

HOUSE BILL No. 2277

By Representatives Swenson and Powers

1-29

9 AN ACT concerning insurance; establishing the Kansas Health Security
10 Act.

11

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

13 Section 1. This act shall be called the Kansas Health Security Act.

14 Sec. 2. (a) For purposes of sections 1 through 11 of this act:

15 (1) "Dependent" means a spouse, an unmarried child under 19 years
16 of age, a child who is a student under 23 years of age and is financially
17 dependent upon a plan enrollee or a person of any age who is the child
18 of a plan enrollee and is disabled and dependent upon that plan enrollee.

19 (2) "Eligible business" means a business that employs at least two but
20 not more than 50 eligible employees, the majority of whom are employed
21 in the state, including a municipality that has 50 or fewer employees.
22 After one year of operation of the health security program, the secretary
23 may, by rules and regulations, define "eligible business" to include larger
24 public or private employers.

25 (3) "Eligible employee" means an employee of an eligible business
26 who works at least 20 hours per week for that eligible business. "Eligible
27 employee" does not include an employee who works on a temporary or
28 substitute basis or who does not work more than 26 weeks annually.

29 (4) "Eligible individual" means:

30 (A) A self-employed individual who works and resides in the state
31 and is organized as a sole proprietorship or in any other legally recognized
32 manner in which a self-employed individual may organize a substantial
33 part of whose income derives from a trade or business through which the
34 individual has attempted to earn taxable income;

35 (B) an unemployed individual who resides in this state; or

36 (C) an individual employed in an eligible business that does not offer
37 health insurance.

38 (5) "Employer" means the owner or responsible agent of a business
39 authorized to sign contracts on behalf of the business.

40 (6) "Health insurer" shall have the meaning ascribed to it in K.S.A.
41 40-4602, and amendments thereto.

42 (7) "Health security program" or "the program" means the health
43 security program established by this section within the health policy

1 authority.

2 (8) "Participating employer" means an eligible business that contracts
3 with the health security program pursuant to this section.

4 (9) "Plan enrollee" means an eligible individual or eligible employee
5 who enrolls in the health security program.

6 (10) "Provider" means any person, organization, corporation or as-
7 sociation that provides health care services and products and is authorized
8 to provide those services and products under the laws of this state.

9 (11) "Director" means the executive director of the health policy
10 authority.

11 (12) "Third-party administrator" means a person who, on behalf of a
12 health insurance plan covering residents, receives or collects charges, con-
13 tributions or premiums for or settles claims on residents in connection
14 with any type of health benefit provided in or as an alternative to insur-
15 ance; and

16 (13) "Unemployed individual" means an individual who does not
17 work more than 20 hours a week for any single employer.

18 Sec. 3. (a) The health security program is established within the
19 health policy authority to provide comprehensive, affordable healthcare
20 coverage to eligible small employers, including the self-employed, their
21 employees and dependents, and individuals, on a voluntary basis.

22 (b) The health security program shall:

23 (1) Determine the comprehensive services and benefits to be in-
24 cluded in the program and develop the specifications for the program's
25 insurance coverage;

26 (2) establish administrative and accounting procedures as recom-
27 mended by the director for the operation of the program;

28 (3) develop and implement a plan to publicize the existence of the
29 program, including eligibility requirements and enrollment procedures;

30 (4) arrange the provision of plan benefit coverage to eligible individ-
31 uals and eligible employees through contracts with one or more qualified
32 bidders;

33 (5) develop a high-risk pool for plan enrollees; and

34 (6) purchase prescription drugs from any source whatsoever, includ-
35 ing, but not limited to, vendors located outside the United States to be
36 disseminated under the program.

37 (c) The health security program may:

38 (1) Enter into contracts with qualified third parties, both private and
39 public, for any service necessary to carry out the purposes of this section;

40 (2) take any legal actions necessary to avoid the payment of improper
41 claims against the coverage provided by the program, to recover any
42 amounts erroneously or improperly paid by the program, to recover any
43 amounts paid by the program as a result of mistake of fact or law, to

- 1 recover or collect savings, offset payments due the program or that are
2 necessary for the proper administration of the program and to recover
3 other amounts due the program;
- 4 (3) establish and administer a revolving loan fund to assist health care
5 practitioners and health care providers in the purchase of hardware and
6 software necessary to implement the requirements for electronic sub-
7 mission of claims. The program may solicit matching contributions to the
8 fund from each health insurer licensed to do business in the state of
9 Kansas;
- 10 (4) apply for and receive funds, grants or contracts from public and
11 private sources; and
- 12 (5) conduct studies and analyses related to the provision of health
13 care, health care costs and quality.
- 14 Sec. 4. (a) The health security program shall provide health insur-
15 ance coverage through one or more health insurers not later than July 1,
16 2007. The program:
- 17 (1) Shall issue requests for proposals from health insurers;
- 18 (2) shall require participating health insurers to offer a benefit plan
19 that meets the program's requirements;
- 20 (3) shall make payments to participating health insurers to provide
21 insurance benefits to plan enrollees;
- 22 (4) may set allowable rates for administration and underwriting gains;
- 23 (5) may include quality improvement, disease prevention, disease
24 management and cost-containment provisions in the contracts with par-
25 ticipating health insurers or may arrange for the provision of such services
26 through contracts with other entities;
- 27 (6) may administer continuation benefits for eligible individuals from
28 employers with 20 or more employees who have purchased health insur-
29 ance coverage through the program for the duration of their eligibility
30 periods for continuation benefits pursuant to the federal consolidated
31 omnibus budget reconciliation act, Public Law 99-272, Title X, private
32 health insurance coverage, Sections 10001 to 10003; and
- 33 (7) may administer or contract to administer the United States inter-
34 nal revenue code of 1986, section 125 plans for employers and employees
35 participating in the program, including medical expense reimbursement
36 accounts and dependent care reimbursement accounts.
- 37 (b) To qualify as a health insurer for the health security program, a
38 health insurer must:
- 39 (1) Provide the health services and benefits as determined by the
40 program, including a standard benefit package that meets the require-
41 ments for mandated coverage for specific health services, specific diseases
42 and for certain providers of health services under K.S.A. 40-2,154, and
43 amendments thereto, and any supplemental benefits the program decides

1 to make available;

2 (2) ensure that providers contracting with an insurer under the pro-
3 gram do not charge plan enrollees or third parties for covered health care
4 services in excess of the amount allowed by the insurer, except for appli-
5 cable copayments, deductibles or coinsurance;

6 (3) ensure that providers contracting with an insurer under the pro-
7 gram do not refuse to provide coverage to a plan enrollee on the basis of
8 health status, medical condition, previous insurance status, race, color,
9 creed, age, national origin, citizenship status, gender, sexual orientation,
10 disability or marital status; and

11 (4) ensure that providers contracting with an insurer under the pro-
12 gram are reimbursed at the rates negotiated between the insurer and its
13 provider network.

14 (c) Health insurers that seek to qualify to provide services for the
15 program must also qualify as health plans under K.S.A. 40-2,154, and
16 amendments thereto.

17 Sec. 5. (a) The health security program shall contract with eligible
18 businesses to provide for health benefits coverage for employees and their
19 dependents. The program shall collect payments from participating em-
20 ployers and plan enrollees to cover the costs of:

21 (1) Insurance for enrolled employees and dependents in contribution
22 amounts determined by the board;

23 (2) quality assurance, disease prevention, disease management and
24 cost-containment programs;

25 (3) administrative services; and

26 (4) other health promotion costs.

27 (b) The program shall establish the minimum required contribution
28 levels to be paid by employers toward their aggregate payment, not to
29 exceed 60%. The minimum required contribution level to be paid by
30 employers must be prorated for employees who work less than the num-
31 ber of hours of a full-time equivalent employee. The program may estab-
32 lish a separate minimum contribution level to be paid by employers to-
33 ward coverage for dependents of enrolled employees.

34 (c) The program shall require participating employers to certify that
35 at least 75% of their employees who work 30 hours or more per week
36 and who do not have other creditable coverage are enrolled in the pro-
37 gram's insurance and that the employer group otherwise meets the min-
38 imum participation requirements of this section.

39 (d) The program shall reduce the payment amounts for plan enrollees
40 eligible for a subsidy.

41 (e) The program shall require participating employers to pass on any
42 subsidy to the plan enrollee qualifying for the subsidy, up to the full
43 amount of payments made by the plan enrollee.

- 1 (f) The program may establish other criteria for participation and may
2 limit the number of participating employers.
- 3 Sec. 6. (a) The health security program may permit eligible individ-
4 uals to purchase the program's insurance for themselves and their
5 dependents.
- 6 (b) The program may collect payments from eligible individuals partic-
7 ipating in the program's insurance to cover the cost of:
- 8 (1) Enrollment for eligible individuals and dependents;
9 (2) quality assurance, disease prevention, disease management and
10 cost-containment programs;
- 11 (3) administrative services; and
12 (4) other health promotion costs.
- 13 (c) The program shall reduce the payment amounts for individuals
14 eligible for a subsidy.
- 15 (d) The program may require that eligible individuals certify that all
16 their dependents are enrolled in the program's insurance or are covered
17 by another creditable plan.
- 18 (e) The program may require an eligible individual who is currently
19 employed by an eligible employer that does not offer health insurance to
20 certify that the current employer did not provide access to an employer-
21 sponsored benefits plan in the twelve-month period immediately preced-
22 ing the eligible individual's application.
- 23 (f) The program may limit the number of plan enrollees and may
24 establish other criteria for participation.
- 25 Sec. 7. (a) The health security program shall establish sliding-scale
26 subsidies for the purchase of insurance paid by individuals or employees
27 whose income is under 300% of the federal poverty level and who are
28 not eligible for medicaid. The program may also establish sliding-scale
29 subsidies for the purchase of employer-sponsored health coverage paid
30 by employees of businesses with more than 50 employees whose income
31 is under 300% of the federal poverty level and who are not eligible for
32 medicaid.
- 33 (b) Individuals eligible for a subsidy must:
- 34 (1) Have an income under 300% of the federal poverty level, be a
35 resident of the state, be ineligible for medicaid coverage and be enrolled
36 in the programs insurance; or
- 37 (2) be enrolled in a health plan of an employer with more than 50
38 employees. The health plan must meet any criteria established by the
39 program. The individual must meet other eligibility criteria established
40 by the program.
- 41 (c) The program shall limit the availability of subsidies to reflect lim-
42 itations of available funds.
- 43 (d) The program may limit the subsidy to 40% of the payment made

1 by individual plan enrollees to more closely parallel the subsidy received
2 by employees. In no case may the subsidy granted to eligible individuals
3 exceed the maximum subsidy level available to eligible employees.

4 Sec. 8. (a) After a hearing, the director shall determine annually the
5 aggregate measurable cost savings, including any reduction or avoidance
6 of bad debt and charity care costs, to health care providers in this state
7 as a result of the operation of the program, and any increased coverage
8 in medicaid or the state child health insurance program coverage funded
9 with the program.

10 (b) The director shall establish a savings offset amount to be paid by
11 health insurers and third-party administrators, not including insurers and
12 third-party administrators for accidental injury, specified disease, hospital
13 indemnity, dental, vision, disability, income, long-term care, medicare
14 supplement or other limited benefit health insurance, annually at a rate
15 that may not exceed the aggregate measurable cost savings. Payment of
16 the savings offset amount must begin 12 months after the program begins
17 providing health insurance coverage. Savings offset payments must be
18 made quarterly and are due not less than 30 days after written notice to
19 the health insurers and third-party administrators and must accrue inter-
20 est at 12% per annum on or after the due date.

21 (c) Each health insurer must pay a savings offset in an amount not to
22 exceed 4% of annual health insurance premiums on policies that insure
23 residents of this state. The savings offset payment may not exceed the
24 aggregate measurable cost savings.

25 (d) The director shall make reasonable efforts to ensure that pre-
26 mium revenue or claims plus any administrative expenses and fees with
27 respect to third-party administrators is counted only once in any savings
28 offset payment. The program shall allow a health insurer to exclude from
29 its gross premium revenue reinsurance premiums that have been counted
30 by the primary insurer for the purpose of determining its savings offset
31 payment. The program shall allow each health insurer to exclude from its
32 gross premium revenue the amount of claims that have been counted by
33 a third-party administrator for the purpose of determining its savings off-
34 set. The program may verify each health insurer and third-party admin-
35 istrator's savings offset payment based on annual statements and other
36 reports.

37 (e) The director may suspend or revoke, after notice and hearing, the
38 certificate of authority to transact insurance in this state of any health
39 insurer or the license of any third-party administrator to operate in this
40 state if the insurer or administrator fails to pay a savings offset payment.
41 In addition, the director may assess civil penalties against any health in-
42 surer or third-party administrator that fails to pay a savings offset payment
43 or may take any other enforcement action to collect any unpaid savings

1 offset payments.

2 (f) On an annual basis, the program shall prospectively determine the
3 savings offset to be applied during each twelve-month period. Annual
4 offset payments must be reconciled to determine whether unused pay-
5 ments may be returned to health insurers and third-party administrators
6 according to a formula developed by the board. Savings offset payments
7 must be used solely to fund the subsidies authorized by this section and
8 may not exceed savings from reductions in growth of the state's health
9 care spending and bad debt and charity care.

10 (g) Every health insurer and health care provider shall demonstrate
11 that best efforts have been made to ensure that a carrier has recovered
12 savings offset payments made pursuant to this section through negotiated
13 reimbursement rates that reflect health care provider's reductions or sta-
14 bilization in the cost of bad debt and charity care as a result of the op-
15 eration of the program. A health insurer shall use best efforts to ensure
16 health insurance premiums reflect any such recovery of savings offset
17 payments as those savings offset payments are reflected through incurred
18 claims experience.

19 (h) During any negotiation with a health insurer relating to a health
20 care provider's reimbursement agreement with that health insurer, a
21 health care provider shall provide data relating to any reduction or avoid-
22 ance of bad debt and charity care costs to health care providers in this
23 state, as a result of the operation of the program.

24 Sec. 9. (a) The program shall establish a health high-risk pool.

25 (b) A plan enrollee must be included in the high-risk pool if:

26 (1) The total cost of health care services for the enrollee exceeds
27 \$100,000 in any twelve-month period; or

28 (2) the enrollee has been diagnosed with one or more of the following
29 conditions: acquired immune deficiency syndrome (HIV/AIDS), angina
30 pectoris, cirrhosis of the liver, coronary occlusion, cystic fibrosis, Frie-
31 dreich's ataxia, hemophilia, Hodgkins disease, Huntingtons chorea, ju-
32 venile diabetes, leukemia, metastatic cancer, motor or sensory aphasia,
33 multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, heart
34 disease requiring open-heart surgery, Parkinson's disease, polycystic kid-
35 ney disease, psychotic disorders, quadriplegia, stroke, syringomyelia and
36 Wilson's disease.

37 (c) The program shall develop appropriate disease management pro-
38 tocols, develop procedures for implementing those protocols and deter-
39 mine the manner in which disease management must be provided to plan
40 enrollees in the high-risk pool. The program may include disease man-
41 agement in its contract with participating carriers for insurance, contract
42 separately with another entity for disease management services or provide
43 disease management services directly through the program.

1 Sec. 10. (a) Any personally identifiable financial information, sup-
2 porting data or tax return of any person obtained by the program under
3 this section is confidential and not open to public inspection.

4 (b) Health information obtained by the program under this section
5 that is covered by the federal health insurance portability and accounta-
6 bility Act of 1996 or information covered by Title 22, section 1711-C, is
7 confidential and not open to public inspection.

8 Sec. 11. If any provision or clause of this act or application thereof
9 to any person or circumstances is held invalid, such invalidity shall not
10 affect other provisions or applications of the act which can be given effect
11 without the invalid provision or application, and to this end the provisions
12 of this act are declared to be severable.

13 Sec. 12. This act shall take effect and be in force from and after its
14 publication in the statute book.