

SENATE BILL No. 235

By Committee on Public Health and Welfare

2-10

1 AN ACT concerning insurance; relating to healthcare benefits; health
2 insurance plans and related coverage; granting third-party access to
3 provider network contracts if certain criteria are met; establishing
4 requirements and restrictions for the payment and reimbursement of
5 healthcare services; amending K.S.A. 2022 Supp. 40-2,225, 40-2,226
6 and 40-2,227 and repealing the existing sections.
7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2022 Supp. 40-2,225 is hereby amended to read as
10 follows: 40-2,225. As used in K.S.A. 2022 Supp. 40-2,225 through 40-
11 2,227, and amendments thereto:

12 (a) "Contracting entity" means any person or entity that enters into a
13 direct contract with a provider for the delivery of dental *or healthcare*
14 services in the ordinary course of business, including a third-party
15 administrator and a dental carrier *or health insurer*.

16 (b) "Covered person" means an individual who is covered under a
17 dental benefits or health insurance plan that provides coverage for dental
18 *or healthcare* services.

19 (c) (1) "Credit card payment" means a type of electronic funds
20 transfer in which a dental benefit plan *or health insurance plan* or such
21 plan's contracted vendor issues a single-use series of numbers associated
22 with the payment of:

23 (A) Dental services performed by a dentist and chargeable to a
24 predetermined dollar amount and in which the dentist is responsible for
25 processing the payment by a credit card terminal or internet portal; *or*

26 (B) *healthcare services performed by a healthcare provider and*
27 *chargeable to a predetermined dollar amount and in which the healthcare*
28 *provider is responsible for processing the payment by a credit card*
29 *terminal or internet portal.*

30 (2) "Credit card payment" includes a virtual or online credit card
31 payment where no physical credit card is presented to the dentist *or*
32 *healthcare provider*, and the single-use credit card expires upon payment
33 processing.

34 (d) "Dental benefit plan" means a benefits plan that pays or provides
35 dental expense benefits for covered dental services and is delivered or
36 issued for delivery by or through a dental carrier on a stand-alone basis.

1 "Dental benefit plan" includes coverage for dental benefits integrated or
2 otherwise incorporated into the terms and coverage of a health benefits
3 plan.

4 (e) "Dental carrier" means a dental insurance company, dental service
5 corporation, dental plan organization authorized to provide dental benefits
6 or a health benefits plan that includes coverage for dental services.

7 (f) "Dental services" means services for the diagnosis, prevention,
8 treatment or cure of a dental condition, illness, injury or disease. "Dental
9 services" does not include services delivered by a provider that are billed
10 as medical expenses under a health benefits plan.

11 (g) "Dental service contractor" means any person who accepts a
12 prepayment from or for the benefit of any other person or group of persons
13 as consideration for providing to such person or group of persons the
14 opportunity to receive dental services at times in the future as such
15 services may be appropriate or required. "Dental service contractor" does
16 not include a dentist or professional dental corporation that accepts
17 prepayment on a fee-for-service basis for providing specific dental
18 services to individual patients for whom such services have been
19 prediagnosed.

20 (h) "Dentist" means any dentist licensed or otherwise authorized in
21 this state to provide dental services.

22 (i) "Dentist agent" means a person or entity that contracts with a
23 dentist establishing an agency relationship to process bills for services
24 provided by the dentist under the terms and conditions of a contract
25 between the agent and dentist, including contractual relationships that
26 permit the agent to submit bills, request reconsideration and receive
27 reimbursement.

28 (j) "Electronic funds transfer payment" means a payment by any
29 method of electronic funds transfer other than through the automated
30 clearing house network, as codified in 45 C.F.R. §§ 162.1601 and
31 162.1602.

32 (k) "Health insurance plan" means any: Hospital or medical insurance
33 policy or certificate; qualified high-deductible health plan; health
34 maintenance organization subscriber contract; contract providing benefits
35 for dental care *or healthcare*, whether such contract is pursuant to a
36 medical insurance policy or certificate; stand-alone dental plan; health
37 maintenance provider contract; or managed health care plan.

38 (l) "Health insurer" means any entity or person that issues a health
39 insurance plan.

40 (m) *"Healthcare provider" means the same as defined in K.S.A. 40-*
41 *3401, and amendments thereto.*

42 (n) "Provider" means an individual or entity that, acting within the
43 scope of licensure or certification, provides dental services or supplies

1 defined by the dental benefit plan. "Provider" does not include a physician
2 organization or physician hospital organization that leases or rents the
3 physician organization's or physician hospital organization's network to a
4 third party.

5 ~~(n)~~(o) "Provider network contract" or "contract" means a contract
6 between a contracting entity and a provider that specifies the rights and
7 responsibilities of the contracting entity and provides for the delivery and
8 payment of dental or *healthcare* services to an enrollee.

9 ~~(n)~~(p) (1) "Third party" means a person or entity that enters into a
10 contract with a contracting entity or with another third party to gain access
11 to the dental or *healthcare* services or contractual discounts of a provider
12 network contract.

13 (2) "Third party" does not include any employer or other group for
14 whom the dental or *health insurance* carrier or contracting entity provides
15 administrative services.

16 Sec. 2. K.S.A. 2022 Supp. 40-2,226 is hereby amended to read as
17 follows: 40-2,226. (a) A contracting entity may grant a third party access
18 to a provider network contract, or a provider's dental or *healthcare*
19 services or contractual discounts provided pursuant to a provider network
20 contract, subject to the requirements of subsections (b) and (c).

21 (b) At the time the contract is entered into, sold, leased or renewed or
22 a when there are material modifications to a contract relevant to granting
23 access to a provider network contract to a third party, the dental carrier or
24 *health insurer* shall allow any provider or *healthcare provider* that is part
25 of the dental carrier's or *health insurer's* provider network to choose to not
26 participate in third party access to the contract or to enter into a contract
27 directly with ~~the~~ a dental carrier or a health insurer that acquired the
28 provider network. Opting out of lease arrangements shall not require
29 dentists or *healthcare providers* to cancel or otherwise end a contractual
30 relationship with the original dental carrier or *health insurer* that leases a
31 provider network.

32 (c) A contracting entity may grant a third party access to a provider
33 or *health insurer's* network contract, or a provider's dental services or
34 *health insurer's services* or contractual discounts provided pursuant to a
35 provider network contract, if:

36 (1) The contract specifically states that the contracting entity may
37 enter into an agreement with third parties, allowing such third parties to
38 obtain the contracting entity's rights and responsibilities as if the third
39 party were the contracting entity, or if the contracting entity is a dental
40 carrier or *health insurer*; the provider chose to participate in third-party
41 access at the time the provider or *health insurer* network contract was
42 entered into or renewed. The third-party access provision of any provider
43 contract shall be clearly identified in the provider contract, including

1 notice that the contract grants third-party access to the provider *or health*
2 *insurer's* network and that the dentist *or healthcare provider* has the right
3 to choose not to participate in third-party access;

4 (2) the third party accessing the contract agrees to comply with all of
5 the contract's terms, including such third party's obligation concerning
6 patient steerage;

7 (3) the contracting entity identifies to the provider, in writing or
8 electronic form, all third parties in existence as of the date the contract is
9 entered into, sold, leased or renewed;

10 (4) the contracting entity identifies all third parties in existence in a
11 list on its website that is updated at least once every 90 days;

12 (5) the contracting entity requires a third party to identify the source
13 of the discount on all remittance advices or explanations of payment under
14 which a discount is taken, except that this paragraph shall not apply to
15 electronic transactions mandated by the health insurance portability and
16 accountability act of 1996, public law 104-191;

17 (6) the contracting entity notifies the third party of the termination of
18 a provider network contract not later than 30 days from the termination
19 date with the contracting entity; and

20 (7) a third party's right to a provider's *or health insurer's* discounted
21 rate ceases as of the termination date of the provider *or health insurer's*
22 network contract. The contracting entity shall make available a copy of the
23 provider *or health insurer's* network contract relied on in the adjudication
24 of a claim to a provider *or healthcare provider* within 30 days of a request
25 from the provider *or healthcare provider*.

26 (d) No provider *or healthcare provider* shall be bound by or required
27 to perform dental treatment or services *or healthcare services* under a
28 provider network contract that has been granted to a third party in
29 violation of K.S.A. 2022 Supp. 40-2,225 through 40-2,228, and
30 amendments thereto.

31 (e) The provisions of this section shall not apply to:

32 (1) Access to a provider network contract that is granted to a dental
33 carrier *or health insurer* or an entity operating in accordance with the same
34 brand licensee program as the contracting entity or to an entity that is an
35 affiliate of the contracting entity. A list of the contracting entity's affiliates
36 shall be made available to a provider on the contracting entity's website; or

37 (2) a provider network contract for dental *or healthcare* services
38 provided to beneficiaries of state-sponsored health programs, including
39 medical assistance and the children's health insurance program.

40 (f) The provisions of this section shall not be waived by contract. Any
41 contractual arrangement in conflict with the provisions of this section or
42 that purports to waive any requirements of this section shall be null and
43 void and unenforceable.

1 Sec. 3. K.S.A. 2022 Supp. 40-2,227 is hereby amended to read as
2 follows: 40-2,227. (a) No dental benefit plan *or health insurance plan*
3 shall contain restrictions on methods of payment to a dentist *or healthcare*
4 *provider* from the dental benefit plan *or health insurance plan*, such plan's
5 contracted vendor or health maintenance organization in which the only
6 acceptable payment method is a credit card payment.

7 (b) If initiating or changing payments to a dentist *or healthcare*
8 *provider* using electronic funds transfer payments, including virtual credit
9 card payments, a dental benefit plan *or health insurance plan*, such plan's
10 contracted vendor or health maintenance organization shall:

11 (1) Notify the dentist *or healthcare provider* if any fees are associated
12 with a particular payment method; and

13 (2) advise the dentist *or healthcare provider* of the available methods
14 of payment and provide clear instructions to the dentist *or healthcare*
15 *provider* as to how to select an alternative payment method.

16 (c) A dental benefit plan *or health insurance plan*, such plan's
17 contracted vendor or health maintenance organization that initiates or
18 changes payments to a dentist *or healthcare provider* through the
19 automated clearing house network, as codified in 45 C.F.R. §§ 162.1601
20 and 162.1602, shall not charge a fee solely to transmit the payment to a
21 dentist *or healthcare provider* unless the dentist *or healthcare provider* has
22 consented to such fee. A dentist's *or healthcare provider's* agent may
23 charge reasonable fees when transmitting an automated clearing house
24 network payment related to transaction management, data management,
25 portal services and other value-added services in addition to the bank
26 transmittal.

27 (d) The provisions of this section shall not be waived by contract.
28 Any contractual arrangement in conflict with the provisions of this section
29 or that purports to waive any requirements of this section shall be null and
30 void and unenforceable.

31 Sec. 4. K.S.A. 2022 Supp. 40-2,225, 40-2,226 and 40-2,227 are
32 hereby repealed.

33 Sec. 5. This act shall take effect and be in force from and after its
34 publication in the statute book.