

As Amended by Senate Committee

Session of 2007

SENATE BILL No. 243

By Committee on Public Health and Welfare

2-1

10 AN ACT concerning health insurance; relating to dependent coverage;
11 amending K.S.A. 40-2218 and K.S.A. 2006 Supp. 40-2118 and repeal-
12 ing the existing sections.

13

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

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

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

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

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

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

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

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

29 (1) A group health plan;

30 (2) health insurance coverage;

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

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

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

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

37 (7) a state health benefit risk pool;

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

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

42 (10) a health benefit plan under section 5(e) of the Peace Corps Act
43 (22 U.S.C. 2504(d)).

- 1 (g) “Dependent” means a resident spouse or resident unmarried
2 child under the age of ~~19 25~~ **26** years, a child who is a student under the
3 age of ~~23 25~~ **26** years and who is financially dependent upon the parent,
4 or a child of any age who is disabled and dependent upon the parent.
- 5 (h) “Excess loss” means the total dollar amount by which claims ex-
6 pense incurred for any issuer of a medicare supplement policy or certifi-
7 cate delivered or issued for delivery to persons in this state eligible for
8 medicare by reason of disability and who are under age 65 exceeds 65%
9 of the premium earned by such issuer during a calendar year.
- 10 (i) “Federally defined eligible individual” means an individual:
- 11 (1) For whom, as of the date the individual seeks coverage under this
12 section, the aggregate of the periods of creditable coverage is 18 or more
13 months and whose most recent prior coverage was under a group health
14 plan, government plan or church plan;
- 15 (2) who is not eligible for coverage under a group health plan, Part
16 A or B of Title XVII of the Social Security Act, or a state plan under Title
17 XIX of the Social Security Act, or any successor program, and who does
18 not have any other health insurance coverage;
- 19 (3) with respect to whom the most recent coverage was not termi-
20 nated for factors relating to nonpayment of premiums or fraud; and
- 21 (4) who had been offered the option of continuation coverage under
22 COBRA or under a similar program, who elected such continuation cov-
23 erage, and who has exhausted such continuation coverage.
- 24 (j) “Federally defined eligible individuals for FTAA” means an indi-
25 vidual who is:
- 26 (1) Legally domiciled in this state; and
- 27 (2) eligible for the credit for health insurance costs under section 35
28 of the internal revenue code of 1986.
- 29 (k) “FTAA” means federal trade adjustment assistance under the fed-
30 eral trade adjustment assistance reform act of 2002, public law 107-210.
- 31 (l) “Governmental plan” means a plan as defined under section 3(32)
32 of the Employee Retirement Income Security Act of 1974 and any plan
33 maintained for its employees by the government of the United States or
34 by any agency or instrumentality of such government.
- 35 (m) “Group health plan” means an employee benefit plan as defined
36 by section 3(1) of the Employee Retirement Income Security Act of 1974
37 to the extent that the plan provides any hospital, surgical or medical ex-
38 pense benefits to employees or their dependents (as defined under the
39 terms of the plan) directly or through insurance, reimbursement or
40 otherwise.
- 41 (n) “Health insurance” means any hospital or medical expense policy,
42 health, hospital or medical service corporation contract, and a plan pro-
43 vided by a municipal group-funded pool, or a health maintenance organ-

1 ization contract offered by an employer or any certificate issued under
2 any such policies, contracts or plans. “Health insurance” does not include
3 policies or certificates covering only accident, credit, dental, disability
4 income, long-term care, hospital indemnity, medicare supplement, spec-
5 ified disease, vision care, coverage issued as a supplement to liability in-
6 surance, insurance arising out of a workers compensation or similar law,
7 automobile medical-payment insurance, or insurance under which ben-
8 efits are payable with or without regard to fault and which is statutorily
9 required to be contained in any liability insurance policy or equivalent
10 self-insurance.

11 (o) “Health maintenance organization” means any organization
12 granted a certificate of authority under the provisions of the health main-
13 tenance organization act.

14 (p) “Insurance arrangement” means any plan, program, contract or
15 any other arrangement under which one or more employers, unions or
16 other organizations provide to their employees or members, either di-
17 rectly or indirectly through a group-funded pool, trust or third-party ad-
18 ministrator, health care services or benefits other than through an insurer.

19 (q) “Insurer” means any insurance company, fraternal benefit society,
20 health maintenance organization and nonprofit hospital and medical serv-
21 ice corporation authorized to transact health insurance business in this
22 state.

23 (r) “Medicaid” means the medical assistance program operated by
24 the state under title XIX of the federal social security act.

25 (s) “Medicare” means coverage under both parts A and B of title
26 XVIII of the federal social security act, 42 USC 1395.

27 (t) “Medicare supplement policy” means a group or individual policy
28 of accident and sickness insurance or a subscriber contract of hospitals
29 and medical service associations or health maintenance organizations,
30 other than a policy issued pursuant to a contract under section 1876 of
31 the federal social security act (42 USC 1395 et seq.) or an issued policy
32 under a demonstration project specified in 42 USC 1395ss(g)(1), which
33 is advertised, marketed or designed primarily as a supplement to reim-
34 bursements under medicare for the hospital, medical or surgical expenses
35 of persons eligible for medicare.

36 (u) “Member” means all insurers and insurance arrangements par-
37 ticipating in the association.

38 (v) “Plan” means the Kansas uninsurable health insurance plan cre-
39 ated pursuant to this act.

40 (w) “Plan of operation” means the plan to create and operate the
41 Kansas uninsurable health insurance plan, including articles, bylaws and
42 operating rules, adopted by the board pursuant to K.S.A. 40-2119, and
43 amendments thereto.

1 Sec. 2. K.S.A. 40-2218 is hereby amended to read as follows: 40-
 2 2218. (a) The commissioner of insurance shall issue rules and regulations
 3 to establish standards for benefits under each of the following categories
 4 of coverage in individual policies, other than conversion policies issued
 5 pursuant to a contractual conversion privilege under a group policy, of
 6 accident and sickness insurance or subscriber contracts:

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

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

15 (1) *Not terminate coverage of ~~an unmarried~~ a dependent by reason*
 16 *of the dependent's age before the dependent's 26th birthday and shall,*
 17 *upon application, provide coverage for all ~~unmarried~~ dependents up to*
 18 *age ~~25~~ 26.*

19 (2) *For the purposes of this section dependent shall have the meaning*
 20 *ascribed to it in ~~section 4~~ K.S.A. 40-2118, and amendments thereto.*

21 ~~(b)~~(c) Nothing in this section shall preclude the issuance of any policy
 22 or contract which combines two ~~(2)~~ or more of the categories of coverage
 23 enumerated in paragraphs (1) through (6) of subsection (a).

24 ~~(c)~~(d) No policy or contract shall be delivered or issued for delivery
 25 in this state which does not meet the prescribed standards for the cate-
 26 gories of coverage listed in paragraphs (1) through (7) of subsection (a)
 27 which are contained within the policy or contract unless the commissioner
 28 finds such policy or contract, including those affording supplemental cov-
 29 erage, will fulfill a reasonable public need and such policy or contract
 30 meets the requirements set forth in K.S.A. 40-2215 or unless the outline
 31 of coverage required by K.S.A. 40-2219 clearly sets forth wherein such
 32 policy does not provide the standards for benefits promulgated by the
 33 commissioner.

34 ~~(d)~~(e) The commissioner shall prescribe the method of identification
 35 of policies and contracts based upon coverages provided.

36 ***New Sec. 3. Notwithstanding any other provision of law to the***
 37 ***contrary, whenever the term "dependent" appears in any group pol-***
 38 ***icy or contract of any health and accident insurance of any kind***
 39 ***delivered, issued, offered for sale, sold or renewed in this state, the***
 40 ***term dependent shall have the meaning ascribed to it in K.S.A. 40-***
 41 ***2118, and amendments thereto.***

42 Sec. ~~3~~ 4. K.S.A. 40-2218 and K.S.A. 2006 Supp. 40-2118 are hereby
 43 repealed.

1 Sec. ~~4~~ **5**. This act shall take effect and be in force from and after its
2 publication in the statute book.