

HOUSE BILL No. 2077

By Committee on Insurance

1-24

1 AN ACT concerning ~~worker's compensation; relating to group-funded~~
2 ~~pool filings to the insurance commissioner; amending K.S.A. 2010-~~
3 ~~Supp. 44-584 and repealing the existing section, the Kansas~~
4 ~~uninsurable health insurance plan act; pertaining to lifetime limits;~~
5 ~~pertaining to participation in plan by certain children; amending~~
6 ~~K.S.A. 2010 Supp. 40-2122 and 40-2124 and repealing the existing~~
7 ~~sections.~~
8

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

10 ~~Section 1. K.S.A. 2010 Supp. 44-584 is hereby amended to read as~~
11 ~~follows: 44-584. (a) The application for a new certificate shall be signed~~
12 ~~by the trustees of the trust fund created by the pool. Any application for a~~
13 ~~renewal of an existing certificate shall meet at least the standards~~
14 ~~established in subsections (a)(6) through (a)(14) of K.S.A. 44-582 and~~
15 ~~amendments thereto. After evaluating the application the commissioner~~
16 ~~shall notify the applicant that the plan submitted is approved or conversely,~~
17 ~~if the plan submitted is inadequate, the commissioner shall then fully~~
18 ~~explain to the applicant what additional requirements must be met. If the~~
19 ~~application is denied, the applicant shall have 15 days to make an~~
20 ~~application for hearing by the commissioner after service of the denial~~
21 ~~notice. The hearing shall be conducted in accordance with the provisions~~
22 ~~of the Kansas administrative procedure act.~~

23 ~~(b) An approved certificate of authority shall remain in full force and~~
24 ~~effect until such certificate is suspended or revoked by the commissioner.~~
25 ~~An existing pool operating under an approved certificate of authority must~~
26 ~~file with the commissioner, within 120 days following the close of the~~
27 ~~pool's fiscal year, a current financial statement on a form approved by the~~
28 ~~commissioner showing the financial ability of the pool to meet its~~
29 ~~obligations under the worker compensation act and confirmation of~~
30 ~~specific and aggregate excess insurance as required by law for the pool. If~~
31 ~~an existing pool's certificate of authority is suspended or revoked, such~~
32 ~~pool shall have the same rights to a hearing by the commissioner as for~~
33 ~~applicants for new certificates of authority as set forth in subsection (a)~~
34 ~~above.~~

35 ~~(c) Whenever the commissioner shall deem it necessary the~~
36 ~~commissioner may make, or direct to be made, an examination of the~~

1 ~~affairs and financial condition of any pool in accordance with K.S.A. 40-~~
 2 ~~222 and 40-223 and amendments thereto, except that once every five years~~
 3 ~~the commissioner shall conduct an examination of the affairs and financial~~
 4 ~~condition of each pool. Each pool shall submit a certified independent~~
 5 ~~audited financial statement no later than 90/150 days after the end of the~~
 6 ~~pool's fiscal year. The financial statement shall include outstanding~~
 7 ~~reserves for claims and for claims incurred but not reported. Each pool~~
 8 ~~shall file payroll records, accident experience and compensation reports~~
 9 ~~and such other reports and statements at such times and in such manner as~~
 10 ~~the commissioner shall require. Whenever it appears to the commissioner~~
 11 ~~from such examination or other satisfactory evidence that the solvency of~~
 12 ~~any such pool is impaired, or that it is doing business in violation of any of~~
 13 ~~the laws of this state, or that its affairs are in an unsound condition so as to~~
 14 ~~endanger its ability to pay or cause to be paid the compensation in the~~
 15 ~~amount, manner and time due as provided for in the Kansas workers~~
 16 ~~compensation act, the commissioner shall, before filing such report or~~
 17 ~~making the same public, grant such pool upon reasonable notice a hearing~~
 18 ~~in accordance with the provisions of the Kansas administrative procedure~~
 19 ~~act, and, if on such hearing the report be confirmed, the commissioner~~
 20 ~~shall suspend the certificate of authority for such pool until its solvency~~
 21 ~~shall have been fully restored and the laws of the state fully complied with.~~
 22 ~~The commissioner may, if there is an unreasonable delay in restoring the~~
 23 ~~solvency of such pool and in complying with the law, revoke the certificate~~
 24 ~~of authority of such pool to do business in this state. Upon revoking any~~
 25 ~~such certificate the commissioner shall communicate the fact to the~~
 26 ~~attorney general, whose duty it shall be to commence and prosecute an~~
 27 ~~action in the proper court to dissolve such pool or to enjoin the same from~~
 28 ~~doing or transacting business in this state. The commissioner of insurance~~
 29 ~~may call a hearing under K.S.A. 40-222b, and amendments thereto, and~~
 30 ~~the provisions shall apply to group workers compensation pools.~~

31 ~~Sec. 2. K.S.A. 2010 Supp. 44-584 is hereby repealed.~~

32 ~~Sec. 3. This act shall take effect and be in force from and after its~~
 33 ~~publication in the statute book.~~

34 *Section 1. K.S.A. 2010 Supp. 40-2122 is hereby amended to read as*
 35 *follows: 40-2122. (a) The following individuals shall be eligible for plan*
 36 *coverage provided they meet the criteria set forth in subsection (b):*

37 *(1) Any person who has been a resident of this state for at least six*
 38 *months;*

39 *(2) any person who is a legal domiciliary of this state who*
 40 *previously was covered under the high risk pool of another state,*
 41 *provided they apply for coverage under the plan within 63 days of losing*
 42 *such other coverage for reasons other than fraud or nonpayment of*
 43 *premiums;*

- 1 (3) *any federally defined eligible individual who is a legal*
2 *domiciliary of this state; or*
- 3 (4) *any federally defined eligible individual for FTAA.*
- 4 (b) *Those individuals who are eligible for plan coverage under*
5 *subsection (a) must provide evidence satisfactory to the administering*
6 *carrier that such person meets one of the following criteria:*
- 7 (1) *Such person has had health insurance coverage involuntarily*
8 *terminated for any reason other than nonpayment of premium;*
- 9 (2) *such person has applied for health insurance and been rejected*
10 *by two carriers because of health conditions;*
- 11 (3) *Such person is a child under the age of 19 years and has been*
12 *unable to purchase or obtain coverage under an individual health*
13 *insurance policy providing health insurance coverage, because such*
14 *coverage is not available for sale in the county in which the child resides;*
- 15 ~~(4)~~ (4) *such person has applied for health insurance and has been*
16 *quoted a premium rate which is in excess of the plan rate;*
- 17 ~~(4)~~ (5) *such person has been accepted for health insurance subject*
18 *to a permanent exclusion of a preexisting disease or medical condition;*
- 19 ~~(5)~~ (6) *such person is a federally defined eligible individual; or*
- 20 ~~(6)~~ (7) *such person is a federally defined eligible individual for*
21 *FTAA.*
- 22 (c) *Each resident dependent of a person who is eligible for plan*
23 *coverage shall also be eligible for plan coverage.*
- 24 (d) *The following persons shall not be eligible for coverage under*
25 *the plan:*
- 26 (1) *Any person who is eligible for medicare or is eligible for*
27 *medicaid benefits;*
- 28 (2) *any person who has had coverage under the plan terminated*
29 *less than 12 months prior to the date of the current application, except*
30 *that this provision shall not apply with respect to an applicant who is a*
31 *federally defined eligible individual;*
- 32 (3) *any person who has received accumulated benefits from the*
33 *plan equal to or in excess of the lifetime maximum benefits under the*
34 *plan prescribed by K.S.A. 40-2124, and amendments thereto;*
- 35 (4) *any person having access to accident and health insurance*
36 *through an employer-sponsored group or self-insured plan, including*
37 *coverage under the consolidated omnibus budget reconciliation act*
38 *(COBRA), except that the requirement for exhaustion of any available*
39 *COBRA or state continuation is waived whenever such person:*
- 40 (A) *Is eligible for the credit for health care costs under section 35*
41 *of the internal revenue code of 1986; and*
- 42 (B) *has three months of prior creditable coverage as described in*
43 *subsection (c) of K.S.A. 40-2124, and amendments thereto; or*

1 (5) any person who is eligible for any other public or private
2 program that provides or indemnifies for health services.

3 (e) Any person who ceases to meet the eligibility requirements of
4 this section may be terminated at the end of a policy period.

5 (f) All plan members, insurers and insurance arrangements shall
6 notify in writing persons denied health insurance coverage, for any
7 reason, of the availability of coverage through the Kansas health
8 insurance association.

9 Sec. 2. K.S.A. 2010 Supp. 40-2124 is hereby amended to read as
10 follows: 40-2124. (a) Coverage under the plan shall be subject to both
11 deductible and coinsurance provisions set by the board. The plan shall
12 offer to current participants and new enrollees no fewer than four
13 choices of deductible and copayment options. Coverage shall contain a
14 coinsurance provision for each service covered by the plan, and such
15 copayment requirement shall not be subject to a stop-loss provision.
16 Such coverage may provide for a percentage or dollar amount of
17 coinsurance reduction at specific thresholds of copayment expenditures
18 by the insured.

19 (b) Coverage under the plan shall be subject to a maximum lifetime
20 benefit of ~~\$2,000,000~~ \$3,000,000 per covered individual.

21 (c) Coverage under the plan shall exclude charges or expenses
22 incurred during the first 90 days following the effective date of coverage
23 as to any condition: (1) Which manifested itself during the six-month
24 period immediately prior to the application for coverage in such manner
25 as would cause an ordinarily prudent person to seek diagnosis, care or
26 treatment; or (2) for which medical advice, care or treatment was
27 recommended or received in the six-month period immediately prior to
28 the application for coverage. In succeeding years of operation of the
29 plan, coverage of preexisting conditions may be excluded as determined
30 by the board, except that no such exclusion shall exceed 180 calendar
31 days, and no exclusion shall be applied to either a federally defined
32 eligible individual provided that application for coverage is made not
33 later than 63 days following the applicant's most recent prior creditable
34 coverage or an individual under the age of 19 years who is eligible for
35 enrollment in the plan under paragraph (3) of subsection (b) of K.S.A. 40-
36 2122, and amendments thereto. For any individual who is eligible for the
37 credit for health insurance costs under section 35 of the internal
38 revenue code of 1986, the preexisting conditions limitation will not apply
39 whenever such individual has maintained creditable health insurance
40 coverage for an aggregate period of three months, not counting any
41 period prior to a 63-day break in coverage, as of the date on which such
42 individual seeks to enroll in coverage provided by this act.

43 (d) (1) Benefits otherwise payable under plan coverage shall be

1 *reduced by all amounts paid or payable through any other health*
2 *insurance, or insurance arrangement, and by all hospital and medical*
3 *expense benefits paid or payable under any workers compensation*
4 *coverage, automobile medical payment or liability insurance whether*
5 *provided on the basis of fault or nonfault, and by any hospital or*
6 *medical benefits paid or payable under or provided pursuant to any state*
7 *or federal law or program.*

8 *(2) The association shall have a cause of action against an eligible*
9 *person for the recovery of the amount of benefits paid which are not*
10 *covered expenses. Benefits due from the plan may be reduced or refused*
11 *as a set-off against any amount recoverable under this section.*

12 *Sec. 3. K.S.A. 2010 Supp. 40-2122 and 40-2124 are hereby*
13 *repealed.*

14 *Sec. 4. This act shall take effect and be in force from and after its*
15 *publication in the Kansas register.*