

HOUSE BILL No. 2750

By Committee on Appropriations

5-5

9 AN ACT concerning the state health care benefits program; relating to
10 subrogation rights and coordination of benefits thereunder; amending
11 K.S.A. 75-6504 and repealing the existing section.
12

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

14 New Section 1. (a) All third parties shall provide, with respect to
15 participants, and such participants' spouses and dependents, who are el-
16 igible for, or are provided, health benefits under the state health care
17 benefits program, upon the request of the state, or the state's contracted
18 vendor, information to determine during what period participants or their
19 spouses or their dependents may be, or may have been, covered by a
20 health insurer and the nature of the coverage that is, or was provided, by
21 the health insurer, including the name, address and identifying number
22 of the plan, in a manner prescribed by the state.

23 (b) As used in this section,

24 (1) "participant" means a participant under the state health care ben-
25 efits program;

26 (2) "state health care benefits program" means the state health care
27 benefits program established under K.S.A. 75-6501 et seq., and amend-
28 ments thereto; and

29 (3) "third parties" means all third parties, including health insurers,
30 self-insured plans, group health plans as defined in section 607(1) of the
31 employee retirement income security act of 1974, service benefit plans,
32 managed care organizations, pharmacy benefit managers or other parties
33 that are, by statute, contract or agreement, legally responsible for pay-
34 ment of a claim for a health care item or service to pay for care and
35 services available under the plan.

36 New Sec. 2. (a) Where benefits have been paid by the state health
37 care benefits program and a third party has a legal obligation to pay such
38 benefits to or on behalf of the participant, or the participant's spouse or
39 the participant's dependents, the state health care benefits program may
40 recover the same from the participant, or the participant's spouse or the
41 participant's dependents, or from the third party and shall be in all re-
42 spects subrogated to the rights of the participant, or the participant's
43 spouse or the participant's dependents, in such cases. The state health

1 care benefits program shall have the right to first recovery on any amounts
2 so recovered, whether recovered by litigation, arbitration, mediation, set-
3 tlement or otherwise. Payment for benefits under the state health care
4 benefits program shall be secondary to any other insurance coverage or
5 third party with a legal obligation to pay such medical expenses to or on
6 behalf of the participant, or the participant's spouse or the participant's
7 dependents.

8 (b) Pursuant to this section unless otherwise agreed, the court shall
9 fix attorney fees, which shall be paid proportionately by the state health
10 care benefits program and the injured person, or such person's depend-
11 ents or personal representatives, in the amounts determined by the court.
12 Attorney fees to be paid by the state health care benefits program shall
13 be fixed by the court in an amount not to exceed $\frac{1}{3}$ of the benefits re-
14 covered pursuant to subsection (a) for cases settled prior to trial, or in an
15 amount not to exceed $\frac{2}{5}$ of the benefits recovered pursuant to subsection
16 (a) in cases when a trial is convened.

17 (c) In the event of a recovery pursuant to K.S.A. 60-258a, and amend-
18 ments thereto, the state health care benefits program's right of subro-
19 gation shall be reduced by the percentage of negligence attributable to
20 the injured person.

21 (d) As used in this section, "participant" means a participant under
22 the state health care benefits program; and "state health care benefits
23 program" means the state health care benefits program established under
24 K.S.A. 75-6501 et seq., and amendments thereto.

25 Sec. 3. K.S.A. 75-6504 is hereby amended to read as follows: 75-
26 6504. (a) Subject to the provisions of appropriation acts relating thereto,
27 in developing and providing for the implementation of a state health care
28 benefits program the Kansas state employees health care commission
29 may:

30 (1) Enter into one or more group insurance contracts to provide cov-
31 erage for all or part of the state health care benefits program;

32 (2) establish a self-funded program on an actuarially sound basis to
33 provide coverage for all or part of the state health care benefits program
34 and administer the self-funded program or contract for all or part of the
35 administration of the self-funded program;

36 (3) provide for the self-administration of all or part of the state health
37 care benefits program;

38 (4) enter into contracts with one or more health care providers for
39 the provision of health care services;

40 (5) enter into contracts in accordance with the provisions of K.S.A.
41 75-6505, and amendments thereto, with one or more health maintenance
42 organizations for the provision of health care services; ~~or~~

43 (6) *include provisions under the state health care benefits program*

1 *for the coordination of benefits payable by the terms of the program, or*
2 *any plan or contract thereunder, with the benefits to which the partici-*
3 *pant, or the participant's spouse or the participant's dependents, may be*
4 *entitled by the provisions of any other group hospital, surgical, medical,*
5 *major medical or prescription drug insurance, or any combination*
6 *thereof; or*

7 (7) any combination of the authority granted under this subsection
8 (a).

9 (b) The Kansas state employees health care commission is hereby
10 authorized to negotiate and enter into contracts with qualified insurers,
11 health maintenance organizations and other contracting parties for the
12 purpose of establishing the state health care benefits program, including
13 the acquisition of consulting and other services necessary therefor. The
14 commission shall advertise for proposals, shall negotiate with not less than
15 three firms or other parties submitting proposals, and shall select from
16 among those submitting proposals the firm or other contracting party to
17 contract with for the purpose of entering into contracts for services re-
18 lated to the state health care benefits program.

19 (c) The provisions of K.S.A. 75-4317 through 75-4320a, and amend-
20 ments thereto, shall not apply to meetings of the Kansas state employees
21 health care commission when the commission meets solely for the pur-
22 pose of:

23 (1) Discussing and preparing strategies for negotiations for such plans
24 and contracts; and

25 (2) considering health care matters relating to individually identifi-
26 able plan participants.

27 (d) Contracts entered into pursuant to this section, K.S.A. 75-6505
28 or 75-6510, and amendments thereto, shall not be subject to the provi-
29 sions of K.S.A. 75-3738 to 75-3740, inclusive, and amendments thereto.
30 Such contracts may be for terms of not more than three years and may
31 be renegotiated and renewed. All such contracts shall be subject to the
32 limits of appropriations made or available therefor and subject to the
33 provisions of appropriations acts relating thereto.

34 Sec. 4. K.S.A. 75-6504 is hereby repealed.

35 Sec. 5. This act shall take effect and be in force from and after its
36 publication in the Kansas register.