

HOUSE BILL No. 2243

By Representatives Hawkins, Crum, Dove, Goico, Osterman, Peck and Siegfried

2-6

1 AN ACT concerning health insurance; pertaining to mandated health
2 insurance coverages.

3

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

5 Section 1. (a) This section shall apply to all insurers transacting
6 business in the state offering individual or group sickness and accident
7 insurance. Such insurers also may offer a mandate lite health benefit plan.
8 A group or individual carrier may also offer a mandate lite health benefit
9 plan.

10 (b) As used in this section, "mandate lite health benefit plan" means
11 an individual or group sickness and accident insurance plan that does not
12 contain one or more of the Kansas-mandated benefits other than K.S.A.
13 40-2,100 and 40-2,166, and amendments thereto.

14 (c) The mandate lite health benefit plan shall contain the definitions
15 of group or individual sickness and accident insurance with respect to
16 major medical benefits and standard provisions or rights of coverage.

17 (d) The mandate lite health benefit plan may be issued on a group or
18 individual basis.

19 (e) The insured shall be provided with a written notice that one or
20 more of the state-mandated benefits are not included in the mandate lite
21 health benefit plan.

22 (1) The mandate lite health benefit plan shall specify the health
23 services that are included and shall specifically list the health services that
24 will be limited or not covered from the list of state-mandated coverage
25 other than K.S.A. 40-2,100 and 40-2,166, and amendments thereto.

26 (2) The insurer is required to retain a signed copy of this notice on
27 file as a part of the original application as evidence that the insured has
28 acknowledged such notice.

29 (3) Such signed copy may be in original form, electronic file form or
30 in any other reproducible file form as may be consistent with the insurer's
31 method of retaining application copies.

32 (f) The definition of preexisting conditions may not be more
33 restrictive than the definition of preexisting conditions normally used for
34 the corresponding regular individual or group insurance contracts.

35 (g) (1) A mandate lite health benefit plan shall not be required to
36 include coverage for drugs.

1 (2) The mandate lite health benefit plan may offer:

2 (A) Various optional combinations of coverage for generic, formulary
3 and non-formulary drugs; and

4 (B) the mandate lite health benefit plan may offer drug discount
5 plans.

6 (h) A mandate lite health benefit plan may charge additional
7 premiums for each optional benefit offered. Optional benefits may include
8 mandated benefits that are not included in the mandate lite health benefit
9 plan.

10 Sec. 2. (a) The commissioner of insurance is hereby prohibited from
11 issuing any order or adopting any rule and regulation which limits,
12 restricts or otherwise requires that an insurer that sells accident and
13 sickness insurance policies in either the individual insurance market or the
14 group insurance market to sell, issue or renew only those policies of
15 accident and sickness insurance which provide coverages which are
16 identical to the accident and sickness coverages provided by accident and
17 sickness policies sold through an insurance exchange authorized by or
18 created under the provisions of the patient protection and affordable care
19 act (public law 111-148), as amended by the federal health care and
20 education reconciliation act of 2010.

21 (b) (1) Any insurer who sells accident and sickness insurance policies
22 in the state of Kansas, may issue any policy of accident and sickness
23 insurance in either the individual insurance market or the group insurance
24 market which had been available within this state prior to the enactment of
25 the patient protection and affordable care act (public law 111-148), as
26 amended by the federal health care and education reconciliation act of
27 2010. Such policies may be sold outside of any insurance exchange
28 authorized by or created under the provisions of the patient protection and
29 affordable care act (public law 111-148), as amended by the federal health
30 care and education reconciliation act of 2010.

31 (2) In addition, any insurer who sells accident and sickness insurance
32 policies in the state of Kansas, may issue any policy of accident and
33 sickness in either the individual insurance market or the group insurance
34 market that are currently designed to meet the requirements of sections 1,
35 3 and 4, and amendments thereto, developed after the enactment of the
36 patient protection and affordable care act (public law 111-148), as
37 amended by the federal health care and education reconciliation act of
38 2010.

39 (c) Any insurer who sells accident and sickness insurance policies in
40 the state of Kansas, may issue any policy of accident and sickness
41 insurance in either the individual insurance market or the group insurance
42 market which are designed to meet the requirements of sections 2 through
43 4, and amendments thereto. Such policies may be sold outside of any

1 insurance exchange authorized by or created under the provisions of the
2 patient protection and affordable care act (public law 111-148), as
3 amended by the federal health care and education reconciliation act of
4 2010.

5 (d) Any insurer who sells accident and sickness insurance policies in
6 the state of Kansas, may issue any policy of accident and sickness
7 insurance which allows a consumer to choose the benefits which such
8 consumer wishes to include or exclude from coverage under the policy of
9 accident and sickness insurance to be purchased. Such policies may be
10 sold outside of any insurance exchange authorized by or created under the
11 provisions of the patient protection and affordable care act (public law
12 111-148), as amended by the federal health care and education
13 reconciliation act of 2010.

14 (1) Prior to selling or offering for sale in this state any accident and
15 sickness insurance policy under this subsection, the insurer shall:

16 (A) File with and receive approval from the commissioner of
17 insurance the list of benefits that will be made available for purchase by
18 consumers.

19 (i) No provision shall prevent:

20 (a) An individual from choosing the benefits such individual wants to
21 include or exclude under such individual's policy of accident and sickness
22 insurance; or

23 (b) a group from choosing the benefits such group wants to include or
24 exclude under such group's policy of accident and sickness insurance.

25 (ii) Each insurer:

26 (a) Shall require a written acknowledgment from the purchaser of
27 either an individual policy of accident and sickness insurance or group
28 policy of accident and sickness insurance, the list of benefits selected to be
29 contained in such policy of accident and sickness insurance and the list of
30 benefits selected to be excluded from such policy of accident and sickness
31 insurance; and

32 (b) shall retain a copy of this acknowledgment on file as a part of the
33 original application as evidence that the insured has selected the benefits to
34 be included and benefits which have been declined;

35 (B) include at a minimum the standard and basic coverage required
36 under the laws of the state of Kansas statutes as in existence on the day
37 preceding the effective date of this act for a major medical plan which
38 does not include any mandated coverages.

39 (2) Any policy of accident and sickness insurance issued by an
40 insurer pursuant to this subsection may exclude any or all mandated
41 benefits included in of the standard and basic coverage contained in the
42 uniform policy provisions contained in article 22 of chapter 40 of the
43 Kansas Statutes Annotated, and amendments thereto.

1 (3) Each accident and sickness policy or health benefit plan issued
2 outside of any insurance exchange authorized by or created under the
3 provisions of the patient protection and affordable care act (public law
4 111-148), as amended by the federal health care and education
5 reconciliation act of 2010, shall retain permanent grandfather status from
6 any requirements of such insurance exchange.

7 (4) Each accident and sickness policy or health benefit plan issued
8 outside of any insurance exchange authorized by or created under the
9 provisions of the patient protection and affordable care act (public law
10 111-148), as amended by the federal health care and education
11 reconciliation act of 2010, shall be renewable at the option of the policy
12 holder.

13 (5) Each accident and sickness policy or health benefit plan issued
14 outside of any insurance exchange authorized by or created under the
15 provisions of the patient protection and affordable care act (public law
16 111-148), as amended by the federal health care and education
17 reconciliation act of 2010, shall allow the policy holder the option of
18 adding or deleting available benefits offered by the insurer at the
19 anniversary of the health benefit plan.

20 (A) Addition of benefits offered by the insurer may be subject to the
21 standard underwriting practices of the insurer and may be cause for rate
22 adjustment for the health benefit plan changes.

23 (B) Deletion of benefits offered by the insurer may be completed
24 without additional underwriting by the insurer and will result in rate
25 reduction for the health benefit plan calculated by the actuarial value of the
26 reduced benefit.

27 (C) Anniversary renewal rates shall be calculated to reflect
28 adjustments for the additions or deletions of benefits selected for the
29 renewal year.

30 Sec. 3. (a) Any portion of the health insurance premiums paid by
31 consumers that are in fact passed through as commissions shall not be
32 considered a part of administrative expenses and shall be excluded from all
33 determinations of the medical loss ratio calculations when totaling the
34 ratio of premiums paid by a consumer used for claims versus
35 administrative expenses for a policy. Any portion of premiums identified
36 as commissions must be paid to a nonemployee in order to be excluded.
37 Any portion of the premiums retained by the insurance company or its
38 employees must be considered as a part of the calculation of the medical
39 loss ratio as administrative related income.

40 (b) For the purposes of this section, "commission" means
41 commissions to agents, consultation fees, counseling fees, consultant fees,
42 and similar advising or sales compensation to a nonemployee licensed
43 agent.

1 Sec. 4. (a) Specially designed policies shall include policies designed
2 to provide sickness and accident insurance for specific coverage of
3 benefits or services that may be excluded as benefits or services cited
4 under section 1, and amendments thereto. Specially designed policies may
5 include the following stand-alone policies and coverages:

- 6 (1) Chiropractic plans;
- 7 (2) acupuncture coverage plans;
- 8 (3) holistic medical treatment plans;
- 9 (4) podiatrist plans;
- 10 (5) pharmacy plans;
- 11 (6) psychiatric plans;
- 12 (7) allergy plans; and
- 13 (8) such other stand-alone plans or combinations of plans of accepted
14 traditional and nontraditional medical practices as shall be allowable for
15 exclusion from group or individual plans under section 1, and amendments
16 thereto.

17 (b) No specially designed policy shall be deemed to be included
18 under the definition of group sickness and accident insurance, including
19 short-term, limited-duration health insurance, issued or renewed inside or
20 outside of this state and covering persons residing in this state.

21 (c) For the purposes of this section:

22 (1) "Specially designed policy" means an insurance policy that by
23 design may not meet all or part of the definitions of a group or individual
24 sickness and accident insurance policy and includes temporary sickness
25 and accident insurance on a short-term basis.

26 (2) "Short-term" means an insurance policy period of six months or
27 12 months, based upon policy design, which offers not more than one
28 renewal period with or without a requirement of medical re-underwriting
29 or medical requalification.

30 (A) Because a short-term policy addresses the special needs for
31 temporary coverage, a short-term policy is not subject to continuation
32 provisions of the health insurance portability and accountability act of
33 1996 (public law 104-191).

34 (B) Because a short-term policy addresses the special needs for
35 temporary coverage, a short-term policy shall be exempt from medical loss
36 ratio calculations associated with individual sickness and accident
37 insurance issued within the state unless such calculation excludes any
38 monthly administration fee associated with the sale of such policy.

39 Sec. 5. Sections 1 through 5, and amendments thereto, shall be known
40 and cited as the free market health benefit plan act.

41 Sec. 6. This act shall take effect and be in force from and after its
42 publication in the statute book.