c)2. of
6 this section shall:

7 (a) Reduce the premium charged to an individual on whose behalf the issuer
8 received the payment in an amount equal to the amount of the payment; or

9 (b) Notwithstanding KRS 304.12-090, provide a premium rebate to an individual
10 on whose behalf the issuer received the payment in an amount equal to the

11 amount of the payment.

12 (5) Any fines collected for violations of this section shall be:

13 (a) Placed in a trust and agency account within the department, which shall not

14 *lapse, and*

15 (b) Used solely by the department to make payments in accordance with

16 subsection (3)(c)2 of this section.

17 (6) The commissioner shall promulgate any administrative regulations necessary to
18 enforce and effectuate this section.

19 ➤ Section 3 KRS 164.2871 is amended to read as follows:

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

26 (2) All retirement annuity allowances accrued or accruing to any employee of a state
27 postsecondary educational institution through a retirement program sponsored by

1 the state postsecondary educational institution are hereby exempt from any state,
2 county, or municipal tax, and shall not be subject to execution, attachment,
3 garnishment, or any other process whatsoever, nor shall any assignment thereof be
4 enforceable in any court. Except retirement benefits accrued or accruing to any
5 employee of a state postsecondary educational institution through a retirement
6 program sponsored by the state postsecondary educational institution on or after
7 January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent
8 provided in KRS 141.010 and 141.0215.

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

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

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

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

21 (a) KRS 304.17A-129;
22 (b) KRS 304.17A-133;
23 (c) KRS 304.17A-145;
24 (d) KRS 304.17A-163 and 304.17A-1631;
25 (e) KRS 304.17A-261;
26 (f) KRS 304.17A-262;
27 (g) KRS 304.17A-264; ~~and~~

1 (h) KRS 304.17A-265; and

2 ***(i) Section 1 of this Act.***

3 (6) (a) A self-insured employer group health plan provided by the governing board of
4 a state postsecondary education institution to its employees shall provide a
5 special enrollment period to pregnant women who are eligible for coverage in
6 accordance with the requirements set forth in KRS 304.17-182.

7 (b) The governing board of a state postsecondary education institution shall, at or
8 before the time an employee is initially offered the opportunity to enroll in the
9 plan or coverage, provide the employee a notice of the special enrollment
10 rights under this subsection.

11 ➔Section 4. KRS 18A.225 is amended to read as follows:

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

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

1 participating in the Kentucky Employees Retirement System pursuant to
2 KRS 61.522 whose employees participated in the health insurance plans
3 administered by the Personnel Cabinet prior to the employer's effective
4 cessation date in the Kentucky Employees Retirement System;

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

27 (b) The policy or policies shall be approved by the commissioner of insurance

1 and may contain the provisions the commissioner of insurance approves,
2 whether or not otherwise permitted by the insurance laws.

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

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

22 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities
23 for timely analysis of data received from carriers and, to the extent possible,
24 provide in the request-for-proposal specifics relating to data requirements,
25 electronic reporting, and penalties for noncompliance. The Commonwealth
26 shall own the enrollment, claims, and utilization data provided by each carrier
27 and shall develop methods to protect the confidentiality of the individual. The

1 Personnel Cabinet shall include in the October annual report submitted
2 pursuant to the provisions of KRS 18A.226 to the Governor, the General
3 Assembly, and the Chief Justice of the Supreme Court, an analysis of the
4 financial stability of the program, which shall include but not be limited to
5 loss ratios, methods of risk adjustment, measurements of carrier quality of
6 service, prescription coverage and cost management, and statutorily required
7 mandates. If state self-insurance was available as a carrier option, the report
8 also shall provide a detailed financial analysis of the self-insurance fund
9 including but not limited to loss ratios, reserves, and reinsurance agreements.

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

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

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

24 (3) The premiums may be paid by the policyholder:
25 (a) Wholly from funds contributed by the employee, by payroll deduction or
26 otherwise;
27 (b) Wholly from funds contributed by any department, board, agency, public

1 postsecondary education institution, or branch of state, city, urban-county,
2 charter county, county, or consolidated local government; or

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

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

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

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

26 (7) Group rates under this section shall be made available to the disabled child of an
27 employee regardless of the child's age if the entire premium for the disabled child's

1 coverage is paid by the state employee. A child shall be considered disabled if he or
2 she has been determined to be eligible for federal Social Security disability benefits.

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

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

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

1 dependents.

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

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

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

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

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

25 (14) The policy or policies provided to state employees or their dependents pursuant to
26 this section shall provide coverage for obtaining a hearing aid and acquiring hearing
27 aid-related services for insured individuals under eighteen (18) years of age, subject

1 to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months
2 pursuant to KRS 304.17A-132.

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

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

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

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

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

27 (20) Notwithstanding any other provision of this section, the bid for proposals for health

1 insurance coverage for calendar year 2004 shall include a bid scenario that reflects
2 the statewide rating structure provided in calendar year 2003 and a bid scenario that
3 allows for a regional rating structure that allows carriers to submit bids that may
4 vary by region for a given product offering as described in this subsection:

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

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

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

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

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

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

1 (22) Any fully insured health benefit plan or self-insured plan issued or renewed to
2 public employees pursuant to this section shall comply with:
3 (a) KRS 304.12-237;
4 (b) KRS 304.17A-270 and 304.17A-525;
5 (c) KRS 304.17A-600 to 304.17A-633;
6 (d) KRS 205.593;
7 (e) KRS 304.17A-700 to 304.17A-730;
8 (f) KRS 304.14-135;
9 (g) KRS 304.17A-580 and 304.17A-641;
10 (h) KRS 304.99-123;
11 (i) KRS 304.17A-138;
12 (j) KRS 304.17A-148;
13 (k) KRS 304.17A-163 and 304.17A-1631;
14 (l) KRS 304.17A-265;
15 (m) KRS 304.17A-261;
16 (n) KRS 304.17A-262;
17 (o) KRS 304.17A-145;
18 (p) KRS 304.17A-129;
19 (q) KRS 304.17A-133;
20 (r) KRS 304.17A-264;[and]
21 (s) **Section 1 of this Act; and**
22 (t) Administrative regulations promulgated pursuant to statutes listed in this
23 subsection.
24 (23) (a) Any fully insured health benefit plan or self-insured plan issued or renewed to
25 public employees pursuant to this section shall provide a special enrollment
26 period to pregnant women who are eligible for coverage in accordance with
27 the requirements set forth in KRS 304.17-182.

1 (b) The Department of Employee Insurance shall, at or before the time a public
2 employee is initially offered the opportunity to enroll in the plan or coverage,
3 provide the employee a notice of the special enrollment rights under this
4 subsection.

5 ➔Section 5. Sections 1, 3, and 4 of this Act apply to the health benefit plans
6 issued or renewed on or after January 1, 2027.

7 ➔Section 6. This Act takes effect January 1, 2027.