

40-2,153. Insurance coverage to allow choice of pharmacy providers. (a) Every policy, contract, plan or agreement delivered to any group in this state which provides benefits or services, or both, for hospital and medical services that is offered by an accident and health insurance company or by a health maintenance organization as defined in K.S.A. 40-3202, and amendments thereto, except when the health maintenance organization owns and operates its own pharmacies and such health maintenance organization is in operation on the effective date of this act, by a preferred provider organization or by an individual practice association or by a similar mechanism shall provide for written notice to the commissioner of insurance of the creation of a pharmacy network not less than 90 days prior to the effective date of any contract for pharmacy services. All notices shall identify a contact person or office of such plan, the address of such person or office and the geographic area to be served by such contract. The commissioner of insurance shall cause to be published in the Kansas register on a weekly basis a copy of all notices received by the commissioner in the preceding week.

(b) If such policy, contract, plan or agreement provides or contracts for the services of a pharmacy network, such policy, contract, plan or agreement shall permit participation of at least one pharmacy for each Kansas county in which that plan has participating employers or physicians. In no event shall a plan have less than one pharmacy within 30 miles of a plan physician or employer in a Kansas county designated pursuant to K.S.A. 76-375, and amendments thereto, as an underserved area and within 10 miles in any other county. The provisions of this subsection shall apply only if the plan has a written offer to participate in the pharmacy network from a registered pharmacy located in such Kansas county under the same terms and conditions of the policy, contract, plan or agreement as those offered to any other provider of pharmacy services.

(c) No such policy, contract, plan or agreement, except as permitted in this subsection, shall permit or mandate any difference in coverage for or impose any different conditions, including copayment fees, whether the prescription benefits are provided through direct contact with a pharmacy or by use of an out-of-state mail order pharmacy so long as the provider selected is a participant in the plan involved. The limitations of this subsection shall not apply to any pharmacy services owned and operated by an accident and health insurance company, its commonly owned affiliate or subsidiary, health maintenance organization, individual practice association or other similar mechanism.

(d) Any provision in an accident and health insurance policy, contract, plan or agreement offered in this state which violates the provisions of this section is void.

(e) Nothing in this section shall apply to any policy, plan, contract or agreement operating pursuant to the federal employee retirement income security act of 1974 (ERISA).

(f) The department of insurance shall enforce the provisions of this section with regard to any policy, contract, plan or agreement issued under authority of chapter 40 of the Kansas Statutes Annotated.

History: L. 1994, ch. 253, § 1; L. 1997, ch. 8, § 7; July 1.