

1 AN ACT relating to coverage for injectable epinephrine devices.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304
4 IS CREATED TO READ AS FOLLOWS:

5 **(1) As used in this section, "injectable epinephrine device" has the same meaning as**
6 **in KRS 311.645.**

7 **(2) A health benefit plan issued or renewed on or after the effective date of this Act**
8 **shall provide coverage for injectable epinephrine devices for persons eighteen**
9 **(18) years of age and under.**

10 **(3) Coverage required by this section shall not be subject to copayments,**
11 **coinsurance, deductibles, or any other cost-sharing requirements.**

12 ➔Section 2. KRS 205.522 is amended to read as follows:

13 (1) The Department for Medicaid Services and any managed care organization
14 contracted to provide Medicaid benefits pursuant to this chapter shall comply with
15 the provisions of **Section 1 of this Act and** KRS 304.17A-167, 304.17A-235,
16 304.17A-257, 304.17A-259, 304.17A-515, 304.17A-580, 304.17A-600, 304.17A-
17 603, 304.17A-607, and 304.17A-740 to 304.17A-743, as applicable.

18 (2) A managed care organization contracted to provide Medicaid benefits pursuant to
19 this chapter shall comply with the reporting requirements of KRS 304.17A-732.

20 ➔Section 3. KRS 205.6485 is amended to read as follows:

21 (1) The Cabinet for Health and Family Services shall prepare a state child health plan
22 meeting the requirements of Title XXI of the Federal Social Security Act, for
23 submission to the Secretary of the United States Department of Health and Human
24 Services within such time as will permit the state to receive the maximum amounts
25 of federal matching funds available under Title XXI. The cabinet shall, by
26 administrative regulation promulgated in accordance with KRS Chapter 13A,
27 establish the following:

- 1 (a) The eligibility criteria for children covered by the Kentucky Children's Health
2 Insurance Program. However, no person eligible for services under Title XIX
3 of the Social Security Act 42 U.S.C. 1396 to 1396v, as amended, shall be
4 eligible for services under the Kentucky Children's Health Insurance Program
5 except to the extent that Title XIX coverage is expanded by KRS 205.6481 to
6 205.6495 and KRS 304.17A-340;
- 7 (b) The schedule of benefits to be covered by the Kentucky Children's Health
8 Insurance Program, which shall include preventive services, vision services
9 including glasses, and dental services including at least sealants, extractions,
10 and fillings, and which shall be at least equivalent to one (1) of the following:
- 11 1. The standard Blue Cross/Blue Shield preferred provider option under the
12 Federal Employees Health Benefit Plan established by U.S.C. sec.
13 8903(1);
 - 14 2. A mid-range health benefit coverage plan that is offered and generally
15 available to state employees; or
 - 16 3. Health insurance coverage offered by a health maintenance organization
17 that has the largest insured commercial, non-Medicaid enrollment of
18 covered lives in the state;
- 19 (c) The premium contribution per family of health insurance coverage available
20 under the Kentucky Children's Health Insurance Program with provisions for
21 the payment of premium contributions by families of children eligible for
22 coverage by the program based upon a sliding scale relating to family income.
23 Premium contributions shall be based on a six (6) month period not to exceed:
- 24 1. Ten dollars (\$10), to be paid by a family with income between one
25 hundred percent (100%) to one hundred thirty-three percent (133%) of
26 the federal poverty level;
 - 27 2. Twenty dollars (\$20), to be paid by a family with income between one

- 1 hundred thirty-four percent (134%) to one hundred forty-nine percent
2 (149%) of the federal poverty level; and
- 3 3. One hundred twenty dollars (\$120), to be paid by a family with income
4 between one hundred fifty percent (150%) to two hundred percent
5 (200%) of the federal poverty level, and which may be made on a partial
6 payment plan of twenty dollars (\$20) per month or sixty dollars (\$60)
7 per quarter;
- 8 (d) There shall be no copayments for services provided under the Kentucky
9 Children's Health Insurance Program; and
- 10 (e) The criteria for health services providers and insurers wishing to contract with
11 the Commonwealth to provide the children's health insurance coverage.
12 However, the cabinet shall provide, in any contracting process for the
13 preventive health insurance program, the opportunity for a public health
14 department to bid on preventive health services to eligible children within the
15 public health department's service area. A public health department shall not
16 be disqualified from bidding because the department does not currently offer
17 all the services required by paragraph (b) of this subsection. The criteria shall
18 be set forth in administrative regulations under KRS Chapter 13A and shall
19 maximize competition among the providers and insurers. The Cabinet for
20 Finance and Administration shall provide oversight over contracting policies
21 and procedures to assure that the number of applicants for contracts is
22 maximized.
- 23 (2) Within twelve (12) months of federal approval of the state's Title XXI child health
24 plan, the Cabinet for Health and Family Services shall assure that a KCHIP program
25 is available to all eligible children in all regions of the state. If necessary, in order to
26 meet this assurance, the cabinet shall institute its own program.
- 27 (3) KCHIP recipients shall have direct access without a referral from any gatekeeper

1 primary care provider to dentists for covered primary dental services and to
2 optometrists and ophthalmologists for covered primary eye and vision services.

3 **(4) The Kentucky Children's Health Insurance Program shall comply with Section 1**
4 **of this Act.**

5 ➔Section 4. KRS 18A.225 (Effective January 1, 2022) is amended to read as
6 follows:

7 (1) (a) The term "employee" for purposes of this section means:

- 8 1. Any person, including an elected public official, who is regularly
9 employed by any department, office, board, agency, or branch of state
10 government; or by a public postsecondary educational institution; or by
11 any city, urban-county, charter county, county, or consolidated local
12 government, whose legislative body has opted to participate in the state-
13 sponsored health insurance program pursuant to KRS 79.080; and who
14 is either a contributing member to any one (1) of the retirement systems
15 administered by the state, including but not limited to the Kentucky
16 Retirement Systems, County Employees Retirement System, Kentucky
17 Teachers' Retirement System, the Legislators' Retirement Plan, or the
18 Judicial Retirement Plan; or is receiving a contractual contribution from
19 the state toward a retirement plan; or, in the case of a public
20 postsecondary education institution, is an individual participating in an
21 optional retirement plan authorized by KRS 161.567; or is eligible to
22 participate in a retirement plan established by an employer who ceases
23 participating in the Kentucky Employees Retirement System pursuant to
24 KRS 61.522 whose employees participated in the health insurance plans
25 administered by the Personnel Cabinet prior to the employer's effective
26 cessation date in the Kentucky Employees Retirement System;
- 27 2. Any certified or classified employee of a local board of education;

- 1 3. Any elected member of a local board of education;
- 2 4. Any person who is a present or future recipient of a retirement
3 allowance from the Kentucky Retirement Systems, County Employees
4 Retirement System, Kentucky Teachers' Retirement System, the
5 Legislators' Retirement Plan, the Judicial Retirement Plan, or the
6 Kentucky Community and Technical College System's optional
7 retirement plan authorized by KRS 161.567, except that a person who is
8 receiving a retirement allowance and who is age sixty-five (65) or older
9 shall not be included, with the exception of persons covered under KRS
10 61.702(4)(c), unless he or she is actively employed pursuant to
11 subparagraph 1. of this paragraph; and
- 12 5. Any eligible dependents and beneficiaries of participating employees
13 and retirees who are entitled to participate in the state-sponsored health
14 insurance program;
- 15 (b) The term "health benefit plan" for the purposes of this section means a health
16 benefit plan as defined in KRS 304.17A-005;
- 17 (c) The term "insurer" for the purposes of this section means an insurer as defined
18 in KRS 304.17A-005; and
- 19 (d) The term "managed care plan" for the purposes of this section means a
20 managed care plan as defined in KRS 304.17A-500.
- 21 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
22 recommendation of the secretary of the Personnel Cabinet, shall procure, in
23 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,
24 from one (1) or more insurers authorized to do business in this state, a group
25 health benefit plan that may include but not be limited to health maintenance
26 organization (HMO), preferred provider organization (PPO), point of service
27 (POS), and exclusive provider organization (EPO) benefit plans encompassing

1 all or any class or classes of employees. With the exception of employers
2 governed by the provisions of KRS Chapters 16, 18A, and 151B, all
3 employers of any class of employees or former employees shall enter into a
4 contract with the Personnel Cabinet prior to including that group in the state
5 health insurance group. The contracts shall include but not be limited to
6 designating the entity responsible for filing any federal forms, adoption of
7 policies required for proper plan administration, acceptance of the contractual
8 provisions with health insurance carriers or third-party administrators, and
9 adoption of the payment and reimbursement methods necessary for efficient
10 administration of the health insurance program. Health insurance coverage
11 provided to state employees under this section shall, at a minimum, contain
12 the same benefits as provided under Kentucky Kare Standard as of January 1,
13 1994, and shall include a mail-order drug option as provided in subsection
14 (13) of this section. All employees and other persons for whom the health care
15 coverage is provided or made available shall annually be given an option to
16 elect health care coverage through a self-funded plan offered by the
17 Commonwealth or, if a self-funded plan is not available, from a list of
18 coverage options determined by the competitive bid process under the
19 provisions of KRS 45A.080, 45A.085, and 45A.090 and made available
20 during annual open enrollment.

21 (b) The policy or policies shall be approved by the commissioner of insurance and
22 may contain the provisions the commissioner of insurance approves, whether
23 or not otherwise permitted by the insurance laws.

24 (c) Any carrier bidding to offer health care coverage to employees shall agree to
25 provide coverage to all members of the state group, including active
26 employees and retirees and their eligible covered dependents and
27 beneficiaries, within the county or counties specified in its bid. Except as

1 provided in subsection (20) of this section, any carrier bidding to offer health
2 care coverage to employees shall also agree to rate all employees as a single
3 entity, except for those retirees whose former employers insure their active
4 employees outside the state-sponsored health insurance program.

5 (d) Any carrier bidding to offer health care coverage to employees shall agree to
6 provide enrollment, claims, and utilization data to the Commonwealth in a
7 format specified by the Personnel Cabinet with the understanding that the data
8 shall be owned by the Commonwealth; to provide data in an electronic form
9 and within a time frame specified by the Personnel Cabinet; and to be subject
10 to penalties for noncompliance with data reporting requirements as specified
11 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions
12 to protect the confidentiality of each individual employee; however,
13 confidentiality assertions shall not relieve a carrier from the requirement of
14 providing stipulated data to the Commonwealth.

15 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities
16 for timely analysis of data received from carriers and, to the extent possible,
17 provide in the request-for-proposal specifics relating to data requirements,
18 electronic reporting, and penalties for noncompliance. The Commonwealth
19 shall own the enrollment, claims, and utilization data provided by each carrier
20 and shall develop methods to protect the confidentiality of the individual. The
21 Personnel Cabinet shall include in the October annual report submitted
22 pursuant to the provisions of KRS 18A.226 to the Governor, the General
23 Assembly, and the Chief Justice of the Supreme Court, an analysis of the
24 financial stability of the program, which shall include but not be limited to
25 loss ratios, methods of risk adjustment, measurements of carrier quality of
26 service, prescription coverage and cost management, and statutorily required
27 mandates. If state self-insurance was available as a carrier option, the report

1 also shall provide a detailed financial analysis of the self-insurance fund
2 including but not limited to loss ratios, reserves, and reinsurance agreements.

3 (f) If any agency participating in the state-sponsored employee health insurance
4 program for its active employees terminates participation and there is a state
5 appropriation for the employer's contribution for active employees' health
6 insurance coverage, then neither the agency nor the employees shall receive
7 the state-funded contribution after termination from the state-sponsored
8 employee health insurance program.

9 (g) Any funds in flexible spending accounts that remain after all reimbursements
10 have been processed shall be transferred to the credit of the state-sponsored
11 health insurance plan's appropriation account.

12 (h) Each entity participating in the state-sponsored health insurance program shall
13 provide an amount at least equal to the state contribution rate for the employer
14 portion of the health insurance premium. For any participating entity that used
15 the state payroll system, the employer contribution amount shall be equal to
16 but not greater than the state contribution rate.

17 (3) The premiums may be paid by the policyholder:

18 (a) Wholly from funds contributed by the employee, by payroll deduction or
19 otherwise;

20 (b) Wholly from funds contributed by any department, board, agency, public
21 postsecondary education institution, or branch of state, city, urban-county,
22 charter county, county, or consolidated local government; or

23 (c) Partly from each, except that any premium due for health care coverage or
24 dental coverage, if any, in excess of the premium amount contributed by any
25 department, board, agency, postsecondary education institution, or branch of
26 state, city, urban-county, charter county, county, or consolidated local
27 government for any other health care coverage shall be paid by the employee.

- 1 (4) If an employee moves his or her place of residence or employment out of the service
2 area of an insurer offering a managed health care plan, under which he or she has
3 elected coverage, into either the service area of another managed health care plan or
4 into an area of the Commonwealth not within a managed health care plan service
5 area, the employee shall be given an option, at the time of the move or transfer, to
6 change his or her coverage to another health benefit plan.
- 7 (5) No payment of premium by any department, board, agency, public postsecondary
8 educational institution, or branch of state, city, urban-county, charter county,
9 county, or consolidated local government shall constitute compensation to an
10 insured employee for the purposes of any statute fixing or limiting the
11 compensation of such an employee. Any premium or other expense incurred by any
12 department, board, agency, public postsecondary educational institution, or branch
13 of state, city, urban-county, charter county, county, or consolidated local
14 government shall be considered a proper cost of administration.
- 15 (6) The policy or policies may contain the provisions with respect to the class or classes
16 of employees covered, amounts of insurance or coverage for designated classes or
17 groups of employees, policy options, terms of eligibility, and continuation of
18 insurance or coverage after retirement.
- 19 (7) Group rates under this section shall be made available to the disabled child of an
20 employee regardless of the child's age if the entire premium for the disabled child's
21 coverage is paid by the state employee. A child shall be considered disabled if he or
22 she has been determined to be eligible for federal Social Security disability benefits.
- 23 (8) The health care contract or contracts for employees shall be entered into for a period
24 of not less than one (1) year.
- 25 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of
26 State Health Insurance Subscribers to advise the secretary or the secretary's designee
27 regarding the state-sponsored health insurance program for employees. The

1 secretary shall appoint, from a list of names submitted by appointing authorities,
2 members representing school districts from each of the seven (7) Supreme Court
3 districts, members representing state government from each of the seven (7)
4 Supreme Court districts, two (2) members representing retirees under age sixty-five
5 (65), one (1) member representing local health departments, two (2) members
6 representing the Kentucky Teachers' Retirement System, and three (3) members at
7 large. The secretary shall also appoint two (2) members from a list of five (5) names
8 submitted by the Kentucky Education Association, two (2) members from a list of
9 five (5) names submitted by the largest state employee organization of nonschool
10 state employees, two (2) members from a list of five (5) names submitted by the
11 Kentucky Association of Counties, two (2) members from a list of five (5) names
12 submitted by the Kentucky League of Cities, and two (2) members from a list of
13 names consisting of five (5) names submitted by each state employee organization
14 that has two thousand (2,000) or more members on state payroll deduction. The
15 advisory committee shall be appointed in January of each year and shall meet
16 quarterly.

17 (10) Notwithstanding any other provision of law to the contrary, the policy or policies
18 provided to employees pursuant to this section shall not provide coverage for
19 obtaining or performing an abortion, nor shall any state funds be used for the
20 purpose of obtaining or performing an abortion on behalf of employees or their
21 dependents.

22 (11) Interruption of an established treatment regime with maintenance drugs shall be
23 grounds for an insured to appeal a formulary change through the established appeal
24 procedures approved by the Department of Insurance, if the physician supervising
25 the treatment certifies that the change is not in the best interests of the patient.

26 (12) Any employee who is eligible for and elects to participate in the state health
27 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any

1 one (1) of the state-sponsored retirement systems shall not be eligible to receive the
2 state health insurance contribution toward health care coverage as a result of any
3 other employment for which there is a public employer contribution. This does not
4 preclude a retiree and an active employee spouse from using both contributions to
5 the extent needed for purchase of one (1) state sponsored health insurance policy for
6 that plan year.

7 (13) (a) The policies of health insurance coverage procured under subsection (2) of
8 this section shall include a mail-order drug option for maintenance drugs for
9 state employees. Maintenance drugs may be dispensed by mail order in
10 accordance with Kentucky law.

11 (b) A health insurer shall not discriminate against any retail pharmacy located
12 within the geographic coverage area of the health benefit plan and that meets
13 the terms and conditions for participation established by the insurer, including
14 price, dispensing fee, and copay requirements of a mail-order option. The
15 retail pharmacy shall not be required to dispense by mail.

16 (c) The mail-order option shall not permit the dispensing of a controlled
17 substance classified in Schedule II.

18 (14) The policy or policies provided to state employees or their dependents pursuant to
19 this section shall provide coverage for obtaining a hearing aid and acquiring hearing
20 aid-related services for insured individuals under eighteen (18) years of age, subject
21 to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months
22 pursuant to KRS 304.17A-132.

23 (15) Any policy provided to state employees or their dependents pursuant to this section
24 shall provide coverage for the diagnosis and treatment of autism spectrum disorders
25 consistent with KRS 304.17A-142.

26 (16) Any policy provided to state employees or their dependents pursuant to this section
27 shall provide coverage for obtaining amino acid-based elemental formula pursuant

1 to KRS 304.17A-258.

2 (17) If a state employee's residence and place of employment are in the same county, and
3 if the hospital located within that county does not offer surgical services, intensive
4 care services, obstetrical services, level II neonatal services, diagnostic cardiac
5 catheterization services, and magnetic resonance imaging services, the employee
6 may select a plan available in a contiguous county that does provide those services,
7 and the state contribution for the plan shall be the amount available in the county
8 where the plan selected is located.

9 (18) If a state employee's residence and place of employment are each located in counties
10 in which the hospitals do not offer surgical services, intensive care services,
11 obstetrical services, level II neonatal services, diagnostic cardiac catheterization
12 services, and magnetic resonance imaging services, the employee may select a plan
13 available in a county contiguous to the county of residence that does provide those
14 services, and the state contribution for the plan shall be the amount available in the
15 county where the plan selected is located.

16 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and
17 in the best interests of the state group to allow any carrier bidding to offer health
18 care coverage under this section to submit bids that may vary county by county or
19 by larger geographic areas.

20 (20) Notwithstanding any other provision of this section, the bid for proposals for health
21 insurance coverage for calendar year 2004 shall include a bid scenario that reflects
22 the statewide rating structure provided in calendar year 2003 and a bid scenario that
23 allows for a regional rating structure that allows carriers to submit bids that may
24 vary by region for a given product offering as described in this subsection:

25 (a) The regional rating bid scenario shall not include a request for bid on a
26 statewide option;

27 (b) The Personnel Cabinet shall divide the state into geographical regions which

- 1 shall be the same as the partnership regions designated by the Department for
2 Medicaid Services for purposes of the Kentucky Health Care Partnership
3 Program established pursuant to 907 KAR 1:705;
- 4 (c) The request for proposal shall require a carrier's bid to include every county
5 within the region or regions for which the bid is submitted and include but not
6 be restricted to a preferred provider organization (PPO) option;
- 7 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the
8 carrier all of the counties included in its bid within the region. If the Personnel
9 Cabinet deems the bids submitted in accordance with this subsection to be in
10 the best interests of state employees in a region, the cabinet may award the
11 contract for that region to no more than two (2) carriers; and
- 12 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including
13 other requirements or criteria in the request for proposal.
- 14 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or
15 after July 12, 2006, to public employees pursuant to this section which provides
16 coverage for services rendered by a physician or osteopath duly licensed under KRS
17 Chapter 311 that are within the scope of practice of an optometrist duly licensed
18 under the provisions of KRS Chapter 320 shall provide the same payment of
19 coverage to optometrists as allowed for those services rendered by physicians or
20 osteopaths.
- 21 (22) Any fully insured health benefit plan or self-insured plan issued or renewed ~~on or~~
22 ~~after June 29, 2021,~~ to public employees pursuant to this section shall comply with:
- 23 (a) KRS 304.12-237;
- 24 (b) KRS 304.17A-270 and 304.17A-525;
- 25 (c) KRS 304.17A-600 to 304.17A-633;
- 26 (d) KRS 205.593;
- 27 (e) KRS 304.17A-700 to 304.17A-730;

1 (f) KRS 304.14-135;

2 (g) KRS 304.17A-580 and 304.17A-641;

3 (h) KRS 304.99-123;

4 (i) KRS 304.17A-138; ~~and~~

5 (j) **KRS 304.17A-148;**

6 **(k) Section 1 of this Act; and**

7 **(l)** Administrative regulations promulgated pursuant to statutes listed in this
8 subsection.

9 ~~[(23) Any fully insured health benefit plan or self-insured plan issued or renewed on or
10 after January 1, 2022, to public employees pursuant to this section shall comply
11 with KRS 304.17A-148.]~~

12 ➔Section 5. KRS 164.2871 is amended to read as follows:

13 (1) The governing board of each state postsecondary educational institution is
14 authorized to purchase liability insurance for the protection of the individual
15 members of the governing board, faculty, and staff of such institutions from liability
16 for acts and omissions committed in the course and scope of the individual's
17 employment or service. Each institution may purchase the type and amount of
18 liability coverage deemed to best serve the interest of such institution.

19 (2) All retirement annuity allowances accrued or accruing to any employee of a state
20 postsecondary educational institution through a retirement program sponsored by
21 the state postsecondary educational institution are hereby exempt from any state,
22 county, or municipal tax, and shall not be subject to execution, attachment,
23 garnishment, or any other process whatsoever, nor shall any assignment thereof be
24 enforceable in any court. Except retirement benefits accrued or accruing to any
25 employee of a state postsecondary educational institution through a retirement
26 program sponsored by the state postsecondary educational institution on or after
27 January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent

1 provided in KRS 141.010 and 141.0215.

2 (3) Except as provided in KRS Chapter 44, the purchase of liability insurance for
3 members of governing boards, faculty and staff of institutions of higher education in
4 this state shall not be construed to be a waiver of sovereign immunity or any other
5 immunity or privilege.

6 (4) The governing board of each state postsecondary education institution is authorized
7 to provide a self-insured employer group health plan to its employees, which plan
8 shall:

9 (a) Conform to the requirements of Subtitle 32 of KRS Chapter 304; and ~~shall~~

10 (b) *Except as provided in subsection (5) of this section,* be exempt from
11 conformity with Subtitle 17A of KRS Chapter 304.

12 (5) *A self-insured employer group health plan provided by the governing board of a*
13 *state postsecondary education institution to its employees shall comply with*
14 *Section 1 of this Act.*

15 ➔Section 6. This Act takes effect on January 1, 2023.