

SENATE BILL No. 14

By Committee on Financial Institutions and Insurance

1-14

1 AN ACT concerning the Kansas uninsurable health insurance plan act;
2 pertaining to lifetime limits; pertaining to participation in plan by
3 certain children; amending K.S.A. 2010 Supp. 40-2122 and 40-2124
4 and repealing the existing sections.

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

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

10 (1) Any person who has been a resident of this state for at least six
11 months;

12 (2) any person who is a legal domiciliary of this state who
13 previously was covered under the high risk pool of another state,
14 provided they apply for coverage under the plan within 63 days of losing
15 such other coverage for reasons other than fraud or nonpayment of
16 premiums;

17 (3) any federally defined eligible individual who is a legal
18 domiciliary of this state; or

19 (4) any federally defined eligible individual for FTAA.

20 (b) Those individuals who are eligible for plan coverage under
21 subsection (a) must provide evidence satisfactory to the administering
22 carrier that such person meets one of the following criteria:

23 (1) Such person has had health insurance coverage involuntarily
24 terminated for any reason other than nonpayment of premium;

25 (2) such person has applied for health insurance and been rejected
26 by two carriers because of health conditions;

27 (3) *Such person is a child under the age of 19 years and has been*
28 *unable to purchase or obtain coverage under an individual health*
29 *insurance policy providing health insurance coverage, because such*
30 *coverage is not available for sale in the county in which the child resides;*

31 ~~(3)~~ (4) such person has applied for health insurance and has been
32 quoted a premium rate which is in excess of the plan rate;

33 ~~(4)~~ (5) such person has been accepted for health insurance subject to
34 a permanent exclusion of a preexisting disease or medical condition;

35 ~~(5)~~ (6) such person is a federally defined eligible individual; or

36 ~~(6)~~ (7) such person is a federally defined eligible individual for

1 FTAA.

2 (c) Each resident dependent of a person who is eligible for plan
3 coverage shall also be eligible for plan coverage.

4 (d) The following persons shall not be eligible for coverage under
5 the plan:

6 (1) Any person who is eligible for medicare or is eligible for
7 medicaid benefits;

8 (2) any person who has had coverage under the plan terminated less
9 than 12 months prior to the date of the current application, except that this
10 provision shall not apply with respect to an applicant who is a federally
11 defined eligible individual;

12 (3) any person who has received accumulated benefits from the plan
13 equal to or in excess of the lifetime maximum benefits under the plan
14 prescribed by K.S.A. 40-2124, and amendments thereto;

15 (4) any person having access to accident and health insurance
16 through an employer-sponsored group or self-insured plan, including
17 coverage under the consolidated omnibus budget reconciliation act
18 (COBRA), except that the requirement for exhaustion of any available
19 COBRA or state continuation is waived whenever such person:

20 (A) Is eligible for the credit for health care costs under section 35 of
21 the internal revenue code of 1986; and

22 (B) has three months of prior creditable coverage as described in
23 subsection (c) of K.S.A. 40-2124, and amendments thereto; or

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

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

28 (f) All plan members, insurers and insurance arrangements shall
29 notify in writing persons denied health insurance coverage, for any
30 reason, of the availability of coverage through the Kansas health
31 insurance association.

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

42 (b) Coverage under the plan shall be subject to a maximum lifetime
43 benefit of ~~\$2,000,000~~ \$3,000,000 per covered individual. *In succeeding*

1 *years of operation of the plan and subject to the approval of the*
2 *commissioner; coverage under the plan shall be subject to a maximum*
3 *lifetime benefit per covered individual as determined by the board. Such*
4 *recommendation regarding the maximum lifetime benefit per covered*
5 *individual shall be submitted to the commissioner and shall become*
6 *effective upon approval in writing by the commissioner.*

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

29 (d) (1) Benefits otherwise payable under plan coverage shall be
30 reduced by all amounts paid or payable through any other health
31 insurance, or insurance arrangement, and by all hospital and medical
32 expense benefits paid or payable under any workers compensation
33 coverage, automobile medical payment or liability insurance whether
34 provided on the basis of fault or nonfault, and by any hospital or medical
35 benefits paid or payable under or provided pursuant to any state or federal
36 law or program.

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

41 Sec. 3. K.S.A. 2010 Supp. 40-2122 and 40-2124 are hereby
42 repealed.

43 Sec. 4. This act shall take effect and be in force from and after its

- 1 publication in the Kansas register.
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