

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 2008

## SENATE BILL No. 541

By Joint Committee on Health Policy Oversight  
(By request of the Kansas Health Policy Authority)

2-4

13 AN ACT concerning the Kansas health policy authority; relating to pow-  
14 ers and duties thereof regarding a medical home, **expansion of**  
15 **SCHIP** and small business wellness grant program; establishing the  
16 health reform fund; amending K.S.A. 2007 Supp. **38-2001**, 75-7401  
17 and 75-7408 and repealing the existing sections.

18

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

20 **Section 1. K.S.A. 38-2001 is hereby amended to read as follows:**  
21 **38-2001. (a) The secretary of social and rehabilitation services shall**  
22 **develop and submit a plan consistent with federal guidelines estab-**  
23 **lished under section 4901 of public law 105-33 (42 U.S.C. 1397aa**  
24 **et seq.; title XXI).**

25 **(b) The plan developed under subsection (a) shall be a capitated**  
26 **managed care plan covering Kansas children from zero to 19 years**  
27 **which:**

28 **(1) Contains benefit levels at least equal to those for the early**  
29 **and periodic screening, diagnosis and treatment program;**

30 **(2) provides for presumptive eligibility for children where**  
31 **applicable;**

32 **(3) provides continuous eligibility for 12 months once a formal**  
33 **determination is made that a child is eligible subject to subsection**  
34 **(e);**

35 **(4) has performance based contracting with measurable out-**  
36 **comes indicating age appropriate utilization of plan services to in-**  
37 **clude, but not limited to, such measurable services as immuniza-**  
38 **tions, vision, hearing and dental exams, emergency room utilization,**  
39 **annual physical exams and asthma;**

40 **(5) shall use the same prior authorization standards and**  
41 **requirements as used for health care services under medicaid to**  
42 **further the goal of seamlessness of coverage between the two pro-**  
43 **grams; and**

- 1     **(6) ~~will~~ shall provide targeted low-income children, as defined**  
2 **under section 4901 of public law 105-33 (42 U.S.C. 1397aa, et seq.),**  
3 **coverage subject to appropriations;**
- 4     (7) shall provide coverage, subject to appropriation of funds and eli-  
5 gibility requirements, for children residing in a household having a gross  
6 household income (A) at or under 225% of the federal poverty income  
7 guidelines in 2009, and (B) at or under 250% of the federal poverty income  
8 guidelines in 2010 and subsequent years; the participants receiving cov-  
9 erage shall contribute to the payment for such coverage through a sliding-  
10 fee scale based upon ability to pay as established by rules and regulations  
11 of the secretary; and
- 12     (8) contains a provision which requires the newly enrolled partici-  
13 pants with a family income over 200% of the federal poverty income  
14 guidelines to wait at least 8 months before participating in this program,  
15 if such participants previously had comprehensive health benefit coverage  
16 through an individual policy or a health benefit plan provided by any  
17 health insurer as defined in K.S.A. 40-4602, and amendments thereto.  
18 This waiting period provision shall not apply when the prior coverage  
19 ended due to loss of employment other than the voluntary termination,  
20 change to a new employer that does not provide an option for dependent  
21 coverage, discontinuation of health benefits to all employees, expiration  
22 of COBRA coverage period or any other situations where the prior cov-  
23 erage ended due to reasons unrelated to the availability of this program.
- 24     **(c) The secretary is authorized to contract with entities author-**  
25 **ized to transact health insurance business in this state to implement**  
26 **the health insurance coverage plan pursuant to subsection (a) pro-**  
27 **viding for several plan options to enrollees which are coordinated**  
28 **with federal and state child health care programs, except that when**  
29 **contracting to provide managed mental health care services the sec-**  
30 **retary shall assure that contracted entities demonstrate the ability**  
31 **to provide a full array of mental health services in accordance with**  
32 **the early and periodic screening, diagnosis and treatment plan. The**  
33 **secretary shall not develop a request for proposal process which**  
34 **excludes community mental health centers from the opportunity to**  
35 **bid for managed mental health care services.**
- 36     **(d) When developing and implementing the plan in subsection**  
37 **(a), the secretary to the extent authorized by law:**
- 38     **(1) Shall include provisions that encourage contracting insurers**  
39 **to utilize and coordinate with existing community health care in-**  
40 **stitutions and providers;**
- 41     **(2) may work with public health care providers and other com-**  
42 **munity resources to provide educational programs promoting**  
43 **healthy lifestyles and appropriate use of the plan's health services;**

- 1       (3) shall plan for outreach and maximum enrollment of eligible  
2 children through cooperation with local health departments,  
3 schools, child care facilities and other community institutions and  
4 providers;
- 5       (4) shall provide for a simplified enrollment plan;
- 6       (5) shall provide cost sharing as allowed by law;
- 7       (6) shall not count the caring program for children, the Kansas  
8 health insurance association plan or any charity health care plan  
9 as insurance under subsection (e)(1);
- 10       (7) may provide for payment of health insurance premiums, in-  
11 cluding contributions to a medical savings account if applicable, if  
12 it is determined cost effective, taking into account the number of  
13 children to be served and the benefits to be provided; ~~and~~
- 14       (8) may provide that prescription drugs, transportation services  
15 and dental services are purchased outside of the capitated managed  
16 care plan to improve the efficiency, accessibility and effectiveness  
17 of the program; and
- 18       [(9) shall include a provision that requires any individual to be  
19 a citizen or an alien lawfully admitted to the United States for pur-  
20 poses of establishing eligibility for benefits under the plan and to  
21 present satisfactory documentary evidence of citizenship or lawful  
22 admission of the individual. The criteria for determining whether  
23 the documentation is satisfactory shall be no more restrictive than  
24 the criteria used by the social security administration to determine  
25 citizenship. A document issued by a federally-recognized Indian  
26 tribe evidencing membership or enrollment in, or affiliation with,  
27 such tribe, such as a tribal enrollment card or certificate of degree  
28 of Indian blood shall be satisfactory documentary evidence of citi-  
29 zenship or lawful admission.]
- 30       (e) A child shall not be eligible for coverage and shall lose cov-  
31 erage under the plan developed under subsection (a) of K.S.A. 38-  
32 2001, and amendments thereto, if such child's family has not paid  
33 the enrollee's applicable share of any premium due.
- 34       If the family pays all of the delinquent premiums owed during  
35 the year, such child will again be eligible for coverage for the re-  
36 maining months of the continuous eligibility period.
- 37       (f) The plan developed under section 4901 of public law 105-33  
38 (42 U.S.C. 1397aa et seq., and amendments thereto) is not an enti-  
39 tlement program. The availability of the plan benefits shall be sub-  
40 ject to funds appropriated. The secretary shall not utilize waiting  
41 lists, but shall monitor costs of the program and make necessary  
42 adjustments to stay within the program's appropriations.
- 43       (g) Eligibility and benefits under the plan prescribed by ~~this section~~

1 ~~[subsection (b)(7)]~~ are not and shall not be construed to be entitlements,  
2 are for legal residents of the state of Kansas and are subject to availability  
3 of state and federal funds and to any state and federal requirements and  
4 the provisions of appropriation acts. If the secretary determines that the  
5 available federal funds and the state funds appropriated are insufficient  
6 to ~~provide~~ **sustain** coverage for the income eligibility levels prescribed  
7 by ~~this section~~ **[subsection (b)(7)]**, a lower income level shall be adopted  
8 and implemented by the secretary, within the limits of appropriations  
9 available therefor, and all such changes shall be published by the secretary  
10 in the Kansas register.

11 ~~Section Sec. 1-2.~~ K.S.A. 2007 Supp. 75-7401 is hereby amended to  
12 read as follows: 75-7401. (a) On July 1, 2005, the Kansas health policy  
13 authority is hereby established as a state agency within the executive  
14 branch of state government.

15 (b) The Kansas health policy authority shall be composed of nine  
16 voting members and ~~seven~~ *eight* nonvoting, ex officio members. The nine  
17 voting members shall be appointed as follows:

- 18 (1) Three members shall be appointed by the governor;
- 19 (2) two members shall be appointed by the speaker of the house of  
20 representatives;
- 21 (3) one member shall be appointed by the minority leader of the  
22 house of representatives;
- 23 (4) two members shall be appointed by the president of the senate;
- 24 and
- 25 (5) one member shall be appointed by the minority leader of the  
26 senate.

27 (c) The ~~seven~~ *eight* nonvoting, ex officio members of the Kansas  
28 health policy authority are the director of health of the department of  
29 health and environment, secretary of health and environment, secretary  
30 of social and rehabilitation services, commissioner of insurance, secretary  
31 of administration, secretary of aging, *commissioner of education* and the  
32 executive director of the authority appointed pursuant to K.S.A. 2007  
33 Supp. 75-7402, and amendments thereto. The ~~seven~~ *eight* nonvoting, ex  
34 officio members of the Kansas health policy authority shall act as a re-  
35 source and support for the voting members of the authority and shall not  
36 be entitled to vote or to make or second motions in any meeting of the  
37 authority.

38 (d) The appointment of each voting member of the Kansas health  
39 policy authority shall be subject to confirmation by the senate as provided  
40 in K.S.A. 75-4315b, and amendments thereto. Except as provided by  
41 K.S.A. 46-2601, and amendments thereto, no person appointed as a vot-  
42 ing member of the Kansas health policy authority shall exercise any  
43 power, duty or function as a member of the authority until confirmed by

1 the senate. Each member shall hold office for a term of four years, except  
2 as provided in subsection (f) for the first members appointed to the Kan-  
3 sas health policy authority, and until a successor is appointed and con-  
4 firmed. Terms of voting members of the Kansas health policy authority  
5 shall expire on March 15.

6 (e) Voting members of the Kansas health policy authority shall be  
7 members of the general public who have knowledge and demonstrated  
8 leadership in fields including, but not limited to, health care delivery,  
9 health promotion, public health improvement, evidence-based medicine,  
10 insurance, information systems, data analysis, health care finance, eco-  
11 nomics, government, and business. A majority of the voting members of  
12 the Kansas health policy authority shall be Kansas residents. No member  
13 of the legislature shall be appointed as a voting member of the Kansas  
14 health policy authority.

15 (f) The first voting members of the Kansas health policy authority  
16 established by this section shall be appointed on or before August 1, 2005.  
17 The terms of office of such members shall be as follows:

18 (1) The governor shall appoint one member for a term which shall  
19 expire on March 15, 2007, and two members for a term which shall expire  
20 on March 15, 2009;

21 (2) the speaker of the house of representatives shall appoint two  
22 members for a term which shall expire on March 15, 2008;

23 (3) the minority leader of the house of representatives shall appoint  
24 one member for a term which shall expire on March 15, 2007;

25 (4) the president of the senate shall appoint two members for a term  
26 which shall expire on March 15, 2008; and

27 (5) the minority leader of the senate shall appoint one member for a  
28 term which shall expire on March 15, 2007.

29 In addition to such terms, each of the first members appointed shall  
30 serve until a successor is appointed and confirmed.

31 (g) The members of the Kansas health policy authority shall meet and  
32 organize annually by electing a voting member as chairperson, except that  
33 the governor shall designate the first chairperson of the Kansas health  
34 policy authority from among the first voting members appointed. A ma-  
35 jority of all voting members shall constitute a quorum for meetings. All  
36 actions of the Kansas health policy authority shall be by the affirmative  
37 vote of a majority of voting members at any meeting at which a quorum  
38 is present. The Kansas health policy authority shall meet at least monthly  
39 during the fiscal year ending June 30, 2006, and thereafter not less than  
40 once per calendar quarter.

41 (h) Members of the Kansas health policy authority attending meet-  
42 ings of the authority, or attending a subcommittee meeting thereof au-  
43 thorized by the Kansas health policy authority, shall be paid subsistence

1 allowances, mileage and other expenses as provided in K.S.A. 75-3212,  
2 and amendments thereto, for members of the legislature. Members on  
3 the Kansas health policy authority shall not receive compensation for their  
4 service on the authority.

5 (i) On July 1, 2013, the Kansas health policy authority is hereby  
6 abolished.

7 New Sec. ~~2~~ **3**. (a) As used in this section, “medical home” means a  
8 health care delivery system that is person centered and family centered,  
9 providing accessible and continuous evidence-based, comprehensive, pre-  
10 ventive and coordinated health care guided by a personal primary care  
11 provider who coordinates and facilitates preventive and primary care to  
12 improve health outcomes in an efficient and **model in which a patient**  
13 **establishes an ongoing relationship with a physician or other per-**  
14 **sonal care provider in a physician-directed team, to provide com-**  
15 **prehensive, accessible and continuous evidence-based primary and**  
16 **preventive care, and to coordinate the patient’s health care needs**  
17 **across the health care system in order to improve quality and health**  
18 **outcomes in a** cost effective manner.

19 (b) The Kansas health policy authority established under K.S.A. 2007  
20 Supp. 75-7401, and amendments thereto, shall incorporate the use of the  
21 medical home delivery system within:

22 (1) The Kansas program of medical assistance established in accord-  
23 ance with title XIX of the federal social security act, 42 U.S.C. 1396 et  
24 seq., and amendments thereto;

25 (2) the health benefits program for children established under K.S.A.  
26 38-2001 et seq., and amendments thereto, and developed and submitted  
27 in accordance with federal guidelines established under title XXI of the  
28 federal social security act, section 4901 of public law 105-33, 42 U.S.C.  
29 1397aa et seq., and amendments thereto; and

30 (3) the state mediKan program.

31 (c) The Kansas state employees health care commission established  
32 under K.S.A. 75-6502, and amendments thereto, shall incorporate the  
33 use of a medical home delivery system within the state health care ben-  
34 efits program as provided in K.S.A 75-6501 through 75-6523, and amend-  
35 ments thereto.

36 (d) On or before February 1, 2009, the Kansas health policy authority  
37 in conjunction with the department of health and environment and state  
38 stakeholders shall develop systems and standards for the implementation  
39 and administration of a medical home in Kansas.

40 New Sec. ~~3~~ **4**. (a) As used in this section, “wellness program” means  
41 a program that facilitates a healthier employee population by focusing on  
42 prevention by incorporating physical, mental, social and environmental  
43 factors.

- 1 (b) The Kansas health policy authority created under K.S.A. 2007  
2 Supp. 75-7401, and amendments thereto, shall establish a small business  
3 wellness grant program. In implementing and administering the small  
4 business wellness grant program, the Kansas health policy authority shall:
- 5 (1) Develop a community grant program to provide technical assis-  
6 tance to small businesses to assist in the development of workplace well-  
7 ness programs; and
- 8 (2) provide start-up funds to small businesses to assist in the devel-  
9 opment of workplace wellness programs.
- 10 (c) The provisions of this section shall expire and the small business  
11 wellness grant program shall be abolished December 30, 2016.
- 12 Sec. ~~4~~ **5**. K.S.A. 2007 Supp. 75-7408 is hereby amended to read as  
13 follows: 75-7408. (a) On and after July 1, 2006, the Kansas health policy  
14 authority shall coordinate health care planning, administration, and pur-  
15 chasing and analysis of health data for the state of Kansas with respect to  
16 the following health programs administered by the state of Kansas:
- 17 (1) Developing, implementing, and administering programs that pro-  
18 vide medical assistance, health insurance programs, or waivers granted  
19 thereunder for persons who are needy, uninsured, or both, and that are  
20 financed by federal funds or state funds, or both, including the following:
- 21 (A) The Kansas program of medical assistance established in accord-  
22 ance with title XIX of the federal social security act, 42 U.S.C. § 1396 et  
23 seq., and amendments thereto;
- 24 (B) the health benefits program for children established under K.S.A.  
25 38-2001 et seq., and amendments thereto, and developed and submitted  
26 in accordance with federal guidelines established under title XXI of the  
27 federal social security act, section 4901 of public law 105-33, 42 U.S.C. §  
28 1397aa et seq., and amendments thereto;
- 29 (C) any program of medical assistance for needy persons financed by  
30 state funds only, to the extent appropriations are made for such a  
31 program;
- 32 (D) the working healthy portion of the ticket to work program under  
33 the federal work incentive improvement act and the medicaid infrastruc-  
34 ture grants received for the working healthy portion of the ticket to work  
35 program; **and**
- 36 (E) the medicaid management information system (MMIS); ~~and~~  
37 ~~—(F)—a phased-in premium assistance plan to assist eligible low income~~  
38 ~~Kansas residents with the purchase of private insurance or other benefits~~  
39 ~~that are actuarially equivalent to the Kansas state employee health plan~~  
40 ~~under a program authorized under subsection (a)(1). In program years~~  
41 ~~one and two, subject to appropriation of funds and other eligibility~~  
42 ~~requirements, eligible participants shall consist of families at and under~~  
43 ~~50% of the federal poverty level. Subject to appropriation of funds and~~

1 ~~other eligibility requirements, eligible participants in program year three~~  
2 ~~shall consist of families at and under 75% of the federal poverty level.~~  
3 ~~Subject to appropriation of funds and other eligibility requirements, eli-~~  
4 ~~gible participants in program year four shall consist of families at and~~  
5 ~~under 100% of the federal poverty level. On July 1, 2011, subject to~~  
6 ~~appropriation of funds and other eligibility requirements, eligible partic-~~  
7 ~~ipants in the program shall also include childless adults age 19 and above~~  
8 ~~at and under 100% of the federal poverty level.~~ The Kansas health policy  
9 authority is authorized to seek any approval from the centers for medicare  
10 and medicaid services necessary to accomplish the development or ex-  
11 pansion of premium assistance programs for families *and childless adults*;  
12 (2) the restrictive drug formulary, the drug utilization review pro-  
13 gram, including oversight of the medicaid drug utilization review board,  
14 and the electronic claims management system as provided in K.S.A. 39-  
15 7,116 through 39-7,121 and K.S.A. 2007 Supp. 39-7,121a through 39-  
16 7,121e, and amendments thereto; and  
17 (3) administering any other health programs delegated to the Kansas  
18 health policy authority by the governor or by a contract with another state  
19 agency.  
20 (b) Except to the extent required by its single state agency role as  
21 designated in K.S.A. 2007 Supp. 75-7409, and amendments thereto, or  
22 as otherwise provided pursuant to this act the Kansas health policy au-  
23 thority shall not be responsible for health care planning, administration,  
24 purchasing and data with respect to the following:  
25 (1) The mental health reform act, K.S.A. 39-1601 et seq., and amend-  
26 ments thereto;  
27 (2) the developmental disabilities reform act, K.S.A. 39-1801 et seq.,  
28 and amendments thereto;  
29 (3) the mental health program of the state of Kansas as prescribed  
30 under K.S.A. 75-3304a, and amendments thereto;  
31 (4) the addiction and prevention services prescribed under K.S.A. 65-  
32 4001 et seq., and amendments thereto; or  
33 (5) any institution, as defined in K.S.A. 76-12a01, and amendments  
34 thereto.  
35 **New Sec. 5: 6.** (a) There is hereby established in the state treasury  
36 the health reform fund which shall be administered by the Kansas health  
37 policy authority.  
38 (b) All moneys credited to the health reform fund shall be expended  
39 for the purpose of funding the small business wellness grant program in  
40 section ~~3~~ **4** and for funding other health reform options of the Kansas  
41 health policy authority. Moneys allocated or appropriated from the health  
42 reform fund shall not be used to replace or substitute for moneys appro-  
43 priated from the state general fund in the immediate preceding fiscal



1 year. All expenditures from the health reform fund shall be made in ac-  
2 cordance with appropriation acts upon warrants of the director of ac-  
3 counts and reports issued pursuant to vouchers approved by the Kansas  
4 health policy authority or its designee.

5 (c) On or before the 10th day of each month, the director of accounts  
6 and reports shall transfer from the state general fund to the health reform  
7 fund interest earnings based on (1) the average daily balance of moneys  
8 in the health reform fund and (2) the net earnings of the pooled money  
9 investment portfolio for the preceding month.

10 Sec. ~~6~~ **7**. K.S.A. 2007 Supp. ~~38-2001~~, 75-7401 and 75-7408 are  
11 hereby repealed.

12 Sec. ~~7~~ **8**. This act shall take effect and be in force from and after its  
13 publication in the statute book.