

1 AN ACT relating to coverage for the care of children.

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

3 ➔Section 1. KRS 304.17A-258 is amended to read as follows:

4 (1) ***As used in***~~[For purposes of]~~ this section:

5 (a) "Therapeutic food, formulas, and supplements" means products intended for  
6 the dietary treatment of inborn errors of metabolism or genetic conditions,  
7 including but not limited to eosinophilic disorders, food protein allergies, food  
8 protein-induced enterocolitis syndrome, mitochondrial disease, and short  
9 bowel disorders, under the direction of a physician, and includes amino acid-  
10 based elemental formula and the use of vitamin and nutritional supplements  
11 such as coenzyme Q10, vitamin E, vitamin C, vitamin B1, vitamin B2,  
12 vitamin K1, and L-carnitine;

13 (b) "Low-protein modified food" means a product formulated to have less than  
14 one (1) gram of protein per serving and intended for the dietary treatment of  
15 inborn errors of metabolism or genetic conditions under the direction of a  
16 physician; and

17 (c) "Amino acid-based elemental formula" means a product intended for the  
18 diagnosis and dietary treatment of eosinophilic disorders, food protein  
19 allergies, food protein-induced enterocolitis, and short ***bowel***~~[***bowel***]~~  
20 syndrome under the direction of a physician.

21 (2) ***(a)*** A health benefit plan that provides prescription drug coverage shall include in  
22 that coverage therapeutic food, formulas, supplements, and low-protein  
23 modified food products for the treatment of inborn errors of metabolism or  
24 genetic conditions, including those that are compounded, if the therapeutic  
25 food, formulas, supplements, and low-protein modified food products are  
26 obtained for the therapeutic treatment of inborn errors of metabolism or  
27 genetic conditions, including but not limited to mitochondrial disease, under

1 the direction of a physician.

2 **(b) Except as provided in subsection (4) of this section,** coverage under this  
 3 subsection may be subject, for each plan year, to a cap of twenty-five thousand  
 4 dollars (\$25,000) for therapeutic food, formulas, and supplements and a  
 5 separate cap for each plan year of four thousand dollars (\$4,000) ~~for~~ low-  
 6 protein modified foods. ~~[Each cap shall be subject to annual inflation~~  
 7 ~~adjustments based on the consumer price index.]~~

8 **(c)** Coverage under this ~~subsection~~ shall not be denied because two (2)  
 9 or more supplements are compounded.

10 (3) **(a) To the extent that coverage is not provided under subsection (2) of this**  
 11 **section or KRS 304.17A-139, a health benefit plan shall provide coverage**  
 12 **for enteral infant and baby formulas prescribed by a physician in a written**  
 13 **order, which states that the formula:**

14 **1. Is medically necessary; and**

15 **2. Has been proven effective as a disease-specific treatment regimen** ~~[The~~  
 16 ~~requirements of this section shall apply to all health benefit plans issued~~  
 17 ~~or renewed on and after January 1, 2017].~~

18 **(b) Except as provided in subsection (4) of this section, coverage under this**  
 19 **subsection may be subject to, for each plan year, a cap of three thousand**  
 20 **dollars (\$3,000).**

21 (4) **Any cap imposed on the coverages required under subsections (2) and (3) of this**  
 22 **section shall be subject to annual inflation adjustments based on the consumer**  
 23 **price index.** ~~[Nothing in this section or KRS 205.560, 213.141, or 214.155 shall be~~  
 24 ~~construed to require a health benefit plan to provide coverage for therapeutic foods,~~  
 25 ~~formulas, supplements, or low protein modified food for the treatment of lactose~~  
 26 ~~intolerance, protein intolerance, food allergy, food sensitivity, or any other~~  
 27 ~~condition or disease that is not an inborn error of metabolism or genetic condition.]~~

1           ➔SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304  
2 IS CREATED TO READ AS FOLLOWS:

3 *(1) (a) A health benefit plan shall provide, in conjunction with each birth,*  
4 *coverage for:*

5 *1. Renting or purchasing breastfeeding equipment; and*

6 *2. Comprehensive lactation support and counseling by a trained health*  
7 *care professional during pregnancy and in the postpartum period.*

8 *(b) A health benefit plan shall not require a prescription or order from a health*  
9 *care provider in order for a covered person to be entitled to the coverage*  
10 *provided under this section.*

11 *(2) The coverage required under this section shall not be subject to any cost-sharing*  
12 *requirement, including any copayment, coinsurance, or deductible.*

13 ➔Section 3. KRS 205.522 is amended to read as follows:

14 (1) The Department for Medicaid Services and any managed care organization  
15 contracted to provide Medicaid benefits pursuant to this chapter shall comply with  
16 the provisions of *Sections 1 and 2 of this Act and* KRS 304.17A-167, 304.17A-  
17 235, 304.17A-257, 304.17A-259, 304.17A-515, 304.17A-580, 304.17A-600,  
18 304.17A-603, 304.17A-607, and 304.17A-740 to 304.17A-743, as applicable.

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

21 ➔Section 4. KRS 205.6485 is amended to read as follows:

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

1 establish the following:

2 (a) The eligibility criteria for children covered by the Kentucky Children's Health  
3 Insurance Program. However, no person eligible for services under Title XIX  
4 of the Social Security Act 42 U.S.C. 1396 to 1396v, as amended, shall be  
5 eligible for services under the Kentucky Children's Health Insurance Program  
6 except to the extent that Title XIX coverage is expanded by KRS 205.6481 to  
7 205.6495 and KRS 304.17A-340;

8 (b) The schedule of benefits to be covered by the Kentucky Children's Health  
9 Insurance Program, which shall include preventive services, vision services  
10 including glasses, and dental services including at least sealants, extractions,  
11 and fillings, and which shall be at least equivalent to one (1) of the following:

12 1. The standard Blue Cross/Blue Shield preferred provider option under the  
13 Federal Employees Health Benefit Plan established by U.S.C. sec.  
14 8903(1);

15 2. A mid-range health benefit coverage plan that is offered and generally  
16 available to state employees; or

17 3. Health insurance coverage offered by a health maintenance organization  
18 that has the largest insured commercial, non-Medicaid enrollment of  
19 covered lives in the state;

20 (c) The premium contribution per family of health insurance coverage available  
21 under the Kentucky Children's Health Insurance Program with provisions for  
22 the payment of premium contributions by families of children eligible for  
23 coverage by the program based upon a sliding scale relating to family income.  
24 Premium contributions shall be based on a six (6) month period not to exceed:

25 1. Ten dollars (\$10), to be paid by a family with income between one  
26 hundred percent (100%) to one hundred thirty-three percent (133%) of  
27 the federal poverty level;

- 1           2.   Twenty dollars (\$20), to be paid by a family with income between one  
2           hundred thirty-four percent (134%) to one hundred forty-nine percent  
3           (149%) of the federal poverty level; and
- 4           3.   One hundred twenty dollars (\$120), to be paid by a family with income  
5           between one hundred fifty percent (150%) to two hundred percent  
6           (200%) of the federal poverty level, and which may be made on a partial  
7           payment plan of twenty dollars (\$20) per month or sixty dollars (\$60)  
8           per quarter;
- 9           (d)  There shall be no copayments for services provided under the Kentucky  
10          Children's Health Insurance Program; and
- 11          (e)  The criteria for health services providers and insurers wishing to contract with  
12          the Commonwealth to provide the children's health insurance coverage.  
13          However, the cabinet shall provide, in any contracting process for the  
14          preventive health insurance program, the opportunity for a public health  
15          department to bid on preventive health services to eligible children within the  
16          public health department's service area. A public health department shall not  
17          be disqualified from bidding because the department does not currently offer  
18          all the services required by paragraph (b) of this subsection. The criteria shall  
19          be set forth in administrative regulations under KRS Chapter 13A and shall  
20          maximize competition among the providers and insurers. The Cabinet for  
21          Finance and Administration shall provide oversight over contracting policies  
22          and procedures to assure that the number of applicants for contracts is  
23          maximized.
- 24          (2)  Within twelve (12) months of federal approval of the state's Title XXI child health  
25          plan, the Cabinet for Health and Family Services shall assure that a KCHIP program  
26          is available to all eligible children in all regions of the state. If necessary, in order to  
27          meet this assurance, the cabinet shall institute its own program.

1 (3) KCHIP recipients shall have direct access without a referral from any gatekeeper  
2 primary care provider to dentists for covered primary dental services and to  
3 optometrists and ophthalmologists for covered primary eye and vision services.

4 **(4) *The Kentucky Children's Health Insurance Program shall comply with Sections***  
5 ***1 and 2 of this Act.***

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

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

13 (2) All retirement annuity allowances accrued or accruing to any employee of a state  
14 postsecondary educational institution through a retirement program sponsored by  
15 the state postsecondary educational institution are hereby exempt from any state,  
16 county, or municipal tax, and shall not be subject to execution, attachment,  
17 garnishment, or any other process whatsoever, nor shall any assignment thereof be  
18 enforceable in any court. Except retirement benefits accrued or accruing to any  
19 employee of a state postsecondary educational institution through a retirement  
20 program sponsored by the state postsecondary educational institution on or after  
21 January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent  
22 provided in KRS 141.010 and 141.0215.

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

27 (4) The governing board of each state postsecondary education institution is authorized

1 to provide a self-insured employer group health plan to its employees, which plan  
2 shall:

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

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

6 (5) *A self-insured employer group health plan provided by the governing board of a*  
7 *state postsecondary education institution to its employees shall comply with*  
8 *Sections 1 and 2 of this Act.*

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

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

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

- 1                   KRS 61.522 whose employees participated in the health insurance plans  
2                   administered by the Personnel Cabinet prior to the employer's effective  
3                   cessation date in the Kentucky Employees Retirement System;
- 4                   2. Any certified or classified employee of a local board of education;
- 5                   3. Any elected member of a local board of education;
- 6                   4. Any person who is a present or future recipient of a retirement  
7                   allowance from the Kentucky Retirement Systems, County Employees  
8                   Retirement System, Kentucky Teachers' Retirement System, the  
9                   Legislators' Retirement Plan, the Judicial Retirement Plan, or the  
10                  Kentucky Community and Technical College System's optional  
11                  retirement plan authorized by KRS 161.567, except that a person who is  
12                  receiving a retirement allowance and who is age sixty-five (65) or older  
13                  shall not be included, with the exception of persons covered under KRS  
14                  61.702(4)(c), unless he or she is actively employed pursuant to  
15                  subparagraph 1. of this paragraph; and
- 16                  5. Any eligible dependents and beneficiaries of participating employees  
17                  and retirees who are entitled to participate in the state-sponsored health  
18                  insurance program;
- 19                  (b) The term "health benefit plan" for the purposes of this section means a health  
20                  benefit plan as defined in KRS 304.17A-005;
- 21                  (c) The term "insurer" for the purposes of this section means an insurer as defined  
22                  in KRS 304.17A-005; and
- 23                  (d) The term "managed care plan" for the purposes of this section means a  
24                  managed care plan as defined in KRS 304.17A-500.
- 25                  (2) (a) The secretary of the Finance and Administration Cabinet, upon the  
26                  recommendation of the secretary of the Personnel Cabinet, shall procure, in  
27                  compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,



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

- 25 (b) The policy or policies shall be approved by the commissioner of insurance and  
26 may contain the provisions the commissioner of insurance approves, whether  
27 or not otherwise permitted by the insurance laws.

- 1 (c) Any carrier bidding to offer health care coverage to employees shall agree to  
2 provide coverage to all members of the state group, including active  
3 employees and retirees and their eligible covered dependents and  
4 beneficiaries, within the county or counties specified in its bid. Except as  
5 provided in subsection (20) of this section, any carrier bidding to offer health  
6 care coverage to employees shall also agree to rate all employees as a single  
7 entity, except for those retirees whose former employers insure their active  
8 employees outside the state-sponsored health insurance program.
- 9 (d) Any carrier bidding to offer health care coverage to employees shall agree to  
10 provide enrollment, claims, and utilization data to the Commonwealth in a  
11 format specified by the Personnel Cabinet with the understanding that the data  
12 shall be owned by the Commonwealth; to provide data in an electronic form  
13 and within a time frame specified by the Personnel Cabinet; and to be subject  
14 to penalties for noncompliance with data reporting requirements as specified  
15 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions  
16 to protect the confidentiality of each individual employee; however,  
17 confidentiality assertions shall not relieve a carrier from the requirement of  
18 providing stipulated data to the Commonwealth.
- 19 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities  
20 for timely analysis of data received from carriers and, to the extent possible,  
21 provide in the request-for-proposal specifics relating to data requirements,  
22 electronic reporting, and penalties for noncompliance. The Commonwealth  
23 shall own the enrollment, claims, and utilization data provided by each carrier  
24 and shall develop methods to protect the confidentiality of the individual. The  
25 Personnel Cabinet shall include in the October annual report submitted  
26 pursuant to the provisions of KRS 18A.226 to the Governor, the General  
27 Assembly, and the Chief Justice of the Supreme Court, an analysis of the

1 financial stability of the program, which shall include but not be limited to  
2 loss ratios, methods of risk adjustment, measurements of carrier quality of  
3 service, prescription coverage and cost management, and statutorily required  
4 mandates. If state self-insurance was available as a carrier option, the report  
5 also shall provide a detailed financial analysis of the self-insurance fund  
6 including but not limited to loss ratios, reserves, and reinsurance agreements.

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

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

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

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

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

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

27 (c) Partly from each, except that any premium due for health care coverage or

1 dental coverage, if any, in excess of the premium amount contributed by any  
2 department, board, agency, postsecondary education institution, or branch of  
3 state, city, urban-county, charter county, county, or consolidated local  
4 government for any other health care coverage shall be paid by the employee.

5 (4) If an employee moves his or her place of residence or employment out of the service  
6 area of an insurer offering a managed health care plan, under which he or she has  
7 elected coverage, into either the service area of another managed health care plan or  
8 into an area of the Commonwealth not within a managed health care plan service  
9 area, the employee shall be given an option, at the time of the move or transfer, to  
10 change his or her coverage to another health benefit plan.

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

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

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

27 (8) The health care contract or contracts for employees shall be entered into for a period

1 of not less than one (1) year.

2 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of  
3 State Health Insurance Subscribers to advise the secretary or the secretary's designee  
4 regarding the state-sponsored health insurance program for employees. The  
5 secretary shall appoint, from a list of names submitted by appointing authorities,  
6 members representing school districts from each of the seven (7) Supreme Court  
7 districts, members representing state government from each of the seven (7)  
8 Supreme Court districts, two (2) members representing retirees under age sixty-five  
9 (65), one (1) member representing local health departments, two (2) members  
10 representing the Kentucky Teachers' Retirement System, and three (3) members at  
11 large. The secretary shall also appoint two (2) members from a list of five (5) names  
12 submitted by the Kentucky Education Association, two (2) members from a list of  
13 five (5) names submitted by the largest state employee organization of nonschool  
14 state employees, two (2) members from a list of five (5) names submitted by the  
15 Kentucky Association of Counties, two (2) members from a list of five (5) names  
16 submitted by the Kentucky League of Cities, and two (2) members from a list of  
17 names consisting of five (5) names submitted by each state employee organization  
18 that has two thousand (2,000) or more members on state payroll deduction. The  
19 advisory committee shall be appointed in January of each year and shall meet  
20 quarterly.

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

26 (11) Interruption of an established treatment regime with maintenance drugs shall be  
27 grounds for an insured to appeal a formulary change through the established appeal

1 procedures approved by the Department of Insurance, if the physician supervising  
2 the treatment certifies that the change is not in the best interests of the patient.

3 (12) Any employee who is eligible for and elects to participate in the state health  
4 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any  
5 one (1) of the state-sponsored retirement systems shall not be eligible to receive the  
6 state health insurance contribution toward health care coverage as a result of any  
7 other employment for which there is a public employer contribution. This does not  
8 preclude a retiree and an active employee spouse from using both contributions to  
9 the extent needed for purchase of one (1) state sponsored health insurance policy for  
10 that plan year.

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

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

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

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

27 (15) Any policy provided to state employees or their dependents pursuant to this section

1 shall provide coverage for the diagnosis and treatment of autism spectrum disorders  
2 consistent with KRS 304.17A-142.

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

6 ~~(17)~~ If a state employee's residence and place of employment are in the same county,  
7 and if the hospital located within that county does not offer surgical services,  
8 intensive care services, obstetrical services, level II neonatal services, diagnostic  
9 cardiac catheterization services, and magnetic resonance imaging services, the  
10 employee may select a plan available in a contiguous county 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 ~~(17)~~(17) If a state employee's residence and place of employment are each located in  
14 counties in which the hospitals do not offer surgical services, intensive care  
15 services, obstetrical services, level II neonatal services, diagnostic cardiac  
16 catheterization services, and magnetic resonance imaging services, the employee  
17 may select a plan available in a county contiguous to the county of residence that  
18 does provide those services, and the state contribution for the plan shall be the  
19 amount available in the county where the plan selected is located.

20 ~~(18)~~(18) The Personnel Cabinet is encouraged to study whether it is fair and reasonable  
21 and in the best interests of the state group to allow any carrier bidding to offer  
22 health care coverage under this section to submit bids that may vary county by  
23 county or by larger geographic areas.

24 ~~(19)~~(19) Notwithstanding any other provision of this section, the bid for proposals for  
25 health insurance coverage for calendar year 2004 shall include a bid scenario that  
26 reflects the statewide rating structure provided in calendar year 2003 and a bid  
27 scenario that allows for a regional rating structure that allows carriers to submit bids

1 that may vary by region for a given product offering as described in this subsection:

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

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

8 (c) The request for proposal shall require a carrier's bid to include every county  
9 within the region or regions for which the bid is submitted and include but not  
10 be restricted to a preferred provider organization (PPO) option;

11 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the  
12 carrier all of the counties included in its bid within the region. If the Personnel  
13 Cabinet deems the bids submitted in accordance with this subsection to be in  
14 the best interests of state employees in a region, the cabinet may award the  
15 contract for that region to no more than two (2) carriers; and

16 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including  
17 other requirements or criteria in the request for proposal.

18 ~~(20)~~~~(21)~~ Any fully insured health benefit plan or self-insured plan issued or renewed on  
19 or after July 12, 2006, to public employees pursuant to this section which provides  
20 coverage for services rendered by a physician or osteopath duly licensed under KRS  
21 Chapter 311 that are within the scope of practice of an optometrist duly licensed  
22 under the provisions of KRS Chapter 320 shall provide the same payment of  
23 coverage to optometrists as allowed for those services rendered by physicians or  
24 osteopaths.

25 ~~(21)~~~~(22)~~ Any fully insured health benefit plan or self-insured plan issued or renewed  
26 ~~on or after June 29, 2021,~~ to public employees pursuant to this section shall comply  
27 with:



- 1 (a) KRS 304.12-237;
- 2 (b) KRS 304.17A-270 and 304.17A-525;
- 3 (c) KRS 304.17A-600 to 304.17A-633;
- 4 (d) KRS 205.593;
- 5 (e) KRS 304.17A-700 to 304.17A-730;
- 6 (f) KRS 304.14-135;
- 7 (g) KRS 304.17A-580 and 304.17A-641;
- 8 (h) KRS 304.99-123;
- 9 (i) KRS 304.17A-138; ~~and~~
- 10 (j) Section 1 of this Act;
- 11 (k) Section 2 of this Act;
- 12 (l) KRS 304.17A-148; and
- 13 (m) Administrative regulations promulgated pursuant to statutes listed in this
- 14 subsection.
- 15 ~~[(23) Any fully insured health benefit plan or self-insured plan issued or renewed on or~~
- 16 ~~after January 1, 2022, to public employees pursuant to this section shall comply~~
- 17 ~~with KRS 304.17A-148].~~
- 18 ➔Section 7. KRS 205.560 is amended to read as follows:
- 19 (1) The scope of medical care for which the Cabinet for Health and Family Services
- 20 undertakes to pay shall be designated and limited by regulations promulgated by the
- 21 cabinet, pursuant to the provisions in this section. Within the limitations of any
- 22 appropriation therefor, the provision of complete upper and lower dentures to
- 23 recipients of Medical Assistance Program benefits who have their teeth removed by
- 24 a dentist resulting in the total absence of teeth shall be a mandatory class in the
- 25 scope of medical care. Payment to a dentist of any Medical Assistance Program
- 26 benefits for complete upper and lower dentures shall only be provided on the
- 27 condition of a preauthorized agreement between an authorized representative of the

1 Medical Assistance Program and the dentist prior to the removal of the teeth. The  
2 selection of another class or other classes of medical care shall be recommended by  
3 the council to the secretary for health and family services after taking into  
4 consideration, among other things, the amount of federal and state funds available,  
5 the most essential needs of recipients, and the meeting of such need on a basis  
6 insuring the greatest amount of medical care as defined in KRS 205.510 consonant  
7 with the funds available, including but not limited to the following categories,  
8 except where the aid is for the purpose of obtaining an abortion:

- 9 (a) Hospital care, including drugs, and medical supplies and services during any  
10 period of actual hospitalization;
- 11 (b) Nursing-home care, including medical supplies and services, and drugs during  
12 confinement therein on prescription of a physician, dentist, or podiatrist;
- 13 (c) Drugs, nursing care, medical supplies, and services during the time when a  
14 recipient is not in a hospital but is under treatment and on the prescription of a  
15 physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall  
16 include *those* products *covered under Section 1 of this Act,*~~[for the treatment~~  
17 ~~of inborn errors of metabolism or genetic, gastrointestinal, and food allergic~~  
18 ~~conditions, consisting of therapeutic food, formulas, supplements, amino acid-~~  
19 ~~based elemental formula, or low protein modified food products that are~~  
20 ~~medically indicated for therapeutic treatment and are administered under the~~  
21 ~~direction of a physician,]~~ and include but are not limited to *products for* the  
22 following conditions:

- 23 1. Phenylketonuria;
- 24 2. Hyperphenylalaninemia;
- 25 3. Tyrosinemia (types I, II, and III);
- 26 4. Maple syrup urine disease;
- 27 5. A-ketoacid dehydrogenase deficiency;

- 1           6. Isovaleryl-CoA dehydrogenase deficiency;
- 2           7. 3-methylcrotonyl-CoA carboxylase deficiency;
- 3           8. 3-methylglutaconyl-CoA hydratase deficiency;
- 4           9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase
- 5           deficiency);
- 6           10. B-ketothiolase deficiency;
- 7           11. Homocystinuria;
- 8           12. Glutaric aciduria (types I and II);
- 9           13. Lysinuric protein intolerance;
- 10          14. Non-ketotic hyperglycinemia;
- 11          15. Propionic acidemia;
- 12          16. Gyrate atrophy;
- 13          17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;
- 14          18. Carbamoyl phosphate synthetase deficiency;
- 15          19. Ornithine carbamoyl transferase deficiency;
- 16          20. Citrullinemia;
- 17          21. Arginosuccinic aciduria;
- 18          22. Methylmalonic acidemia;
- 19          23. Argininemia;
- 20          24. Food protein allergies;
- 21          25. Food protein-induced enterocolitis syndrome;
- 22          26. Eosinophilic disorders; and
- 23          27. Short bowel syndrome;
- 24          (d) Physician, podiatric, and dental services;
- 25          (e) Optometric services for all age groups shall be limited to prescription services,
- 26          services to frames and lenses, and diagnostic services provided by an
- 27          optometrist, to the extent the optometrist is licensed to perform the services

1 and to the extent the services are covered in the ophthalmologist portion of the  
2 physician's program. Eyeglasses shall be provided only to children under age  
3 twenty-one (21);

4 (f) Drugs on the prescription of a physician used to prevent the rejection of  
5 transplanted organs if the patient is indigent; and

6 (g) Nonprofit neighborhood health organizations or clinics where some or all of  
7 the medical services are provided by licensed registered nurses or by advanced  
8 medical students presently enrolled in a medical school accredited by the  
9 Association of American Medical Colleges and where the students or licensed  
10 registered nurses are under the direct supervision of a licensed physician who  
11 rotates his services in this supervisory capacity between two (2) or more of the  
12 nonprofit neighborhood health organizations or clinics specified in this  
13 paragraph.

14 (2) Payments for hospital care, nursing-home care, and drugs or other medical,  
15 ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount  
16 of the payment to the cost of providing the services or supplies. It shall be one (1) of  
17 the functions of the council to make recommendations to the Cabinet for Health and  
18 Family Services with respect to the bases for payment. In determining the rates of  
19 reimbursement for long-term-care facilities participating in the Medical Assistance  
20 Program, the Cabinet for Health and Family Services shall, to the extent permitted  
21 by federal law, not allow the following items to be considered as a cost to the  
22 facility for purposes of reimbursement:

23 (a) Motor vehicles that are not owned by the facility, including motor vehicles  
24 that are registered or owned by the facility but used primarily by the owner or  
25 family members thereof;

26 (b) The cost of motor vehicles, including vans or trucks, used for facility business  
27 shall be allowed up to fifteen thousand dollars (\$15,000) per facility, adjusted

- 1           annually for inflation according to the increase in the consumer price index-u  
2           for the most recent twelve (12) month period, as determined by the United  
3           States Department of Labor. Medically equipped motor vehicles, vans, or  
4           trucks shall be exempt from the fifteen thousand dollar (\$15,000) limitation.  
5           Costs exceeding this limit shall not be reimbursable and shall be borne by the  
6           facility. Costs for additional motor vehicles, not to exceed a total of three (3)  
7           per facility, may be approved by the Cabinet for Health and Family Services if  
8           the facility demonstrates that each additional vehicle is necessary for the  
9           operation of the facility as required by regulations of the cabinet;
- 10       (c) Salaries paid to immediate family members of the owner or administrator, or  
11       both, of a facility, to the extent that services are not actually performed and are  
12       not a necessary function as required by regulation of the cabinet for the  
13       operation of the facility. The facility shall keep a record of all work actually  
14       performed by family members;
- 15       (d) The cost of contracts, loans, or other payments made by the facility to owners,  
16       administrators, or both, unless the payments are for services which would  
17       otherwise be necessary to the operation of the facility and the services are  
18       required by regulations of the Cabinet for Health and Family Services. Any  
19       other payments shall be deemed part of the owner's compensation in  
20       accordance with maximum limits established by regulations of the Cabinet for  
21       Health and Family Services. Interest paid to the facility for loans made to a  
22       third party may be used to offset allowable interest claimed by the facility;
- 23       (e) Private club memberships for owners or administrators, travel expenses for  
24       trips outside the state for owners or administrators, and other indirect  
25       payments made to the owner, unless the payments are deemed part of the  
26       owner's compensation in accordance with maximum limits established by  
27       regulations of the Cabinet for Health and Family Services; and

- 1 (f) Payments made to related organizations supplying the facility with goods or  
2 services shall be limited to the actual cost of the goods or services to the  
3 related organization, unless it can be demonstrated that no relationship  
4 between the facility and the supplier exists. A relationship shall be considered  
5 to exist when an individual, including brothers, sisters, father, mother, aunts,  
6 uncles, and in-laws, possesses a total of five percent (5%) or more of  
7 ownership equity in the facility and the supplying business. An exception to  
8 the relationship shall exist if fifty-one percent (51%) or more of the supplier's  
9 business activity of the type carried on with the facility is transacted with  
10 persons and organizations other than the facility and its related organizations.
- 11 (3) No vendor payment shall be made unless the class and type of medical care  
12 rendered and the cost basis therefor has first been designated by regulation.
- 13 (4) The rules and regulations of the Cabinet for Health and Family Services shall  
14 require that a written statement, including the required opinion of a physician, shall  
15 accompany any claim for reimbursement for induced premature births. This  
16 statement shall indicate the procedures used in providing the medical services.
- 17 (5) The range of medical care benefit standards provided and the quality and quantity  
18 standards and the methods for determining cost formulae for vendor payments  
19 within each category of public assistance and other recipients shall be uniform for  
20 the entire state, and shall be designated by regulation promulgated within the  
21 limitations established by the Social Security Act and federal regulations. It shall  
22 not be necessary that the amount of payments for units of services be uniform for  
23 the entire state but amounts may vary from county to county and from city to city, as  
24 well as among hospitals, based on the prevailing cost of medical care in each locale  
25 and other local economic and geographic conditions, except that insofar as allowed  
26 by applicable federal law and regulation, the maximum amounts reimbursable for  
27 similar services rendered by physicians within the same specialty of medical

- 1 practice shall not vary according to the physician's place of residence or place of  
2 practice, as long as the place of practice is within the boundaries of the state.
- 3 (6) Nothing in this section shall be deemed to deprive a woman of all appropriate  
4 medical care necessary to prevent her physical death.
- 5 (7) To the extent permitted by federal law, no medical assistance recipient shall be  
6 recertified as qualifying for a level of long-term care below the recipient's current  
7 level, unless the recertification includes a physical examination conducted by a  
8 physician licensed pursuant to KRS Chapter 311 or by an advanced practice  
9 registered nurse licensed pursuant to KRS Chapter 314 and acting under the  
10 physician's supervision.
- 11 (8) If payments made to community mental health centers, established pursuant to KRS  
12 Chapter 210, for services provided to the intellectually disabled exceed the actual  
13 cost of providing the service, the balance of the payments shall be used solely for  
14 the provision of other services to the intellectually disabled through community  
15 mental health centers.
- 16 (9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to  
17 recipients of medical assistance under Title XIX of the Social Security Act on July  
18 15, 1986, shall deny admission of a person to a bed certified for reimbursement  
19 under the provisions of the Medical Assistance Program solely on the basis of the  
20 person's paying status as a Medicaid recipient. No person shall be removed or  
21 discharged from any facility solely because they became eligible for participation in  
22 the Medical Assistance Program, unless the facility can demonstrate the resident or  
23 the resident's responsible party was fully notified in writing that the resident was  
24 being admitted to a bed not certified for Medicaid reimbursement. No facility may  
25 decertify a bed occupied by a Medicaid recipient or may decertify a bed that is  
26 occupied by a resident who has made application for medical assistance.
- 27 (10) Family-practice physicians practicing in geographic areas with no more than one (1)

1 primary-care physician per five thousand (5,000) population, as reported by the  
2 United States Department of Health and Human Services, shall be reimbursed one  
3 hundred twenty-five percent (125%) of the standard reimbursement rate for  
4 physician services.

5 (11) The Cabinet for Health and Family Services shall make payments under the Medical  
6 Assistance program for services which are within the lawful scope of practice of a  
7 chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical  
8 Assistance Program pays for the same services provided by a physician.

9 (12) (a) The Medical Assistance Program shall use the appropriate form and  
10 guidelines for enrolling those providers applying for participation in the  
11 Medical Assistance Program, including those licensed and regulated under  
12 KRS Chapters 311, 312, 314, 315, and 320, any facility required to be  
13 licensed pursuant to KRS Chapter 216B, and any other health care practitioner  
14 or facility as determined by the Department for Medicaid Services through an  
15 administrative regulation promulgated under KRS Chapter 13A. A Medicaid  
16 managed care organization shall use the forms and guidelines established  
17 under KRS 304.17A-545(5) to credential a provider. For any provider who  
18 contracts with and is credentialed by a Medicaid managed care organization  
19 prior to enrollment, the cabinet shall complete the enrollment process and  
20 deny, or approve and issue a Provider Identification Number (PID) within  
21 fifteen (15) business days from the time all necessary completed enrollment  
22 forms have been submitted and all outstanding accounts receivable have been  
23 satisfied.

24 (b) Within forty-five (45) days of receiving a correct and complete provider  
25 application, the Department for Medicaid Services shall complete the  
26 enrollment process by either denying or approving and issuing a Provider  
27 Identification Number (PID) for a behavioral health provider who provides



1 substance use disorder services, unless the department notifies the provider  
2 that additional time is needed to render a decision for resolution of an issue or  
3 dispute.

4 (c) Within forty-five (45) days of receipt of a correct and complete application for  
5 credentialing by a behavioral health provider providing substance use disorder  
6 services, a Medicaid managed care organization shall complete its contracting  
7 and credentialing process, unless the Medicaid managed care organization  
8 notifies the provider that additional time is needed to render a decision. If  
9 additional time is needed, the Medicaid managed care organization shall not  
10 take any longer than ninety (90) days from receipt of the credentialing  
11 application to deny or approve and contract with the provider.

12 (d) A Medicaid managed care organization shall adjudicate any clean claims  
13 submitted for a substance use disorder service from an enrolled and  
14 credentialed behavioral health provider who provides substance use disorder  
15 services in accordance with KRS 304.17A-700 to 304.17A-730.

16 (e) The Department of Insurance may impose a civil penalty of one hundred  
17 dollars (\$100) per violation when a Medicaid managed care organization fails  
18 to comply with this section. Each day that a Medicaid managed care  
19 organization fails to pay a claim may count as a separate violation.

20 (13) Dentists licensed under KRS Chapter 313 shall be excluded from the requirements  
21 of subsection (12) of this section. The Department for Medicaid Services shall  
22 develop a specific form and establish guidelines for assessing the credentials of  
23 dentists applying for participation in the Medical Assistance Program.

24 ➔Section 8. If the Cabinet for Health and Family Services determines that a  
25 waiver or any other authorization from a federal agency is necessary to implement  
26 Section 3, 4, or 6 of this Act for any reason, including the loss of federal funds, the  
27 Cabinet shall, within 90 days after the effective date of this section, request the waiver or

1 authorization, and may only delay implementation of those provisions for which a waiver  
2 or authorization was deemed necessary until the waiver or authorization is granted.

3 →Section 9. Sections 1 and 2 of this Act apply to health benefit plans issued or  
4 renewed on or after the effective date of those sections.

5 →Section 10. Sections 1 to 7 of this Act take effect January 1, 2023.