

## SENATE BILL No. 117

By Committee on Public Health and Welfare

1-18

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9 AN ACT concerning health insurance; relating to dependent coverage;  
10 amending K.S.A. 40-2209d and 40-2218 and K.S.A. 2006 Supp. 40-  
11 2118 and repealing the existing sections.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2006 Supp. 40-2118 is hereby amended to read as  
15 follows: 40-2118. As used in this act, unless the context otherwise re-  
16 quires, the following words and phrases shall have the meanings ascribed  
17 to them in this section:

18 (a) "Administering carrier" means the insurer or third-party admin-  
19 istrator designated in K.S.A. 40-2120, and amendments thereto.

20 (b) "Association" means the Kansas health insurance association es-  
21 tablished in K.S.A. 40-2119, and amendments thereto.

22 (c) "Board" means the board of directors of the association.

23 (d) "Church plan" means a plan as defined under section 3(33) of the  
24 Employee Retirement Income Security Act of 1974.

25 (e) "Commissioner" means the commissioner of insurance.

26 (f) "Creditable coverage" means with respect to an individual, cov-  
27 erage of the individual under any of the following:

28 (1) A group health plan;

29 (2) health insurance coverage;

30 (3) part A or part B of Title XVIII of the Social Security Act;

31 (4) title XIX of the Social Security Act, other than coverage consisting  
32 solely of benefit under Section 1928;

33 (5) chapter 55 of Title 10, United States Code;

34 (6) a medical care program of the Indian Health Service or of a tribal  
35 organization;

36 (7) a state health benefit risk pool;

37 (8) a health plan offered under Chapter 89 of Title 5, United States  
38 Code;

39 (9) a public health plan as defined under regulations promulgated by  
40 the secretary of health and human services; and

41 (10) a health benefit plan under section 5(e) of the Peace Corps Act  
42 (22 U.S.C. 2504(d)).

43 (g) (1) "Dependent" means a resident spouse or resident unmarried

1 child under the age of ~~19~~ 26 years, a child who is a student under the age  
2 of ~~23~~ 26 years and who is financially dependent upon the parent, or a  
3 child of any age who is disabled and dependent upon the parent.

4 (2) *Dependent also includes a member of the United States armed*  
5 *services including the Kansas national guard who has been mobilized to*  
6 *active duty if such dependent is:*

7 (A) *An unmarried child at least 19 years of age but less than 26 years*  
8 *of age; and*

9 (B) *a student.*

10 *Any individual who qualifies as a dependent under this provision, shall*  
11 *be deemed to be a dependent for the amount of time spent on active duty*  
12 *between the ages of 19 and 26 beyond the age of 26 and until the age of*  
13 *28 and while a full-time student for the amount of time spent on active*  
14 *duty between the ages of 19 and 26. The individual attempting to qualify*  
15 *for this additional time must submit written documentation of active duty*  
16 *service to the commissioner of insurance. This paragraph (2) shall apply*  
17 *only to individuals mobilized to active duty in the United States armed*  
18 *services, including the Kansas national guard, on or after January 1, 2008.*

19 (h) "Excess loss" means the total dollar amount by which claims ex-  
20 pense incurred for any issuer of a medicare supplement policy or certifi-  
21 cate delivered or issued for delivery to persons in this state eligible for  
22 medicare by reason of disability and who are under age 65 exceeds 65%  
23 of the premium earned by such issuer during a calendar year.

24 (i) "Federally defined eligible individual" means an individual:

25 (1) For whom, as of the date the individual seeks coverage under this  
26 section, the aggregate of the periods of creditable coverage is 18 or more  
27 months and whose most recent prior coverage was under a group health  
28 plan, government plan or church plan;

29 (2) who is not eligible for coverage under a group health plan, Part  
30 A or B of Title XVII of the Social Security Act, or a state plan under Title  
31 XIX of the Social Security Act, or any successor program, and who does  
32 not have any other health insurance coverage;

33 (3) with respect to whom the most recent coverage was not termi-  
34 nated for factors relating to nonpayment of premiums or fraud; and

35 (4) who had been offered the option of continuation coverage under  
36 COBRA or under a similar program, who elected such continuation cov-  
37 erage, and who has exhausted such continuation coverage.

38 (j) "Federally defined eligible individuals for FTAA" means an indi-  
39 vidual who is:

40 (1) Legally domiciled in this state; and

41 (2) eligible for the credit for health insurance costs under section 35  
42 of the internal revenue code of 1986.

43 (k) "FTAA" means federal trade adjustment assistance under the fed-

- 1 eral trade adjustment assistance reform act of 2002, public law 107-210.
- 2 (l) “Governmental plan” means a plan as defined under section 3(32)  
3 of the Employee Retirement Income Security Act of 1974 and any plan  
4 maintained for its employees by the government of the United States or  
5 by any agency or instrumentality of such government.
- 6 (m) “Group health plan” means an employee benefit plan as defined  
7 by section 3(1) of the Employee Retirement Income Security Act of 1974  
8 to the extent that the plan provides any hospital, surgical or medical ex-  
9 pense benefits to employees or their dependents (as defined under the  
10 terms of the plan) directly or through insurance, reimbursement or  
11 otherwise.
- 12 (n) “Health insurance” means any hospital or medical expense policy,  
13 health, hospital or medical service corporation contract, and a plan pro-  
14 vided by a municipal group-funded pool, or a health maintenance organ-  
15 ization contract offered by an employer or any certificate issued under  
16 any such policies, contracts or plans. “Health insurance” does not include  
17 policies or certificates covering only accident, credit, dental, disability  
18 income, long-term care, hospital indemnity, medicare supplement, spec-  
19 ified disease, vision care, coverage issued as a supplement to liability in-  
20 surance, insurance arising out of a workers compensation or similar law,  
21 automobile medical-payment insurance, or insurance under which ben-  
22 efits are payable with or without regard to fault and which is statutorily  
23 required to be contained in any liability insurance policy or equivalent  
24 self-insurance.
- 25 (o) “Health maintenance organization” means any organization  
26 granted a certificate of authority under the provisions of the health main-  
27 tenance organization act.
- 28 (p) “Insurance arrangement” means any plan, program, contract or  
29 any other arrangement under which one or more employers, unions or  
30 other organizations provide to their employees or members, either di-  
31 rectly or indirectly through a group-funded pool, trust or third-party ad-  
32 ministrator, health care services or benefits other than through an insurer.
- 33 (q) “Insurer” means any insurance company, fraternal benefit society,  
34 health maintenance organization and nonprofit hospital and medical serv-  
35 ice corporation authorized to transact health insurance business in this  
36 state.
- 37 (r) “Medicaid” means the medical assistance program operated by  
38 the state under title XIX of the federal social security act.
- 39 (s) “Medicare” means coverage under both parts A and B of title  
40 XVIII of the federal social security act, 42 USC 1395.
- 41 (t) “Medicare supplement policy” means a group or individual policy  
42 of accident and sickness insurance or a subscriber contract of hospitals  
43 and medical service associations or health maintenance organizations,

1 other than a policy issued pursuant to a contract under section 1876 of  
2 the federal social security act (42 USC 1395 et seq.) or an issued policy  
3 under a demonstration project specified in 42 USC 1395ss(g)(1), which  
4 is advertised, marketed or designed primarily as a supplement to reim-  
5 bursements under medicare for the hospital, medical or surgical expenses  
6 of persons eligible for medicare.

7 (u) "Member" means all insurers and insurance arrangements partici-  
8 pating in the association.

9 (v) "Plan" means the Kansas uninsurable health insurance plan cre-  
10 ated pursuant to this act.

11 (w) "Plan of operation" means the plan to create and operate the  
12 Kansas uninsurable health insurance plan, including articles, bylaws and  
13 operating rules, adopted by the board pursuant to K.S.A. 40-2119, and  
14 amendments thereto.

15 Sec. 2. K.S.A. 40-2209d is hereby amended to read as follows: 40-  
16 2209d. As used in this act:

17 (a) "Actuarial certification" means a written statement by a member  
18 of the American academy of actuaries or other individual acceptable to  
19 the commissioner that a small employer carrier is in compliance with the  
20 provisions of K.S.A. 40-2209h and amendments thereto, based upon the  
21 person's examination, including a review of the appropriate records and  
22 of the actuarial assumptions and methods used by the small employer  
23 carrier in establishing premium rates for applicable health benefit plans.

24 (b) "Approved service area" means a geographical area, as approved  
25 by the commissioner to transact insurance in this state, within which the  
26 carrier is authorized to provide coverage.

27 (c) "Base premium rate" means, for each class of business as to a  
28 rating period, the lowest premium rate charged or that could have been  
29 charged under the rating system for that class of business, by the small  
30 employer carrier to small employers with similar case characteristics for  
31 health benefit plans with the same or similar coverage.

32 (d) "Carrier" or "small employer carrier" means any insurance com-  
33 pany, nonprofit medical and hospital service corporation, nonprofit op-  
34 tometric, dental, and pharmacy service corporations, municipal group-  
35 funded pool, fraternal benefit society or health maintenance organization,  
36 as these terms are defined by the Kansas Statutes Annotated, that offers  
37 health benefit plans covering eligible employees of one or more small  
38 employers in this state.

39 (e) "Case characteristics" means, with respect to a small employer,  
40 the geographic area in which the employees reside; the age and sex of  
41 the individual employees and their dependents; the appropriate industry  
42 classification as determined by the carrier, and the number of employees  
43 and dependents and such other objective criteria as may be approved

1 family composition by the commissioner. “Case characteristics” shall not  
2 include claim experience, health status and duration of coverage since  
3 issue.

4 (f) “Class of business” means all or a separate grouping of small em-  
5 ployers established pursuant to K.S.A. 40-2209g and amendments  
6 thereto.

7 (g) “Commissioner” means the commissioner of insurance.

8 (h) “Department” means the insurance department.

9 (i) (1) “Dependent” means the spouse or child of an eligible em-  
10 ployee, subject to applicable terms of the health benefits plan covering  
11 such employee and the dependent eligibility standards established by the  
12 board.

13 (2) *For the purposes of this provision, the term “dependent” also in-  
14 cludes a member of the United States armed services including the Kansas  
15 national guard who has been mobilized to active duty if such dependent  
16 is:*

17 (A) *An eligible employee’s unmarried child at least 19 years of age  
18 but less than 26 years of age; and*

19 (B) *a student.*

20 *Any individual who qualifies as a dependent under this provision, shall  
21 be deemed to be a dependent for the amount of time spent on active duty  
22 between the ages of 19 and 26 beyond the age of 26 and until the age of  
23 28 and while a full-time student for the amount of time spent on active  
24 duty between the ages of 19 and 26. The individual attempting to qualify  
25 for this additional time must submit written documentation of active duty  
26 service to the commissioner of insurance. This paragraph (2) shall apply  
27 only to individuals mobilized to active duty in the United States armed  
28 services, including the Kansas national guard, on or after January 1, 2008.*

29 (j) “Eligible employee” means an employee who works on a full-time  
30 basis, with a normal work week of 30 or more hours, and includes a sole  
31 proprietor, a partner of a partnership or an independent contractor, pro-  
32 vided such sole proprietor, partner or independent contractor is included  
33 as an employee under a health benefit plan of a small employer but does  
34 not include an employee who works on a part-time, temporary or substi-  
35 tute basis.

36 (k) “Financially impaired” means a member which, after the effective  
37 date of this act, is not insolvent but is:

38 (1) Deemed by the commissioner to be in a hazardous financial con-  
39 dition pursuant to K.S.A. 40-222d and amendments thereto; or

40 (2) placed under an order of rehabilitation or conservation by a court  
41 of competent jurisdiction.

42 (l) “Health benefit plan” means any hospital or medical expense pol-  
43 icy, health, hospital or medical service corporation contract, and a plan

1 provided by a municipal group-funded pool, or a health maintenance  
2 organization contract offered by an employer or any certificate issued  
3 under any such policies, contracts or plans. "Health benefit plan" does  
4 not include policies or certificates covering only accident, credit, dental,  
5 disability income, long-term care, hospital indemnity, medicare supple-  
6 ment, specified disease, vision care, coverage issued as a supplement to  
7 liability insurance, insurance arising out of a workers compensation or  
8 similar law, automobile medical-payment insurance, or insurance under  
9 which benefits are payable with or without regard to fault and which is  
10 statutorily required to be contained in any liability insurance policy or  
11 equivalent self-insurance.

12 (m) "Index rate" means, for each class of business as to a rating period  
13 for small employers with similar case characteristics, the arithmetic av-  
14 erage of the applicable base premium rate and the corresponding highest  
15 premium rate.

16 (n) "Initial enrollment period" means the period of time specified in  
17 the health benefit plan during which an individual is first eligible to enroll  
18 in a small employer health benefit plan. Such period shall be no less  
19 favorable than a period beginning on the employee's or member's date  
20 of initial eligibility and ending 31 days thereafter.

21 (o) "Late enrollee" means an eligible employee or dependent who  
22 requests enrollment in a small employer's health benefit plan following  
23 the initial enrollment period provided under the terms of the first plan  
24 for which such employee or dependent was eligible through such small  
25 employer, however an eligible employee or dependent shall not be con-  
26 sidered a late enrollee if:

27 (1) The individual:

28 (A) Was covered under another employer-provided health benefit  
29 plan or was covered under section 607(1) of the employee retirement  
30 income security act of 1974 (ERISA) at the time the individual was eli-  
31 gible to enroll;

32 (B) states in writing, at the time of the initial eligibility, that coverage  
33 under another employer health benefit plan was the reason for declining  
34 enrollment but only if the group policyholder or the accident and sickness  
35 issuer required such a written statement and provided the individual with  
36 notice of the requirement for a written statement and the consequences  
37 of such written statement;

38 (C) has lost coverage under another employer health benefit plan or  
39 under section 607(1) of the employee retirement income security act of  
40 1974 (ERISA) as a result of the termination of employment, reduction in  
41 the number of hours of employment, termination of employer contribu-  
42 tions toward such coverage, the termination of the other plan's coverage,  
43 death of a spouse, or divorce or legal separation; and

- 1 (D) requests enrollment within 63 days after the termination of cov-  
2 erage under another employer health benefit plan; or
- 3 (2) the individual is employed by an employer who offers multiple  
4 health benefit plans and the individual elects a different health benefit  
5 plan during an open enrollment period; or
- 6 (3) a court has ordered coverage to be provided for a spouse or minor  
7 child under a covered employee's plan.
- 8 (p) "New business premium rate" means, for each class of business  
9 as to a rating period, the lowest premium rate charged or offered, or  
10 which could have been charged or offered, by the small employer carrier  
11 to small employers with similar case characteristics for newly issued health  
12 benefit plans with the same or similar coverage.
- 13 (q) "Preexisting conditions exclusion" means a policy provision which  
14 excludes or limits coverage for charges or expenses incurred during a  
15 specified period not to exceed 90 days following the insured's effective  
16 date of enrollment as to a condition, whether physical or mental, regard-  
17 less of the cause of the condition for which medical advice, diagnosis, care  
18 or treatment was recommended or received in the six months immedi-  
19 ately preceding the effective date of enrollment.
- 20 (r) "Premium" means moneys paid by a small employer or eligible  
21 employees or both as a condition of receiving coverage from a small em-  
22 ployer carrier, including any fees or other contributions associated with  
23 the health benefit plan.
- 24 (s) "Rating period" means the calendar period for which premium  
25 rates established by a small employer carrier are assumed to be in effect  
26 but any period of less than one year shall be considered as a full year.
- 27 (t) "Waiting period" means a period of time after full-time employ-  
28 ment begins before an employee is first eligible to enroll in any applicable  
29 health benefit plan offered by the small employer.
- 30 (u) "Small employer" means any person, firm, corporation, partner-  
31 ship or association eligible for group sickness and accident insurance pur-  
32 suant to subsection (a) of K.S.A. 40-2209 and amendments thereto ac-  
33 tively engaged in business whose total employed work force consisted of,  
34 on at least 50% of its working days during the preceding year, of at least  
35 two and no more than 50 eligible employees, the majority of whom were  
36 employed within the state. In determining the number of eligible em-  
37 ployees, companies which are affiliated companies or which are eligible  
38 to file a combined tax return for purposes of state taxation, shall be con-  
39 sidered one employer. Except as otherwise specifically provided, provi-  
40 sions of this act which apply to a small employer which has a health benefit  
41 plan shall continue to apply until the plan anniversary following the date  
42 the employer no longer meets the requirements of this definition.
- 43 (v) "Affiliate" or "affiliated" means an entity or person who directly

1 or indirectly through one or more intermediaries, controls or is controlled  
2 by, or is under common control with, a specified entity or person.

3 Sec. 3. K.S.A. 40-2218 is hereby amended to read as follows: 40-  
4 2218. (a) The commissioner of insurance shall issue rules and regulations  
5 to establish standards for benefits under each of the following categories  
6 of coverage in individual policies, other than conversion policies issued  
7 pursuant to a contractual conversion privilege under a group policy, of  
8 accident and sickness insurance or subscriber contracts:

- 9 (1) Basic hospital expense coverage;
- 10 (2) basic medical-surgical expense coverage;
- 11 (3) hospital confinement indemnity coverage;
- 12 (4) major medical expense coverage;
- 13 (5) disability income protection coverage;
- 14 (6) accident only coverage; and
- 15 (7) specified disease or specified accident coverage.

16 (b) *Each policy referenced in subsection (a) shall:*

17 (1) (A) *Not terminate coverage of an unmarried dependent by reason*  
18 *of the dependent's age before the dependent's 26th birthday and shall,*  
19 *upon application, provide coverage for all unmarried dependents up to*  
20 *age 26.*

21 (b) *Provide that the cost of coverage for unmarried dependents 19 to*  
22 *26 years of age shall be included in the premium on the same basis as*  
23 *other dependent coverage.*

24 *This paragraph does not prohibit an employer from requiring the em-*  
25 *ployee to pay all or part of the cost of coverage for unmarried dependents.*

26 (2) *Provide coverage for a dependent who is a member of the United*  
27 *States armed services including the Kansas national guard who has been*  
28 *mobilized to active duty if such dependent is:*

29 (A) *An eligible insured's unmarried child at least 19 years of age but*  
30 *less than 26 years of age; and*

31 (B) *a student.*

32 *Any individual who qualifies as a dependent under this paragraph,*  
33 *shall be deemed to be a dependent for the amount of time spent on active*  
34 *duty between the ages of 19 and 26 beyond the age of 26 and until the*  
35 *age of 28 and while a full-time student for the amount of time spent on*  
36 *active duty between the ages of 19 and 26. The individual attempting to*  
37 *qualify for this additional time must submit written documentation of*  
38 *active duty service to the commissioner of insurance. This paragraph (2)*  
39 *shall apply only to individuals mobilized to active duty in the United*  
40 *States armed services, including the Kansas national guard, on or after*  
41 *January 1, 2008.*

42 ~~(b)~~ (c) *Nothing in this section shall preclude the issuance of any policy*  
43 *or contract which combines two (2) or more of the categories of coverage*



1 enumerated in paragraphs (1) through (6) of subsection (a).  
2 ~~(c)~~ (d) No policy or contract shall be delivered or issued for delivery  
3 in this state which does not meet the prescribed standards for the cate-  
4 gories of coverage listed in paragraphs (1) through (7) of subsection (a)  
5 which are contained within the policy or contract unless the commissioner  
6 finds such policy or contract, including those affording supplemental cov-  
7 erage, will fulfill a reasonable public need and such policy or contract  
8 meets the requirements set forth in K.S.A. 40-2215 or unless the outline  
9 of coverage required by K.S.A. 40-2219 clearly sets forth wherein such  
10 policy does not provide the standards for benefits promulgated by the  
11 commissioner.  
12 (d) The commissioner shall prescribe the method of identification of  
13 policies and contracts based upon coverages provided.  
14 Sec. 4. K.S.A. 40-2209d and 40-2218 and K.S.A. 2006 Supp. 40-2118  
15 are hereby repealed.  
16 Sec. 5. This act shall take effect and be in force from and after its  
17 publication in the statute book.