# 2021 Kansas Statutes

**40-2119. Same; Kansas health insurance association, membership, board of directors; plan of operation, approval of commissioner; powers and duties of association; reinsurance program for medicare supplement policies.** (a) There is hereby created a nonprofit legal entity to be known as the Kansas health insurance association. All insurers and insurance arrangements providing health care benefits in this state shall be members of the association. The association shall operate under a plan of operation established and approved under subsection (b) of this section and shall exercise its powers through a board of directors established under this section.

(b) (1) The board of directors of the association shall be selected by members of the association subject to the approval of the commissioner. To select the initial board of directors, and to initially organize the association, the commissioner shall give notice to all members in this state of the time and place of the organizational meeting. In determining voting rights at the organizational meeting, each member shall be entitled to one vote in person or by proxy. If the board of directors is not selected within 60 days after the organizational meeting, the commissioner shall appoint the initial board. In approving or selecting members of the board, the commissioner shall consider, among other things, whether all members are fairly represented. Members of the board may be reimbursed from the moneys of the plan for expenses incurred by them as members of the board of directors but shall not otherwise be compensated by the plan for their services.

(2) The board shall submit to the commissioner a plan of operation for the association and any amendments thereto necessary or suitable to assure the fair, reasonable and equitable administration of the plan. The plan of operation shall become effective upon approval in writing by the commissioner consistent with the date on which the coverage under this act must be made available. The commissioner shall, after notice and hearing, approve the plan of operation if it is determined to be suitable to assure the fair, reasonable and equitable administration of the plan and provides for the sharing of association losses on an equitable proportionate basis among the members of the association. If the board fails to submit a suitable plan of operation within 180 days after its appointment, or at any time thereafter fails to submit suitable amendments to the plan of operation, the commissioner shall, after notice and hearing, adopt and promulgate such reasonable rules and regulations as are necessary or advisable to effectuate the provisions of this section. Such rules and regulations shall continue in force until modified by the commissioner or superseded by a plan of operation submitted by the board and approved by the commissioner. The plan of operation shall, in addition to requirements enumerated elsewhere in this act:

(A) Establish procedures for the handling and accounting of assets and moneys of the plan;

(B) select an administering carrier in accordance with K.S.A. 40-2120, and amendments thereto;

(C) establish procedures for the collection of assessments from all members to provide for claims paid under the plan and for administrative expenses incurred or estimated to be incurred during the period for which the assessment is made. The level of payments shall be established by the board pursuant to K.S.A. 40-2121, and amendments thereto. Assessments shall be due and payable within 30 days of receipt of the assessment notice;

(D) establish appropriate cost control measures, including but not limited to, preadmission review, case management, utilization review and exclusions and limitations with respect to treatment and services under the plan; and

(E) develop and implement a program to publicize the existence of the plan, the eligibility requirements and procedures for enrollment and to maintain public awareness of the plan.

(F) Establish benefit levels, lifetime maximum benefits, and other coverage and eligibility parameters, and establish such other requirements and procedures as are necessary to assure the availability of a benefit program or programs conforming with the requirements of a qualified high risk pool as set forth in section 111 of Public Law 104-191 and amendments thereto.

(c) The association shall have the general powers and authority enumerated by this subsection in accordance with the plan of operation approved by the commissioner under subsection (b). The association shall have the general powers and authority granted under the laws of this state to insurers licensed to transact the kind of health service or insurance included under K.S.A. 40-2123, and amendments thereto, and in addition thereto, the specific authority and duty to:

(1) Enter into contracts as are necessary or proper to carry out the provisions and purposes of this act, including the authority, with the approval of the commissioner, to enter into contracts with similar plans of other states for the joint performance of common administrative functions, or with persons or other organizations for the performance of administrative functions;

(2) sue or be sued, including taking any legal actions necessary or proper for recovery of any assessments for, on behalf of, or against participating members;

(3) take such legal action as necessary to avoid the payment of improper claims against the association or the coverage provided by or through the plan;

(4) establish appropriate rates, rate schedules, rate adjustments, expense allowances, agents' referral fees, claim reserve formulas and any other actuarial function appropriate to the operation of the plan. During the first two years of operation of the plan, rates shall be established in an amount that is estimated by the board to cover all claims that may be made against the plan and the expenses of operating the plan. In following years, rates for coverage shall be reasonable in terms of the benefits provided, the risk experience and expenses of providing the coverage, except that such rates shall not exceed 150% of the average premium rate charged for similar coverage in the private market. Rates and rate schedules may be adjusted for appropriate risk factors such as age, sex and geographic location in claims costs and shall take into consideration appropriate risk factors in accordance with established actuarial and underwriting practices, however particular health conditions or illnesses shall not constitute appropriate risk factors;

(5) assess members of the association in accordance with the provisions of K.S.A. 40-2121, and amendments thereto;

(6) design the policies of insurance to be offered by the plan which shall cover at least the expenses enumerated in subsection (b) of K.S.A. 40-2123, and amendments thereto, but with such limitations and optional benefit levels as the plan prescribes;

(7) issue policies of insurance in accordance with the requirements of this act; and

(8) appoint from among members appropriate legal, actuarial and other committees as necessary to provide technical assistance in the operation of the plan, policy and other contract design, and any other function within the authority of the association.

(d) The association shall administer a reinsurance program for medicare supplement policies issued to Kansas residents who are eligible for medicare by reason of disability. All medicare supplement insurers issuing or renewing medicare supplement policies in this state shall be participants in such reinsurance program. (1) On or before May 1, 2000, and each year thereafter, each issuer of a medicare supplement policy in the state shall provide to the association a calendar year accounting of the medicare supplement policies delivered or issued for delivery in the state and covering persons eligible for medicare by reason of disability who are under age 65. (2) The accounting for medicare supplement policies covering persons eligible by reason of disability and under age 65 shall include the total

number of such persons covered, the total premium earned on such persons, and the total claims expense incurred with respect to such persons during such year as paid through March 31, without estimates for incurred but not reported claims. (3) The association shall use such reports to develop the assessment required under subsection (d) of K.S.A. 40-2121, and amendments thereto.

**History:** L. 1992, ch. 209, § 3; L. 1996, ch. 98, § 1; L. 1997, ch. 190, § 8; L. 1999, ch. 106, § 2; July 1.