

1 AN ACT relating to prescription insulin.

2 WHEREAS, approximately 450,000 people in Kentucky, or 1 out of every 8  
3 Kentuckians, have been diagnosed with diabetes; and

4 WHEREAS, an additional 26,000 people in Kentucky are diagnosed with diabetes  
5 each year; and

6 WHEREAS, every Kentuckian with type 1 diabetes and many with type 2 diabetes  
7 rely on daily doses of insulin to survive; and

8 WHEREAS, the cost of treating diabetes increased by 26% from 2012 to 2017, and  
9 the annual medical cost related to diabetes in Kentucky now exceeds \$5 billion per year;  
10 and

11 WHEREAS, care for people with diabetes accounts for 1 out of every 4 health care  
12 dollars spent in the United States; and

13 WHEREAS, insulin prices rose by 45% between 2014 and 2017, and over the last  
14 14 years, the price of insulin has increased by 550%, adjusted for inflation; and

15 WHEREAS, according to research published in the British Medical Journal Global  
16 Health, the average cost to produce a vial of insulin is \$6; and

17 WHEREAS, according to the Centers for Disease Control and Prevention, the high  
18 price of insulin can lead some patients to begin rationing their diabetes medication or not  
19 fully comply with dosing as prescribed by their doctors; and

20 WHEREAS, a 10% increase in insulin adherence rates can produce up to a 29%  
21 decrease in overall health care costs related to diabetes; and

22 WHEREAS, it is important to enact policies to reduce the costs for Kentuckians  
23 with diabetes to obtain life-saving and life-sustaining insulin;

24 NOW, THEREFORE,

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

26 ➔Section 1. KRS 304.17A-148 is amended to read as follows:

27 (1) All health benefit plans issued or renewed on or after ***the effective date of this***

1 Act~~[July 15, 1998]~~, shall provide coverage for equipment, supplies, outpatient self-  
2 management training and education, including medical nutrition therapy, and all  
3 medications necessary for the treatment of insulin-dependent diabetes, insulin-using  
4 diabetes, gestational diabetes, and noninsulin-using diabetes if prescribed by a  
5 health care provider legally authorized to prescribe the items.

6 (2) Diabetes outpatient self-management training and education shall be provided by a  
7 certified, registered, or licensed health care professional with expertise in diabetes,  
8 as deemed necessary by a health care provider.

9 (3) (a) Except as provided in paragraphs (b) and (f) of this subsection, the benefits  
10 provided in this section shall be subject to the same annual deductibles or  
11 coinsurance established for all other covered benefits within a given health  
12 benefit plan.

13 (b) Cost sharing for a covered prescription insulin drug shall not exceed one  
14 hundred dollars (\$100) per thirty (30) day supply of each insulin  
15 prescription drug, regardless of the amount or type of insulin needed to  
16 meet the covered person's insulin needs.

17 (c) Private third-party payors may not reduce or eliminate coverage due to the  
18 requirements of this section.

19 (d) Except as provided in Section 2 of this Act, paragraphs (b) and (f) of this  
20 subsection shall not apply to governmental plans as defined in KRS  
21 304.17A-005 that are self-insured.

22 (e) Nothing in this subsection shall prevent an insurer from establishing cost-  
23 sharing requirements for covered prescription insulin drugs below the  
24 amount specified in paragraph (b) of this subsection.

25 (f) If, on the effective date of this Act, a health benefit plan includes a cost-  
26 sharing requirement that is less than one hundred dollars (\$100) for a thirty  
27 (30) day supply of a covered prescription insulin drug, the insurer shall not



- 1 allowance from the Kentucky Retirement Systems, Kentucky Teachers'  
2 Retirement System, the Legislators' Retirement Plan, the Judicial  
3 Retirement Plan, or the Kentucky Community and Technical College  
4 System's optional retirement plan authorized by KRS 161.567, except  
5 that a person who is receiving a retirement allowance and who is age  
6 sixty-five (65) or older shall not be included, with the exception of  
7 persons covered under KRS 61.702(4)(c), unless he or she is actively  
8 employed pursuant to subparagraph 1. of this paragraph; and
- 9 5. Any eligible dependents and beneficiaries of participating employees  
10 and retirees who are entitled to participate in the state-sponsored health  
11 insurance program;
- 12 (b) The term "health benefit plan" for the purposes of this section means a health  
13 benefit plan as defined in KRS 304.17A-005;
- 14 (c) The term "insurer" for the purposes of this section means an insurer as defined  
15 in KRS 304.17A-005; and
- 16 (d) The term "managed care plan" for the purposes of this section means a  
17 managed care plan as defined in KRS 304.17A-500.
- 18 (2) (a) The secretary of the Finance and Administration Cabinet, upon the  
19 recommendation of the secretary of the Personnel Cabinet, shall procure, in  
20 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,  
21 from one (1) or more insurers authorized to do business in this state, a group  
22 health benefit plan that may include but not be limited to health maintenance  
23 organization (HMO), preferred provider organization (PPO), point of service  
24 (POS), and exclusive provider organization (EPO) benefit plans encompassing  
25 all or any class or classes of employees. With the exception of employers  
26 governed by the provisions of KRS Chapters 16, 18A, and 151B, all  
27 employers of any class of employees or former employees shall enter into a

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

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

21 (c) Any carrier bidding to offer health care coverage to employees shall agree to  
22 provide coverage to all members of the state group, including active  
23 employees and retirees and their eligible covered dependents and  
24 beneficiaries, within the county or counties specified in its bid. Except as  
25 provided in subsection (20) of this section, any carrier bidding to offer health  
26 care coverage to employees shall also agree to rate all employees as a single  
27 entity, except for those retirees whose former employers insure their active

1 employees outside the state-sponsored health insurance program.

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

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

27 (f) If any agency participating in the state-sponsored employee health insurance

1 program for its active employees terminates participation and there is a state  
2 appropriation for the employer's contribution for active employees' health  
3 insurance coverage, then neither the agency nor the employees shall receive  
4 the state-funded contribution after termination from the state-sponsored  
5 employee health insurance program.

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

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

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

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

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

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

25 (4) If an employee moves his place of residence or employment out of the service area  
26 of an insurer offering a managed health care plan, under which he has elected  
27 coverage, into either the service area of another managed health care plan or into an

1 area of the Commonwealth not within a managed health care plan service area, the  
2 employee shall be given an option, at the time of the move or transfer, to change his  
3 or her coverage to another health benefit plan.

4 (5) No payment of premium by any department, board, agency, public postsecondary  
5 educational institution, or branch of state, city, urban-county, charter county,  
6 county, or consolidated local government shall constitute compensation to an  
7 insured employee for the purposes of any statute fixing or limiting the  
8 compensation of such an employee. Any premium or other expense incurred by any  
9 department, board, agency, public postsecondary educational institution, or branch  
10 of state, city, urban-county, charter county, county, or consolidated local  
11 government shall be considered a proper cost of administration.

12 (6) The policy or policies may contain the provisions with respect to the class or classes  
13 of employees covered, amounts of insurance or coverage for designated classes or  
14 groups of employees, policy options, terms of eligibility, and continuation of  
15 insurance or coverage after retirement.

16 (7) Group rates under this section shall be made available to the disabled child of an  
17 employee regardless of the child's age if the entire premium for the disabled child's  
18 coverage is paid by the state employee. A child shall be considered disabled if he  
19 has been determined to be eligible for federal Social Security disability benefits.

20 (8) The health care contract or contracts for employees shall be entered into for a period  
21 of not less than one (1) year.

22 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of  
23 State Health Insurance Subscribers to advise the secretary or his designee regarding  
24 the state-sponsored health insurance program for employees. The secretary shall  
25 appoint, from a list of names submitted by appointing authorities, members  
26 representing school districts from each of the seven (7) Supreme Court districts,  
27 members representing state government from each of the seven (7) Supreme Court

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

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

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

23 (12) Any employee who is eligible for and elects to participate in the state health  
24 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any  
25 one (1) of the state-sponsored retirement systems shall not be eligible to receive the  
26 state health insurance contribution toward health care coverage as a result of any  
27 other employment for which there is a public employer contribution. This does not

1 preclude a retiree and an active employee spouse from using both contributions to  
2 the extent needed for purchase of one (1) state sponsored health insurance policy for  
3 that plan year.

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

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

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

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

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

23 (16) Any policy provided to state employees or their dependents pursuant to this section  
24 shall provide coverage for obtaining amino acid-based elemental formula pursuant  
25 to KRS 304.17A-258.

26 (17) If a state employee's residence and place of employment are in the same county, and  
27 if the hospital located within that county does not offer surgical services, intensive

1 care services, obstetrical services, level II neonatal services, diagnostic cardiac  
2 catheterization services, and magnetic resonance imaging services, the employee  
3 may select a plan available in a contiguous county that does provide those services,  
4 and the state contribution for the plan shall be the amount available in the county  
5 where the plan selected is located.

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

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

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

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

24 (b) The Personnel Cabinet shall divide the state into geographical regions which  
25 shall be the same as the partnership regions designated by the Department for  
26 Medicaid Services for purposes of the Kentucky Health Care Partnership  
27 Program established pursuant to 907 KAR 1:705;

- 1 (c) The request for proposal shall require a carrier's bid to include every county  
2 within the region or regions for which the bid is submitted and include but not  
3 be restricted to a preferred provider organization (PPO) option;
- 4 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the  
5 carrier all of the counties included in its bid within the region. If the Personnel  
6 Cabinet deems the bids submitted in accordance with this subsection to be in  
7 the best interests of state employees in a region, the cabinet may award the  
8 contract for that region to no more than two (2) carriers; and
- 9 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including  
10 other requirements or criteria in the request for proposal.
- 11 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or  
12 after July 12, 2006, to public employees pursuant to this section which provides  
13 coverage for services rendered by a physician or osteopath duly licensed under KRS  
14 Chapter 311 that are within the scope of practice of an optometrist duly licensed  
15 under the provisions of KRS Chapter 320 shall provide the same payment of  
16 coverage to optometrists as allowed for those services rendered by physicians or  
17 osteopaths.
- 18 (22) Any fully insured health benefit plan or self-insured plan issued or renewed on or  
19 after July 12, 2006, to public employees pursuant to this section shall comply with  
20 the provisions of KRS 304.17A-270 and 304.17A-525.
- 21 (23) Any fully insured health benefit plan or self -insured plan issued or renewed on or  
22 after July 12, 2006, to public employees shall comply with KRS 304.17A-600 to  
23 304.17A-633 pertaining to utilization review, KRS 205.593 and 304.17A-700 to  
24 304.17A-730 pertaining to payment of claims, KRS 304.14-135 pertaining to  
25 uniform health insurance claim forms, KRS 304.17A-580 and 304.17A-641  
26 pertaining to emergency medical care, KRS 304.99-123, and any administrative  
27 regulations promulgated thereunder.

1 (24) Any fully insured health benefit plan or self-insured plan issued or renewed on or  
2 after July 1, 2019, to public employees pursuant to this section shall comply with  
3 KRS 304.17A-138.

4 **(25) Any fully insured health benefit plan or self-insured plan issued or renewed on or**  
5 **after the effective date of this Act, to public employees pursuant to this section**  
6 **shall comply with Section 1 of this Act.**

7 ➔Section 3. This Act takes effect January 1, 2021.