

**HOUSE BILL No. 2668**

By Committee on Appropriations

2-12

1 ~~AN ACT concerning insurance for qualified professional associations;~~  
2 ~~amending K.S.A. 40-2222a and 40-2222b and K.S.A. 2013 Supp. 40-~~  
3 ~~2222 and repealing the existing sections~~ *health care predetermination*  
4 *requests relating to health insurance benefits coverage.*  
5

6 *WHEREAS, The legislature hereby finds and declares that:*

7 *(1) Health plans have the ability today to provide a real-time*  
8 *explanation of benefits (EOB), enabling patients and their physicians to*  
9 *learn how a claim for services will be adjudicated at the point of care,*  
10 *including information on if the service is covered, the amount to be paid*  
11 *to the physician and the patient's financial responsibility for*  
12 *copayments, coinsurance and any remaining deductible obligation;*

13 *(2) real-time EOBs have the potential to significantly reduce health*  
14 *care costs by making the true cost of health care services transparent to*  
15 *patients and their physicians at the time treatment decisions are being*  
16 *made and by reducing the costs of collections which accrue when paper*  
17 *EOBs are not received until weeks or months after the services are*  
18 *provided; and*

19 *(3) real-time EOBs also have the potential to eliminate the financial*  
20 *uncertainty that currently plagues the health care system and would*  
21 *remove another layer of complexity and anxiety for patients at a time*  
22 *when they should be focused on their health. This is particularly*  
23 *important for patients for whom this financial exposure may be large,*  
24 *such as for the increasing number of patients with high-deductible*  
25 *health plans, or for those patients who purchase coverage on a health*  
26 *insurance exchange, for whom relatively modest changes to patient*  
27 *income can affect eligibility and enrollment status as they transition*  
28 *between medicaid, subsidized and unsubsidized qualified health plans;*  
29 *and*

30 *WHEREAS, The people of the state of Kansas would all benefit if*  
31 *health plans were required to provide real-time EOBs on request when a*  
32 *physician submits an electronic claim predetermination request:*

33 *Now, therefore,*  
34

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

2 Section 1. ~~K.S.A. 2013 Supp. 40-2222 is hereby amended to read as~~  
3 ~~follows: 40-2222. (a) Any person or other entity which provides coverage~~  
4 ~~in this state for medical, surgical, chiropractic, physical therapy, speech~~  
5 ~~pathology, audiology, professional mental health, dental, hospital, or~~  
6 ~~optometric expenses, whether such coverage is by direct payment,~~  
7 ~~reimbursement, or otherwise, shall be presumed to be subject to the~~  
8 ~~jurisdiction of the commissioner of insurance unless the person or other~~  
9 ~~entity: (a)~~

10 ~~(1) Is a professional association of architects incorporated in Kansas~~  
11 ~~on October 4, 1954, which provides coverage for the payment of expenses~~  
12 ~~described herein to or for the members of the association or dependents~~  
13 ~~through a trust established November 1, 1986, and complies with K.S.A.~~  
14 ~~40-2222a, and amendments thereto;~~

15 ~~(b)(2) is a professional association of dentists incorporated in Kansas~~  
16 ~~on July 3, 1972, which provides coverage for the payment of expenses~~  
17 ~~described herein to or for the members of the association or dependents~~  
18 ~~through a trust established November 1, 1985, and complies with K.S.A.~~  
19 ~~40-2222a, and amendments thereto;~~

20 ~~(e) (1)(3) (A) is a trade association of banks incorporated in Kansas~~  
21 ~~on August 9, 1978, which provides coverage for the payment of expenses~~  
22 ~~described herein to or for the members of the association or dependents~~  
23 ~~through a trust established July 1, 1989, and complies with K.S.A. 40-~~  
24 ~~2222a, and amendments thereto; or~~

25 ~~(2)(B) is a trade organization of banks incorporated in Kansas on~~  
26 ~~June 1, 1982, which provides coverage for expenses described herein to or~~  
27 ~~for members of the association or dependents, and complies with K.S.A.~~  
28 ~~40-2222a, and amendments thereto;~~

29 ~~(d)(4) is a trade association of truckers incorporated in Kansas on~~  
30 ~~July 1, 1985, which provides coverage for the payment of expenses~~  
31 ~~described herein to or for the members of the association or dependents~~  
32 ~~through a trust established January 1, 1990, and complies with K.S.A. 40-~~  
33 ~~2222a, and amendments thereto;~~

34 ~~(e)(5) is an association of physicians practicing in the Kansas City~~  
35 ~~metropolitan area, incorporated in Missouri on March 5, 1891, and~~  
36 ~~qualified as a foreign corporation in Kansas on May 19, 1987, which~~  
37 ~~provides coverage for the payment of expenses described herein to or for~~  
38 ~~the members of the association, their employees and dependents through a~~  
39 ~~trust established November 1, 1984, and complies with K.S.A. 40-2222a,~~  
40 ~~and amendments thereto;~~

41 ~~(6) is organized as a farmers' cooperative under the Kansas~~  
42 ~~cooperative marketing act, K.S.A. 17-1601 et seq., and amendments~~  
43 ~~thereto, on January 13, 1983, and is an association of farmers'~~

1 ~~cooperatives and other like associations operated on a cooperative~~  
2 ~~basis and their affiliated companies, which provides benefits for~~  
3 ~~employees, and family members of such employees, of such~~  
4 ~~associations, and complies with K.S.A. 40-2222a, and amendments~~  
5 ~~thereto;~~

6 ~~(f)(7) is any other qualified trade, merchant, retail or professional~~  
7 ~~association, trade association or business league incorporated in Kansas~~  
8 ~~which complies with K.S.A. 40-2222a, and amendments thereto;—~~

9 ~~(g)(8) conclusively shows by submission of an appropriate certificate,~~  
10 ~~license, letter or other document issued by the United States department of~~  
11 ~~labor that such person or entity is not subject to Kansas law; or~~

12 ~~(g)(h)(9) conclusively shows that it is subject to the jurisdiction of an~~  
13 ~~agency of this state or the federal government. For purposes of this act, tax~~  
14 ~~exempt status under section 501(c) of the federal internal revenue code of~~  
15 ~~1986 shall not be deemed to be jurisdiction of the federal government.~~

16 ~~(b) For the purposes of this section, a qualified trade, merchant,~~  
17 ~~retail or professional association or business league shall mean any~~  
18 ~~bona fide trade, merchant, retail or professional association or~~  
19 ~~business league that:~~

20 ~~(1) Has been in existence for at least five calendar years; and~~

21 ~~(2) is comprised of five or more employers.~~

22 ~~Sec. 2. K.S.A. 40-2222a is hereby amended to read as follows: 40-~~  
23 ~~2222a. At the time the initial application for coverage is taken with respect~~  
24 ~~to new applicants and upon the first renewal, reinstatement or extension of~~  
25 ~~coverage following the effective date of this act with respect to persons~~  
26 ~~previously covered, each association described in subsections (a), (b), (c),~~  
27 ~~(d) and, (e) and (f) subsection (a) of K.S.A. 40-2222, and amendments~~  
28 ~~thereto, shall provide a written notice stating that:~~

29 ~~(a) The coverage is not provided by an insurance company;~~

30 ~~(b) the plan is not subject to the laws and regulations relating to~~  
31 ~~insurance companies;~~

32 ~~(c) the plan is not under the jurisdiction of the commissioner of~~  
33 ~~insurance; and~~

34 ~~(d) if the plan does not pay medical expenses that are eligible for~~  
35 ~~payment under the plan for any reason, the individuals covered by the plan~~  
36 ~~may be liable for such expenses;~~

37 ~~Sec. 3. K.S.A. 40-2222b is hereby amended to read as follows: 40-~~  
38 ~~2222b. (a) As a condition precedent to continuation of the exemption~~  
39 ~~provided by K.S.A. 40-2222, and amendments thereto, each association~~  
40 ~~described in subsections (a), (b), (c), (d) and, (e) thereof and (f) of K.S.A.~~  
41 ~~subsection (a) of K.S.A. 40-2222, and amendments thereto, shall, no later~~  
42 ~~than May 1 of each year, pay a tax at the rate of 1% per annum upon the~~  
43 ~~annual Kansas gross premium collected during the preceding calendar~~

~~1 year. In the computation of the tax, such associations shall be entitled to deduct any annual Kansas gross premiums returned on account of cancellation or dividends returned to members or expenditures used for the purchase of reinsurance or stop-loss coverage.~~

~~(b) Every association subject to taxation under the provisions of this section shall pay the tax imposed and make a return thereof under oath to the commissioner of insurance under such rules and regulations and in such form and manner as the commissioner may prescribe.~~

~~Sec. 4. K.S.A. 40-2222a and 40-2222b and K.S.A. 2013 Supp. 40-2222 are hereby repealed.~~

*Section 1. (a) This section shall be known as and may be cited as the predetermination of health care benefits act.*

*(b)(1) Health plans that receive an electronic health care predetermination request consistent with the requirements set forth in subsection (c) shall provide to the requesting healthcare provider information on the amounts of expected benefits coverage on the procedures specified in the request that is accurate at the time of the health plan's response.*

*(2) Any predetermination request provided under this section in good faith shall be deemed to be an estimate only and shall not be binding upon the health plan with regard to the final amount of benefits actually provided by the health plan.*

*(c) The amounts for the referenced services in subsection (b) shall include:*

*(1) The amount the patient will be expected to pay, clearly identifying any deductible amount, coinsurance and copayment;*

*(2) the amount the healthcare provider will be paid;*

*(3) the amount the institution will be paid; and*

*(4) whether any payments will be reduced, but not to \$0, or increased from the agreed fee schedule amounts, and if so, the health care policy that identifies why the payments will be reduced or increased.*

*(d) This electronic request and response transaction shall be known as the health care predetermination request and response. The health care predetermination request and response shall be conducted in accordance with the transactions and code sets standards promulgated pursuant to the health insurance portability and accountability act of 1996 (HIPAA) public law 104-191, and 45 code of federal regulations, parts 160 and 162 or later versions, specifically, the ASC X12 837 health care predetermination: Professional transaction or the ASC X12 837 healthcare predetermination; institutional and any of their respective successors, without regard to whether this transaction is mandated by HIPAA. It shall also comply with any operating rules that may be adopted with respect to this transaction or any of its successors, without*

1 *regard to whether these operating rules are mandated by HIPAA.*

2 *(e) The health plan's response to the health care predetermination*  
3 *request shall be returned using the same transmission method as that of*  
4 *the submission. This includes a real-time response for a real-time*  
5 *request.*

6 *(f) For purposes of this section:*

7 *(1) "Health plan" shall have the same meaning as that term is*  
8 *defined in K.S.A. 40-4602, and amendments thereto;*

9 *(2) "healthcare provider" shall have the same meaning as the term*  
10 *"provider" as such term is defined in K.S.A. 40-4602, and amendments*  
11 *thereto. Healthcare provider shall also include:*

12 *(A) An advanced practice registered nurse as defined in K.S.A. 65-*  
13 *1113, and amendments thereto; and*

14 *(B) a physician assistant as defined in K.S.A. 65-28a02, and*  
15 *amendments thereto; and*

16 *(3) "payment" means only a deductible or coinsurance payment*  
17 *and does not include a copayment.*

18 *(g) This act precludes the collection of any payment prior to or as a*  
19 *condition of receiving the health benefit services that are the subject of a*  
20 *predetermination request, unless this practice is not prohibited by the*  
21 *provider agreement with the health plan.*

22 *(h) The commissioner of insurance shall adopt rules and*  
23 *regulations necessary to carry out the provisions of this section.*

24 ~~Sec. 5.~~ *2. This act shall take effect and be in force from and after July*  
25 *1, 2017, and its publication in the statute book.*