

Testimony from the Kansas Insurance Department regarding Short Term, Limited Duration Insurance Plans (HB2053) for the House Insurance Committee

February 4, 2019

Chairman Vickrey and members of the Committee,

Thank you for the opportunity to submit neutral testimony the legislative changes under consideration by this committee related to short-term, limited duration plans. As Commissioner Schmidt and I have said in previous testimony the Commissioner is leaving policy decisions to policy makers.

The purpose of today's testimony is to provide a summary of short-term, limited duration plans from the department's perspective. Attached to this testimony is a quick side by side comparison of the new Federal rule compared to current Kansas statutes. Just as we have in previous testimony we have some questions we think are important to consider as you have this discussion.

While it's not uncommon to have legislative changes needed on a frequent basis to realign State Law with Federal Law, one thing the department believes is worth considering is whether or not the Legislature should simply strike all references to short-term, limited duration plans from K.S.A. 40-2,193.

One reason to consider such a proposal is due to the nature of short-term plans. The Federal Government has made many changes in the last decade to short-term, limited duration plans and it is likely further changes will come. Because these plans are short-term, changes in Federal rules impact them much quicker and states have to adjust statutes accordingly. By following Federal guidance and adjusting our statutes to more easily accommodate Federal Law on short-term plans, Kansas would be in a position to respond to market and regulatory changes much faster.

Thank you for the opportunity to submit testimony related to HB 2053 and I would be happy to stand for questions.

Sincerely,

Lee Modesitt
Director, Government Affairs & Communications
Kansas Insurance Department

Short-Term, Limited-Duration Insurance in Kansas

Short-Term, Limited-Duration Final Rule (October 2, 2018 federal effective date)

- Has an expiration date that is less than 12 months after the original effective date
- Issuers **may** offer coverage for up to 36 months without medical underwriting
- Has a duration of no longer than 36 months total, taking into consideration renewals
- 14 point prominent notice required in sentence case on the application and the policy
- Not subject to the Essential Health Benefits (EHBs)
- No Minimum Loss Ratio (MLR) Standard
- May include pre-existing condition standards
- May include lifetime or annual dollar limits
- Not subject to guaranteed availability
- Not subject to guaranteed renewability
- The end of coverage does not create a Special Enrollment Period (SEP)

Short-term Policies in K.S.A. 40-2,193 (effective July 1, 2013)

- Six months or 12 months
- Offers not more than one renewal (24 month max)
- May include medical re-underwriting
- Subject to applicable Kansas mandates if coverage provides hospital, medical, surgical expense benefits or accident and health services
- Not subject to Essential Health Benefits (EHBs)
- May include pre-existing condition limitations
- May include lifetime or annual dollar limits
- Subject to 60% Kansas loss ratio
- Not subject to guaranteed availability
- Not subject to guaranteed renewability
- "Limited Policy" notice required in 18 point bold face type printed or attached to the face page pursuant to K.A.R. 40-4-38
- The end of coverage does not create a Special Enrollment Period (SEP)
- Form & Rate Filings required

The Final Rule establishes that states retain the authority to regulate short-term, limited-duration insurance and further notes that the final rule does not change or otherwise modify the existing PHS Act preemption standard. As such, in Kansas, the maximum policy duration pursuant to K.S.A. 40-2,193 for short-term limited-duration policies is twenty-four months. Short-term, limited-duration insurance will be regulated by the Kansas Insurance Department as outlined in the above right hand column. Statutory changes would be required for implementation of the final federal rule.