

1 AN ACT relating to prescription drugs.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔Section 1. KRS 304.17A-164 is amended to read as follows:

4 (1) As used in this section:

5 (a) "Cost sharing":

6 1. Except as provided in subsection (2) of this section, means the cost to
7 an insured under a health plan according to any coverage limit,
8 copayment, coinsurance, deductible, or other out-of-pocket expense
9 requirements imposed by the plan[~~, which may be subject to annual
10 limitations on cost sharing, including those imposed under 42 U.S.C.
11 secs. 18022(c) and 300gg-6(b),~~] in order for the insured to receive a
12 specific health care benefit[service] covered by the plan; and

13 2. May be subject to annual limitations, including those imposed under
14 42 U.S.C. secs. 18022(c) and 300gg-6(b);

15 (b) "Generic alternative" means a drug that is designated to be therapeutically
16 equivalent by the United States Food and Drug Administration's Approved
17 Drug Products with Therapeutic Equivalence Evaluations, except that a drug
18 shall not be considered a generic alternative until the drug is nationally
19 available;

20 (c) "Health plan":

21 1. Means a policy, contract, certificate, or agreement offered or issued by
22 an insurer to provide, deliver, arrange for, pay for, or reimburse any of
23 the cost of health care[service]; and

24 2. Includes a health benefit plan;

25 (d) "Insured" means any individual who is enrolled in a health plan and on whose
26 behalf the insurer is obligated to pay for or provide health care[service];

27 (e) "Insurer"[~~includes~~]:

1. Has the same meaning as in KRS 304.17A-005[An insurer offering a
2. health plan providing coverage for pharmacy benefits]; and[or]
3. Includes limited health service organizations as defined in KRS
4. 304.38A-010[Any other administrator of pharmacy benefits under a
5. health plan];

6. (f) ["Person" means a natural person, corporation, mutual company,
7. unincorporated association, partnership, joint venture, limited liability
8. company, trust, estate, foundation, nonprofit corporation, unincorporated
9. organization, government, or governmental subdivision or agency;

10. (g)]"Pharmacy" includes:

11. 1. A pharmacy, as defined in KRS Chapter 315;
12. 2. A pharmacist, as defined in KRS Chapter 315; and
13. 3. Any employee of a pharmacy or pharmacist;[and]

14. (g)[(h)] "Pharmacy benefit manager" has the same meaning as in KRS 304.9-
15. 020[304.17A-161];

16. (h) "Price protection rebate" means a negotiated price concession that accrues
17. directly or indirectly to an insurer, pharmacy benefit manager, or any other
18. administrator of pharmacy benefits, or another party on behalf of an
19. insurer, pharmacy benefit manager, or any other administrator of
20. pharmacy benefits, if there is an increase in the wholesale acquisition cost
21. of a prescription drug above a specified threshold; and

22. (i) "Rebate" means a discount or other negotiated price concession, including
23. a base price concession whether described as a rebate or otherwise, a price
24. protection rebate, a performance-based price concession, and any
25. reasonable estimates of negotiated price concessions, fees, or other
26. administrative costs that may accrue directly or indirectly, or are anticipated
27. to be passed through, to an insurer, pharmacy benefit manager, or any

1 other administrator of pharmacy benefits from a manufacturer, dispensing
2 pharmacy, or other party in connection with the dispensing or
3 administration of a prescription drug to reduce the insurer's, pharmacy
4 benefit manager's, or other administrator's liability for the prescription
5 drug.

6 (2) (a) As used in this subsection, "cost sharing" does not include copayments.
7 (b) To the extent permitted under federal law and except as provided in
8 subsection (5) of this section:

- 9 1. An insured's cost sharing for a prescription drug shall be calculated at
10 the point of sale; and
- 11 2. All rebates received or estimated to be received by an insurer,
12 pharmacy benefit manager, or any other administrator of pharmacy
13 benefits in connection with the dispensing or administration of a
14 prescription drug to an insured shall be passed through as follows:
- 15 a. The cost sharing charged to the insured shall be calculated
16 based on a prescription drug price that is reduced by at least
17 eighty-five percent (85%) of the rebates received or estimated to
18 be received; and
- 19 b. Any rebates not used to reduce cost sharing under subdivision a.
20 of this subparagraph shall be passed on to the health plan and
21 used to reduce the premiums charged by the health plan to
22 insureds.

23 (c) Except as provided in paragraph (d) of this subsection:

- 24 1. In complying with paragraph (b) of this subsection, an insurer,
25 pharmacy benefit manager, or any other administrator of pharmacy
26 benefits, including the insurer's, pharmacy benefit manager's, or
27 other administrator's agent, shall not publish or otherwise reveal

1 information regarding the actual amounts of rebates the insurer,
2 pharmacy benefit manager, or other administrator receives on a
3 product-specific, manufacturer-specific, or pharmacy-specific basis;

4 2. The information referenced in subparagraph 1. of this paragraph
5 shall:

6 a. Be protected as a trade secret under KRS 365.880 to 365.900;
7 and

8 b. Not otherwise be disclosed by the insurer, pharmacy benefit
9 manager, or other administrator of pharmacy benefits, including
10 the insurer's, pharmacy benefit manager's, or other
11 administrator's agent:

12 i. Directly or indirectly;

13 ii. In a manner that would allow for identification of an
14 individual product, therapeutic class of products, or
15 manufacturer; or

16 iii. In a manner that would have the potential to compromise
17 the financial, competitive, or proprietary nature of the
18 information; and

19 3. An insurer, pharmacy benefit manager, or any other administrator of
20 pharmacy benefits shall impose the confidentiality requirements of
21 this paragraph on any vendor or third party that:

22 a. Performs health care or administrative services on behalf of the
23 insurer, pharmacy benefit manager, or other administrator; and

24 b. May receive or have access to rebate information.

25 (d) 1. The commissioner may require an insurer, pharmacy benefit
26 manager, or any other administrator of pharmacy benefits, including
27 the insurer's, pharmacy benefit manager's, or other administrator's

1 agent, to report to the department any information that is protected
2 under paragraph (c) of this subsection if the information is necessary:
3 a. To determine compliance with this subsection; or
4 b. For use in furtherance of any regulatory action or duty required
5 or authorized under this chapter.

6 2. Subject to subparagraph 3. of this paragraph, the commissioner may
7 publish or otherwise disclose any information reported to the
8 department under this paragraph if the publication or disclosure is:
9 a. Required for any regulatory or legal action brought under this
10 chapter; or
11 b. Necessary to comply with state or federal law.

12 3. The information referenced in paragraph (c)1. of this subsection shall
13 not be a public record subject to disclosure under KRS 61.870 to
14 61.884.

15 (3) To the extent permitted under federal law and except as provided in subsection
16 (5)[(4)] of this section, an insurer[~~issuing or renewing a health plan on or after~~
17 ~~January 1, 2022~~],~~[or]~~ a pharmacy benefit manager, or any other administrator of
18 pharmacy benefits shall not:

19 (a) Require an insured purchasing a prescription drug to pay a cost-sharing
20 amount greater than the amount the insured would pay for the drug if he or
21 she were to purchase the drug without coverage;

22 (b) 1. Except as provided in subparagraph 2. of this paragraph, exclude any
23 cost-sharing amounts paid by an insured, or on behalf of the[an]
24 insured,~~[by another person]~~ for a prescription drug, including any
25 amount paid under paragraph (a) of this subsection, when calculating an
26 insured's contribution to any applicable cost-sharing requirement.

27 2. The requirements of subparagraph 1. of this paragraph shall not apply [

1 4.—]in the case of a prescription drug for which there is a generic
2 alternative, unless the insured has obtained access to the brand
3 prescription drug through prior authorization, a step therapy protocol, or
4 the insurer's exceptions and appeals process;[or

5 2.—~~To any fully insured health benefit plan or self-insured plan provided to
6 any employee under KRS 18A.225;]~~

7 (c) Prohibit a pharmacy from discussing any information under subsection
8 (4)[(3)] of this section; or

9 (d) Impose a penalty on a pharmacy for complying with this section.

10 (4)[(3)] A pharmacist shall have the right to provide an insured information regarding
11 the applicable limitations on his or her cost sharing pursuant to this section for a
12 prescription drug.

13 (5)[(4)] If the application of any requirement of[subsection (2)(b) of] this section
14 would be the sole cause of a health plan's failure to qualify as a Health Savings
15 Account-qualified High Deductible Health Plan under 26 U.S.C. sec. 223, as
16 amended, then the requirement shall not apply to that health plan until the minimum
17 deductible under 26 U.S.C. sec. 223, as amended, is satisfied.

18 (6) Nothing in this section shall be construed to prohibit an insurer, pharmacy
19 benefit manager, or any other administrator of pharmacy benefits from imposing
20 a cost-sharing amount that is less than the amount permitted under this section.

21 ➔ SECTION 2. A NEW SECTION OF KRS 365.880 TO 365.900 IS CREATED
22 TO READ AS FOLLOWS:

23 (1) As used in this section, the following have the same meaning as in Section 1 of
24 this Act:

25 (a) "Insurer";

26 (b) "Pharmacy benefit manager"; and

27 (c) "Rebate."

1 (2) The actual amount of rebates received by an insurer, pharmacy benefit manager,
2 or any other administrator of pharmacy benefits on a product-specific,
3 manufacturer-specific, or pharmacy-specific basis shall be a trade secret.

4 (3) Compliance with Section 1 of this Act shall not be construed to violate KRS
5 365.880 to 365.900.

6 ➔ Section 3. KRS 304.17C-125 is amended to read as follows:

7 The following shall apply to limited health service benefit plans, including any limited
8 health service contract, as defined in KRS 304.38A-010:

9 (1) KRS 304.17A-129;

10 (2) KRS 304.17A-262; ~~{and}~~

11 (3) KRS 304.17A-591 to 304.17A-599; and

12 (4) Section 1 of this Act.

13 ➔ Section 4. KRS 304.38A-115 is amended to read as follows:

14 Limited health service organizations shall comply with:

15 (1) KRS 304.17A-262;

16 (2) KRS 304.17A-265; ~~{and}~~

17 (3) KRS 304.17A-591 to 304.17A-599; and

18 (4) Section 1 of this Act.

19 ➔ Section 5. KRS 18A.225 is amended to read as follows:

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

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

1 insurance program;

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

(13) of this section. All employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the Commonwealth or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.

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

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

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

1 confidentiality assertions shall not relieve a carrier from the requirement of
2 providing stipulated data to the Commonwealth.

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

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

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

27 (h) Each entity participating in the state-sponsored health insurance program shall

1 provide an amount at least equal to the state contribution rate for the employer
2 portion of the health insurance premium. For any participating entity that used
3 the state payroll system, the employer contribution amount shall be equal to
4 but not greater than the state contribution rate.

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

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

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

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

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

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

1 of state, city, urban-county, charter county, county, or consolidated local
2 government shall be considered a proper cost of administration.

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

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

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

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

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

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

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

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

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

26 (b) A health insurer shall not discriminate against any retail pharmacy located
27 within the geographic coverage area of the health benefit plan and that meets

1 the terms and conditions for participation established by the insurer, including
2 price, dispensing fee, and copay requirements of a mail-order option. The
3 retail pharmacy shall not be required to dispense by mail.

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

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

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

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

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

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

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

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

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

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

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

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

27 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including

1 other requirements or criteria in the request for proposal.

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

9 (22) Any fully insured health benefit plan or self-insured plan issued or renewed to
10 public employees pursuant to this section shall comply with:
11 (a) KRS 304.12-237;
12 (b) KRS 304.17A-270 and 304.17A-525;
13 (c) KRS 304.17A-600 to 304.17A-633;
14 (d) KRS 205.593;
15 (e) KRS 304.17A-700 to 304.17A-730;
16 (f) KRS 304.14-135;
17 (g) KRS 304.17A-580 and 304.17A-641;
18 (h) KRS 304.99-123;
19 (i) KRS 304.17A-138;
20 (j) KRS 304.17A-148;
21 (k) KRS 304.17A-163 and 304.17A-1631;
22 (l) KRS 304.17A-265;
23 (m) KRS 304.17A-261;
24 (n) KRS 304.17A-262;
25 (o) KRS 304.17A-145;
26 (p) KRS 304.17A-129;
27 (q) KRS 304.17A-133;

1 (r) KRS 304.17A-264; [and]

2 (s) **Section 1 of this Act; and**

3 (t) Administrative regulations promulgated pursuant to statutes listed in this

4 subsection.

5 (23) (a) Any fully insured health benefit plan or self-insured plan issued or renewed to

6 public employees pursuant to this section shall provide a special enrollment

7 period to pregnant women who are eligible for coverage in accordance with

8 the requirements set forth in KRS 304.17-182.

9 (b) The Department of Employee Insurance shall, at or before the time a public

10 employee is initially offered the opportunity to enroll in the plan or coverage,

11 provide the employee a notice of the special enrollment rights under this

12 subsection.

13 ➔ Section 6. KRS 164.2871 is amended to read as follows:

14 (1) The governing board of each state postsecondary educational institution is

15 authorized to purchase liability insurance for the protection of the individual

16 members of the governing board, faculty, and staff of such institutions from liability

17 for acts and omissions committed in the course and scope of the individual's

18 employment or service. Each institution may purchase the type and amount of

19 liability coverage deemed to best serve the interest of such institution.

20 (2) All retirement annuity allowances accrued or accruing to any employee of a state

21 postsecondary educational institution through a retirement program sponsored by

22 the state postsecondary educational institution are hereby exempt from any state,

23 county, or municipal tax, and shall not be subject to execution, attachment,

24 garnishment, or any other process whatsoever, nor shall any assignment thereof be

25 enforceable in any court. Except retirement benefits accrued or accruing to any

26 employee of a state postsecondary educational institution through a retirement

27 program sponsored by the state postsecondary educational institution on or after

1 January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent
2 provided in KRS 141.010 and 141.0215.

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

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

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

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

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

15 (a) KRS 304.17A-129;

16 (b) KRS 304.17A-133;

17 (c) KRS 304.17A-145;

18 (d) KRS 304.17A-163 and 304.17A-1631;

19 (e) KRS 304.17A-261;

20 (f) KRS 304.17A-262;

21 (g) KRS 304.17A-264; ~~and~~

22 (h) KRS 304.17A-265; **and**

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

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

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

5 ➔Section 7. This Act applies to health plans issued or renewed on or after
6 January 1, 2027.

7 ➔Section 8. This Act takes effect January 1, 2027.