

Approved February 20, 1989
Date

MINUTES OF THE House COMMITTEE ON Insurance

The meeting was called to order by Dale Sprague at
Chairperson

3:30 a.~~m~~p.m. on February 16,, 1989 in room 531-n of the Capitol.

All members were present except:

Representative Delbert Gross, absent
Representative Michael Sawyer, absent
Representative Elaine Wells, absent

Committee staff present:

Chris Courtwright, Research Department
Emalene Correll, Research Department
Bill Edds, Revisor of Statutes
Patti Kruggel, Committee Secretary

Conferees appearing before the committee:

Others present: see attached list.

The Vice-Chairman called the meeting to order at 3:30 p.m. and opened discussion on HB 2391 and HB 2392.

HB 2391 -- An Act relating to insurance; providing the certain accident and sickness coverage include maternity benefits with respect to adopted children; amending K.S.A. 1988 Supp. 40-19c09 and repealing the existing section; also repealing K.S.A. Supp. 1988 40-19c09a.

HB 2392 -- An Act relating to insurance; providing that certain health policies and contracts contain coverage with respect to adopted children; amending K.S.A. 40-2,102 and repealing the existing section.

Chris Courtwright, Legislative Research Department, gave a brief overview of HB 2391. He explained that this act applies to prospective accident and sickness policies in that, if insurance is in effect that includes maternity coverage such coverage may be used by the policyholder to pay the maternity costs of the birth mother of a child or children adopted by the insured.

Dick Brock, Insurance Department, distributed a proposed amendment to HB 2391 which would exempt health maintenance organizations (HMO) from this act. (Attachment 1.) Mr. Brock testified that HB 2391 pertains to the Insurance Commissioner's Proposal No. 8 and would provide maternity benefits to the birth mother of an adopted child on behalf of the adoptive parents, enabling the insured to transfer maternity coverage to the birth mother for the birth of the child. (Attachment 2.)

Next appearing in support to HB 2391 was Rochelle Kroshus, an adoptive parent and member of Ours Thru Adoption (OTA). Ms. Kroshus explained her interest in this legislation and provided documentation of actual adoption medical expenses. (Attachment 3.)

Jim Schwartz, Kansas Employee Coalition on Health, testified in opposition to HB 2391 objecting to the provisions of the bill as constituting unwarranted government regulation of a voluntary, private, contractual relationship. Mr. Schwartz stated that adding mandates increases pressure on employers to try self-insurance or to drop health insurance altogether. (Attachment 4.)

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance,
room 531-N Statehouse, at 3:30 axx/p.m. on _____, 1989

Cheryl Dillard, Kansas HMO Association, testified in opposition to both HB 2391 and HB 2392 as presently proposed. Ms. Dillard stated that their concerns are based on the difficulties that prepaid provider systems encounter when they are required to pay for retroactive claims incurred by non-contract providers. (Attachment 5.)

William Pitsenberger, Blue Cross and Blue Shield of Kansas testified in opposition to both HB 2391 and HB 2392 explaining that the bills propose to mandate coverage under insurance contracts and that mandating benefits increases the cost of health insurance, further encouraging employers to turn to self-insurance. He also provided clarifications (Attachment 6) for HB 2391 should the Committee be inclined to act favorably on these bills.

Dave Hanson, Kansas Life Association, testified that the Association supports the concept of HB 2391 but discourages passage of language that is subject for abuse.

Chris Courtwright, Legislative Research Department, was asked by the Chairman to give a brief overview of HB 2392. Mr. Courtwright explained that the bill would amend K.S.A. 40-2,102 extending coverage for a child adopted within 90 days of birth.

Dick Brock, Insurance Department, testified that HB 2392 pertains to the Insurance Commissioner's Proposal No. 7. The Bill would permit adoptive parents to utilize the benefits already provided under the accident and sickness coverage they have purchased. (Attachment 7.)

There were no others wishing to testify to either HB 2391 or HB 2392 and the hearings were concluded.

Representative Hoy requested introduction of two committee bills, they are: (1) pertains to Florida laws, outlining solicitation of accidents by attorneys, and (2) requests to increase liability limits from 25, 50, and 10, to 50, 100, and 20.

A motion was made by Representative Hoy to introduce the bills. Representative Brown seconded. The motion carried.

The meeting was adjourned at 5:00 p.m.

HOUSE BILL No. 2391

By Committee on Insurance

2-14

ATTACHMENT

Attachment 1

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AN ACT relating to insurance; providing that certain accident and sickness coverage include maternity benefits with respect to adopted children; amending K.S.A. 1988 Supp. 40-19c09 and repealing the existing section; also repealing K.S.A. 1988 Supp. 40-19c09a.

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

New Section 1. This act applies to any individual, group or blanket policy of accident and sickness, and any policy, contract, plan or agreement for medical service ~~including~~ any contract issued by a health maintenance organization, issued, delivered, renewed or issued for delivery on or after the effective date of this act within or outside this state or used within this state by or for an individual who resides or is employed within this state.

New Sec. 2. Any policy, provision, contract, plan or agreement to which this act applies that provides coverage for maternity benefits shall also provide that the maternity benefits apply to the costs of the birth of any child legally adopted by the insured if:

- (a) All preexisting conditions, waiting periods and other limitations have been met by the insured;
- (b) the insured is legally obligated to pay the costs of the birth;
- (c) the child is adopted within one year of birth; and
- (d) the insured has notified the insurer, nonprofit medical and hospital service corporation, fraternal benefit society or ~~health maintenance organization~~ within 60 days of receipt of the consent to adoption required by K.S.A. 59-2102 and amendments thereto that adoption is contemplated or within 60 days after a change in insurance policies, plans or companies.

New Sec. 3. The coverage prescribed by section 2 is excess over any other coverage the natural mother may have for maternity ben-

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45 efits. If such other coverage exists, the agency, attorney or individual
46 arranging the adoption shall make arrangements for the insurance
47 to pay those costs that may be covered under that policy and shall
48 advise the adopting parent in writing of the existence and extent of
49 the coverage without disclosing any confidential information such as
50 the identity of the natural parent. The insured adopting parents shall
51 notify their insurer of the existence and extent of the other coverage.

52 Sec. 4. K.S.A. 1988 Supp. 40-19c09 is hereby amended to read
53 as follows: 40-19c09. Corporations organized under the nonprofit
54 medical and hospital service corporation act shall be subject to the
55 provisions of the Kansas general corporation code, articles 60 to 74,
56 inclusive, of chapter 17 of the Kansas Statutes Annotated, applicable
57 to nonprofit corporations, to the provisions of sections 3 and 4 of
58 ~~this act, to the provisions of K.S.A. 40-2,116 and 40-2,117 1 to~~
59 ~~3, inclusive, of this act,~~ and to the provisions of K.S.A. 40-214, 40-
60 215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-226,
61 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-
62 249, 40-250, 40-251, 40-252, 40-254, 40-2,100, 40-2,101, 40-2,102,
63 40-2,103, 40-2,104, 40-2,105, ~~40-2,116, 40-2,117,~~ 40-2a01 to 40-2a10,
64 inclusive, 40-2111 to 40-2116, inclusive, 40-2216 to 40-2220, inclu-
65 sive, 40-2401 to 40-2421, inclusive, and 40-3301 to 40-3313, inclusive,
66 *and K.S.A. 1988 Supp. 40-2221a, 40-2221b, 40-2229 and 40-2230,*
67 and amendments thereto, except as the context otherwise requires,
68 and shall not be subject to any other provisions of the insurance
69 code except as expressly provided in this act.

70 Sec. 5. K.S.A. 1988 Supp. 40-19c09 and 40-19c09a are hereby
71 repealed.

72 Sec. 6. This act shall take effect and be in force from and after
73 its publication in the statute book.

40-2a24

TESTIMONY BY

DICK BROCK
ADMINISTRATIVE ASSISTANT
KANSAS INSURANCE DEPARTMENT

BEFORE THE

HOUSE INSURANCE COMMITTEE
HOUSE BILL NO. 2391

FEBRUARY 16, 1989

House Bill No. 2391 is a companion to House Bill No. 2392. The first would provide maternity benefits to the birth mother of an adopted child on behalf of the adoptive parents. The second addresses equality of coverage between adopted and natural born children.

As is the case with House Bill No. 2392, this legislative measure does not require any insurer to include any coverage in a contract they don't now provide and it does not require any person to purchase coverage they don't now purchase. It simply provides that if insurance is in effect that includes maternity coverage such coverage may be used by the policyholder to pay the maternity costs of the birth mother of a child or children adopted by the insured. The insured who utilizes the maternity benefits in an adoption situation is subject to the same waiting periods, same deductible and coinsurance requirements and must be legally responsible for payment of the maternity costs just as any other covered person. The one significant difference is that, in the case of adoption, the insured is required to notify their insurer that adoption is contemplated. This will permit the insurer to obtain information it may need to document its claim file since benefits will be paid on behalf of a person who is not an insured under the policy.

Needless to say, there is no question but what enactment of this bill will require the payment of maternity benefits in more instances than is now the case. In many cases, however, the insurer has avoided payment of maternity benefits for the people utilizing this provision only because mother nature has not been cooperative. Nevertheless, the insurer included maternity coverage in the contract -- the insured paid for the coverage and this bill will allow them to take advantage of it. I realize a similar analogy could be drawn with respect to a heart condition, gallstones or any number of illnesses. But there is a distinct difference -- no one looks for or plans on a heart condition or gallstones or even having to make a decision about many elective surgical procedures -- the people this bill affects do plan on becoming parents but many -- probably most -- of the people for whom maternity benefits

are paid now also plan on becoming parents. Thus -- as other states have already determined -- even though this bill introduces a new insurance concept it is not a concept that violates traditional insurance principles any more than knowledge, technology and changing customs have already changed the role insurance plays in family planning considerations.

I am an adoptive parent and currently an active member in a group called "Ours through Adoption". The adoption statute that we are presenting and asking for your approval on would help with the financial costs of adoption. I would like to ask for your favorable support to the adoption statutes that have been introduced by Commissioner Bell. These provide medical coverage for the birth mother and also provide coverage of the adoptive baby commencing at birth.

The bills are currently in effect in Arizona and Arkansas. I have spoken with Gay Ann Williams in the Arizona Insurance Commissioners office about the effects that the bill providing medical coverage for the birth mother has had on insurance companies. She said to her knowledge this bill has not been abused and there has not been a significant rise in insurance premiums. In 1987, Arkansas passed Act 99 which provides coverage for the adopted child at birth. I spoke with Kathy Reichstadt, with the Insurance Commissioners office in Arkansas and she said there has not been any negative feedback from insurance companies about complying and there had not been any information about a significant rise in insurance premiums because of this bill.

We are only asking that the benefits that we are currently paying for be available in an adoption. Our insurance premiums cover maternity benefits and we want to be able to use the benefits of that coverage. Also, when a baby is born into a family biologically, insurance coverage on that baby begins immediately. Again, we think we should have the same coverage with an adopted baby.

The cost of an adoption now averages between \$8,000 and \$10,000. The adoptive families pay in full the medical expenses of the birth mother, the baby, filing fees of the adoption, home study fees and legal fees. All these expenses make it very difficult for a family to adopt. If there are any complications during the birth or if the baby requires additional medical attention at birth because of any problems, a lot of us would not be financially able to adopt that baby. We need assistance from our insurance companies to help cover some of this expense. The attached letters give documentation of actual adoption medical expenses.

The passage of these statutes would in no way be an incentive to place a child for adoption. The cost incurred by the birth mother are already being paid for by the adoptive parents.

I have talked with several families who have adopted and they informed me that after all the bills were paid their savings account was depleted. "That is not an uncommon statement to hear from adoptive parents", confirmed Attorney Chris Iliff, who has done many private and agency adoptions.

What we are really saying is we only want the same coverage that we would receive if we were physically able to have a biological child. We would appreciate your support on these statutes so that families will be able to afford the cost of adopting children.

Respectfully submitted,

Rochelle Kroshus

IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS
PROBATE SECTION

IN THE MATTER OF
THE ADOPTION OF:

BABY GIRL
A Minor.

Case No. A-6656


Court Div. 15

FINAL
AFFIDAVIT OF EXPENSES

COMES NOW Christopher C. Iliff and does file with the Court the following Affidavit with regard to the projected expenses of the above-captioned adoption proceedings.

1. Hospital and Other Medical Expenses	\$ <u>4,098.75</u>
2. Attorneys Fees	<u>1,980.00</u>
3. Social Worker	<u>400.00</u>
4. Filing Fee	<u>35.00</u>
5. Other - <i>BIRTH MOTHER'S EXPENSES</i>	<u>670.22</u>
	<u> </u>

The undersigned does depose and state that the above and foregoing expenses are true and accurate to the best of his knowledge and belief. This document will be supplemented with exact expenses at the time of the hearing on the adoption.


Christopher C. Iliff
4140 W. 71st Street, Suite 107
Prairie Village, Kansas 66208
(913) 362-6700

ATTORNEY FOR PETITIONERS

*Adoption costs for
Terry + Rochelle Kroskus*

BY CLERK

88.

JERRY & GRISEL WILEY
5425 WINDSOR LANE
FAIRWAY, KANSAS 66205

Mrs. Rochelle Kroshus
10635 Monrovia
Overland Park, KS 66210

Dear Rochelle:

We are writing in support of the adoption insurance coverage bill currently under review by the Kansas State Insurance Commission.

As you know, Jerry and I had the good fortune to adopt a newborn child in October of 1987. In so doing we were responsible for all medical expenses, including those of the birth mother, as well as other legal and miscellaneous fees--amounting to almost \$12,000.00!

At the time of the adoption Jerry and I maintained separate insurance policies through our respective employers. My husband's insurance did not have any provision for adopted children whereas mine provided coverage for the child exclusively and not the birth mother. Unfortunately, in our situation the greater portion of the medical bills pertained to the care of the birth mother.

The medical expenses amounted to approximately \$8600.00, of which \$3,000 was reimbursed to us by my insurance company for the baby's care. Therefore, we were required to pay the balance of \$5,600 at the time we picked up our baby. Needless to say, although we consider ourselves blessed to have a healthy, beautiful child, we have yet recovered from this huge, financial burden.

It seems odd that insurance companies automatically assume coverage in the event of a change in family status in other situations, yet discriminates in cases of adoption. From personal experience, and I believe I can speak for all those with adopted children, our children are simply that--our children! We love them (and perhaps even more) than if ^{we} had given birth to them. Since we as parents make no distinction, it is unfair that insurance companies place them in a different classification and believe they deserve less than naturally born children.

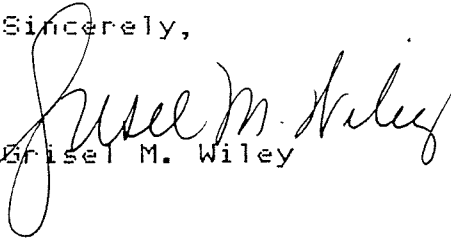
We strongly support this bill because we believe that if not for the medical expenses a more solid foundation could be established for our child's future by way of an educational fund. Furthermore, the financial hardship must certainly prohibit many other

Page 2 .

worthy couples from adoption. If the State of Kansas could prevent this injustice by proposing this bill, we, along with many others, would be greatly appreciative.

We thank you for your efforts and wish you success in your testimony before the Insurance Commission. If we can be of any further assistance, please do not hesitate to call on us.

Sincerely,



Grisel M. Wiley

February 12, 1989

January 11, 1989

Rochelle Kroshus
11635 Monrovia
Overland Park, Kansas 66210

Dear Ms. Rochelle:

We are writing to you in support of Kansas Legislative Proposal #9. This will be heard by the Insurance Committee this February. Our support for this bill is a result of our experience with adoption.

Roughly two years ago, we began the adoption process which resulted in our adoption of our 18 month old son, Russell Hall Harsh. As an additional reference, we also have two daughters by natural means who are now seven and six.

The adoption process for us was fairly typical, expense wise. According to the attorney who assisted us in this, the fees are fairly standard. The major variance would be the medical expenses should there be any medical problems with either the baby or birth mother. In our case, the expenses were standard:

Fee for our Case Study	\$ 400
Legal Fees	2,000
Medical Expenses	4,000
Total	\$6,400

Although we reviewed a more detailed expense sheet just prior to the formal adoption, records available to us for use in this letter only break out the above numbers.

We enthusiastically support this bill. As you can see, the medical expense portion of the cost of adoption was almost 70% of the total cost. We love our son, Russell, and feel that every penny we invested in him was well worth it. But, if we could have used those savings to set up an education fund for him, that would have been better. If only our medical insurance could have covered the expenses, as it did with our natural children, we could have done this.

The adoption process is very stressful on a couple or single parent. There are so many variables and so many places for the process to make you feel as if you are driving up a series of streets with no exit. Anything can go wrong and usually does. But, if the State of Kansas can give adoptive parents access to this medical coverage from birth for their new family members, this could give additional hope to prospective adoptive parents that their dreams of adoption will be fulfilled.

Please feel free to get in touch with us should you need any further information.

Sincerely,

Hall and Molly Harsh
17900 Nall
Stilwell, Kansas 66085

A handwritten signature in cursive script, appearing to read "Hall".

January 9, 1989

James and Glenda Werst
7949 Reinhardt
Prairie Village, Kansas 66208
(913) 642-1319

Rochelle Kroshus
11635 Monrovia
Overland Park, Kansas 66210

Dear Ms. Kroshus,

We are very supportive of this bill and hope the following will help you get it passed. Our medical expenses (hospital bill) for our adoption was #3,800, which was not covered by our insurance. Once the remainder of our adoption fees are added in, the total soars to nearly \$10,000. For some families adopting children with special needs, the cost is even more. This is a staggering amount of money for most young parents trying to begin a family. With savings depleted or perhaps additional debt taken on, this new family is now faced with providing for this new baby. For many, we are sure, it is simply prohibitive.

Assistance of the kind proposed by this bill will enable more parents to be financially secure enough to adopt. We do consider ourselves lucky, that our baby's delivery had no complications and he was healthy. Others are not as fortunate.

Hope this letter will be of some help. Please let us know if we can assist in any other way.

Sincerely,

*Glenda &
James Werst*

6833 Fontana
Prairie Village, KS 66208
January 23, 1989

Rochelle Kroshus
11635 Monrovia
Overland Park, KS 66210

Dear Rochelle,

Per our phone conversation, we would like to help with your testimony to the legislation. We have adopted two boys with the following conditions as related to medical coverage.

In 1984 we completed a private adoption. The birth mother did not have any insurance coverage and we had to reimburse the hospital for all expenses for both her and the baby. I believe this was approximately \$3000.00 as it was a normal delivery.

This past December we started procedures to adopt a second son. Because of the birthmothers circumstances the state paid for the delivery of the baby and our expenses were restricted to the baby's hospital stay which was less than \$500.00.

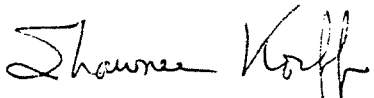
Our insurance coverage would have covered maternity if we could have had birth children and I agree that that same coverage should be extended to adoptive parents to off set the high expense of adoption. We have paid for this coverage.

Both of our boys were only covered under our insurance after the judge had accepted our petition for adoption. With our second son that consent was not signed until he was 11 days old. Because of the close proximity to a weekend, our first son was 4 days old.

Adoption is already expensive with legal fees, agency fees and etc. Had either of the boys needed any kind of surgery at birth we would probably not have been able to cover these expenses and would have had to forfeit the adoption.

If we can be of any more help, don't hesitate to contact us. We'll see you at the up coming February meeting.

Sincerely,



Shawnee and Andreas Korff

**Kansas Employer Coalition on Health
Testimony before the Kansas House Insurance Committee
House Bill 2391
February 15, 1989**

**by
James P. Schwartz Jr., Consulting Director**

The Kansas Employer Coalition on Health is 107 employers across Kansas who are concerned about the cost-effectiveness of group health insurance. Since 1983 we have sought ways to manage the spiraling costs of health care benefits for our 300,000 Kansas employees and dependents.

Standing before you now, I'm keenly aware that opposing this bill carries the risk of our being labeled opponents of motherhood. I want to stress that we side with the proponents of the bill in the cause of fostering high-quality care for all Kansans, mothers and newborns in particular.

The problems we have with the bill are of two kinds, general and specific.

In general we resist mandated expansion of health benefits because health benefits are voluntary and are designed to reflect the cost/benefit evaluations of differing groups.

Let me explain. Most employers, especially the smaller ones who are insured by third parties, are facing the highest level of health care cost inflation in their histories. You probably know that one solution to the problem, already adopted by about half of major employers in the state, is avoiding mandated benefits by going self-insured. Another solution that is now being seriously discussed in some board rooms is the possibility of dropping health insurance.

Adding more mandates increases pressure on employers to try self-insurance or to simply drop health insurance altogether.

I said a minute ago that mandates disrupt the cost/benefit judgments underlying the selection of health insurance coverage. How does that happen? Since no health care plan can possibly include all the services that would be nice if they were free, employers and employees end up selecting a mix that best suits them. That benefit becomes a part of total compensation, a kind of contract between employee and employer. This is a delicate process, especially in negotiated labor contracts.

When government intervenes in this process and mandates a particular benefit, several questionable results are likely to happen:

- I. The process of quid-pro-quo between employer and employee is distorted.

- II. The process of having various benefits compete for inclusion in the health plan is sidestepped.
- III. The desirable pluralistic quality of the American employment-based health insurance system is dealt a blow.

Thus we object to the provisions of this bill as constituting unwarranted government regulation of a voluntary, private, contractual relationship.

We also have some specific objections to the bill.

- I. Some companies already have provisions outside of the health plan to help with adoption expenses.
- II. In many cases the issue may not really be so much of a health issue as it is a social service issue.
- III. The provisions of the bill represent a cost over which employers exercise virtually no control. Employers are rapidly adopting techniques for better managing the health care of their insureds. This bill, we fear, opens an avenue for unmanaged care to take place. The patient in these cases is presumably not a member of the insured group for which the plan has arranged cost-effective care — and possibly a wellness program.

Extending health care coverage to people outside of the insured group sounds like a fine thing. But it is inconsistent with the fundamental operation of the current American employment-based health care funding system. Under our system, employers conserve financial resources available for health care primarily by limiting benefits to a circumscribed group of employees and dependents. When you begin to remove the limits of coverage, you weaken a key defense against escalating costs.

A vote for this bill, while well-intentioned, is a vote for an impossible world, one where all imaginable care is available on demand to anyone — and someone else pays the bill.

We ask for your thoughtful restraint when considering this bill.

House Committee on Insurance**February 16, 1989****Testimony of Cheryl Dillard****President, Kansas HMO Association****On House Bill Nos. 2391 and 2392**

Chairman Sprague and members of the Committee, I am Cheryl Dillard, Government and Community Relations Manager for Kaiser Permanente and President of the Kansas HMO Association. I am appearing before you today to raise some concerns on the part of Kansas HMO Association regarding House Bill Nos. 2391 and 2392.

Both these bills, while worthy in their intent, present problems for health maintenance organizations who seek to manage health care costs and promote quality by contracting with selected providers within defined service areas. HMOs, as you know, are prepaid plans that not only insure health care coverage, but also provide the care through one of three basic organizational structures -- group model, staff model or IPA (independent practice association). Common to all HMOs is a defined provider network -- physicians and hospitals with whom we contract based on cost and quality of care issues. Because of these provider contracts, HMOs have a proven track record in the area of cost containment. Nationally, HMO premiums for 1988 rose between 6% and 12% while indemnity coverage went up between 10% and 70% with 12% to 25% as the norm.

[House Bill Nos. 2391 and 2392, as presently drafted, would require HMOs to pay for claims incurred on a retroactive basis by non-contracting facilities and physicians. House Bill No. 2392 requires insurers to cover costs from the moment of birth for children adopted within 90 days of birth, even if the child is not in the physical custody of our subscribers until the 90th day. Our current practice is to commence coverage when our subscribers notify us that their newly adopted child has been placed with them and can begin receiving care from the HMO's providers. A key issue for us is defining the point at which we can bring this new family member into the managed structure of our provider network.

House Bill No. 2391 is even more problematical for HMOs because it requires reimbursement for the birth mother's maternity costs. Again, this bill would require us to pay for benefits HMOs have no hand in providing and over which we have no control.]

Proponents of this bill take the view that childless couples who adopt have been paying for the possible use of maternity services at part of their premium and should have the benefit of those funds even if they are not the birth parents. Insurance, as you are aware, works on the "pooled risk" concept, charging all subscribers small amounts for services used by only some of the subscribers in the pool.

While it is so that a certain portion of the HMO premium reflects actuarial assumptions of maternity costs, the premium also includes a few pennies every month for such services as liver transplants and chemo therapy. If HMO subscribers do not require the use of these two services, that money is not refunded.

One final point that must be made is that the requirements contained in House Bill Nos. 2391 and 2392 would not and could not apply to self-insured plans. This attempt to make social policy tilts the balance of competitiveness against insured plans including hmos and, we believe, further encourages employers to self-insure.

In summary, our concerns are based on the difficulties that prepaid provider systems encounter when they are required to pay for retroactive claims incurred by non-contract providers. These requirements would eliminate for us the opportunity to do what we do best -- manage health care costs and quality.

We are not against adoption. We have struggled to arrive at a "middle-ground" solution which would address the concerns of the department and of adoptive parents for health care coverage. We would be pleased to continue to work with legislators and department representatives on this issue.

HOUSE BILLS 2391 AND 2392
HOUSE INSURANCE COMMITTEE
February 16, 1989

Both H.B. 2391 and 2392 mandate coverage under insurance contracts.

As a general matter, Blue Cross and Blue Shield of Kansas opposes mandated insurance benefits, not only because they take benefit choice out of the hands of the insurance consumer, but also because they are an ineffective means of fostering social policy. Self-insured employers are not subject to such state health insurance mandates, and increasing numbers of employers are turning to self-insurance.

Mandating benefits also increases the cost of health insurance. We estimate that House Bill 2391 would increase Blue Cross and Blue Shield claims by \$443,712.

Given these general objections, if the Committee should be inclined to act favorably on these bills, we would suggest two clarifications as shown on the attached for HB 2391.

The first clarification would specify that in talking about the adoptive parents having met a waiting period, it is speaking of the date of birth of the child, not of the date of adoption. If it were the date of adoption, since coverage is provided for adoptions up to a year after the birth, the adopting parents may not even have been covered as of the date of birth, yet still meet an eight-month waiting period and obtain benefits.

The second is not an urgent issue with us, but suggests you consider whether this coverage should apply in the case of surrogate motherhood where, it is my understanding, a legal adoption is still required. It seems to us that if this is not excepted, there would be no incentive for the surrogate mother to retain coverage she might have at the time she enters into the contract.

HOUSE BILL No. 2391

By Committee on Insurance

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AN ACT relating to insurance; providing that certain accident and sickness coverage include maternity benefits with respect to adopted children; amending K.S.A. 1988 Supp. 40-19c09 and repealing the existing section; also repealing K.S.A. 1988 Supp. 40-19c09a.

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

New Section 1. This act applies to any individual, group or blanket policy of accident and sickness, and any policy, contract, plan or agreement for medical service including any contract issued by a health maintenance organization, issued, delivered, renewed or issued for delivery on or after the effective date of this act within or outside this state or used within this state by or for an individual who resides or is employed within this state.

New Sec. 2. Any policy, provision, contract, plan or agreement to which this act applies that provides coverage for maternity benefits shall also provide that the maternity benefits apply to the costs of the birth of any child legally adopted by the insured if:

- (a) All preexisting conditions, waiting periods and other limitations have been met by the insured;
- (b) the insured is legally obligated to pay the costs of the birth;
- (c) the child is adopted within one year of birth; and
- (d) the insured has notified the insurer, nonprofit medical and hospital service corporation, fraternal benefit society or health maintenance organization within 60 days of receipt of the consent to adoption required by K.S.A. 59-2102 and amendments thereto that adoption is contemplated or within 60 days after a change in insurance policies, plans or companies.

as of the date of birth
of the adopted child

(e) the adoption does not arise
out of a surrogacy contract.

New Sec. 3. The coverage prescribed by section 2 is excess over any other coverage the natural mother may have for maternity ben-

TESTIMONY BY

DICK BROCK
ADMINISTRATIVE ASSISTANT
KANSAS INSURANCE DEPARTMENT

BEFORE THE

HOUSE INSURANCE COMMITTEE

HOUSE BILL NO. 2392

FEBRUARY 16, 1989

House Bill No. 2392 is really a simple bill in terms of the concept its enactment would introduce in Kansas. Other states have already done it so it doesn't break new ground but would enhance fair treatment of effected policyholders. It is a bill whose impact -- we think -- just makes sense. As far as I know, there is absolutely no question legally or contractually about the fact that adopted children are treated precisely the same as any other dependent under an accident and sickness insurance policy. There is also no question under current law that newly born children are covered as dependents from the moment of birth with respect to injury or sickness including congenital defects and birth abnormalities. In addition, though not required by existing law many if not most policies provide "well baby" care from the moment of birth (nursing charges and other routine services that new born babies require).

Currently, however, newly born children who are in the process of adoption are generally not covered under the policy of the adoptive parents. Even though their policy provides dependent's coverage and they may be and often are legally responsible for the medical costs of the adopted child from the moment of birth as a result of the adoption agreements, the expenses are seldom, if ever, covered. Similarly, older children are usually not covered as dependents under existing accident and sickness policies until the adoption is complete even though the child may be placed with the adoptive parents and the adoptive parents may be responsible for the child's medical expenses prior to that time.

House Bill No. 2392 is intended to correct these inequities. I want to emphasize that it does not mandate benefits. This bill does not require any accident and sickness policy to provide dependent's coverage nor does it require any parent or parents to purchase dependent's coverage. The only thing it would do and all it is intended to do is permit parents -- who for whatever reason choose or find it necessary to adopt -- to utilize the benefits already provided under the accident and sickness coverage they have purchased.

Historically, maternity benefits and coverage for the birth of a dependent may have been included in accident and sickness policies because -- like other illnesses -- the advent of pregnancy was fortuitous and unexpected. Thus, such coverage met one of the fundamental tests of an insurable hazard. Today -- particularly with respect to the people that would benefit from enactment of this bill -- family planning in terms of when and how many children to have is probably not a great deal different between those who choose or otherwise opt for adoption and others who become parents.

House Bill No. 2392 simply recognizes this and to the extent practical removes the distinction between adoptive and natural parents with regard to the same kind of insurance coverage they have both paid for.