

HOUSE BILL No. 2375

By Committee on Appropriations

Requested by Representative Ballard on behalf of the Office of the Governor

2-11

1 AN ACT concerning health and healthcare; relating to health insurance
2 coverage; expanding medical assistance eligibility; enacting the
3 healthcare access for working Kansans (HAWK) act; directing the
4 department of health and environment to study certain medicaid
5 expansion topics; adding meeting days to the Robert G. (Bob) Bethell
6 joint committee on home and community based services and KanCare
7 oversight to monitor implementation of expanded medical assistance
8 eligibility; amending K.S.A. 39-7,160 and 40-3213 and repealing the
9 existing sections.

10

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

12 New Section 1. (a) Sections 1 through 11, and amendments thereto,
13 shall be known and may be cited as the healthcare access for working
14 Kansans (HAWK) act.

15 (b) The legislature expressly consents to expand eligibility for receipt
16 of benefits under the Kansas program of medical assistance, as required by
17 K.S.A. 39-709(e)(2), and amendments thereto, by the passage and
18 enactment of the act, subject to all requirements and limitations established
19 in the act.

20 (c) The secretary of health and environment shall adopt rules and
21 regulations as necessary to implement and administer the act.

22 (d) As used in sections 1 through 11, and amendments thereto, unless
23 otherwise specified:

24 (1) "138% of the federal poverty level," or words of like effect,
25 includes a 5% income disregard permitted under the federal patient
26 protection and affordable care act.

27 (2) "Act" means the healthcare access for working Kansans (HAWK)
28 act.

29 New Sec. 2. (a) The secretary of health and environment shall submit
30 to the United States centers for medicare and medicaid services any state
31 plan amendment, waiver request or other approval request necessary to
32 implement the act. At least 10 calendar days prior to submission of any
33 such approval request to the United States centers for medicare and
34 medicaid services, the secretary of health and environment shall submit
35 such approval request application to the state finance council.

1 (b) For purposes of eligibility determinations under the Kansas
2 program of medical assistance on and after January 1, 2026, medical
3 assistance shall be granted to any adult under 65 years of age who is not
4 pregnant and whose income meets the limitation established in subsection
5 (c), as permitted under the provisions of 42 U.S.C. § 1396a, as it exists on
6 the effective date of the act, and subject to a 90% federal medical
7 assistance percentage and all requirements and limitations established in
8 the act.

9 (c) The secretary of health and environment shall submit to the
10 United States centers for medicare and medicaid services any approval
11 request necessary to provide medical assistance eligibility to individuals
12 described in subsection (b) whose modified adjusted gross income does
13 not exceed 138% of the federal poverty level.

14 New Sec. 3. (a) The secretary of health and environment shall require
15 each applicant for coverage under the act to provide employment
16 verification at the time of initial application or renewal application. Such
17 verification shall be a prerequisite for coverage under the act.

18 (b) "Employment verification" means documentation demonstrating
19 employment during the preceding 12 months that meets the eligibility
20 requirements of the act. "Employment verification" includes, but is not
21 limited to:

- 22 (1) Federal form W-2 wage and tax statement;
- 23 (2) a pay stub demonstrating gross income;
- 24 (3) employment records;
- 25 (4) federal form 1099 demonstrating payments for contract labor;
- 26 (5) compliance with the requirements of K.S.A. 39-709(b), and
27 amendments thereto; and
- 28 (6) any other documentation as determined by the secretary of health
29 and environment.

30 (c) The following individuals shall be exempt from the requirements
31 of this subsection:

32 (1) A full-time student enrolled in a postsecondary educational
33 institution or technical college, as defined by K.S.A. 74-3201b, and
34 amendments thereto, for each year the student is enrolled in such
35 educational setting;

36 (2) a parent or guardian of a dependent child under 18 years of age or
37 a parent or guardian of an incapacitated adult;

38 (3) an individual who is mentally or physically unfit for employment,
39 as defined by the secretary of health and environment, or has a pending
40 application for supplemental security income or social security disability
41 insurance;

42 (4) an individual who has a permanent partial disability, as such term
43 is used in K.S.A. 44-510e, and amendments thereto;

1 (5) an individual who is engaged in volunteer work for at least 20
2 hours per week at a nonprofit organization, as such term is defined in
3 K.S.A. 17-1779, and amendments thereto;

4 (6) an individual experiencing homelessness, as such term is defined
5 in 42 U.S.C. § 11302, as in effect on the effective date of this act;

6 (7) an individual who served in the active military, naval, air or space
7 service and was discharged or released from such military service under
8 conditions other than dishonorable;

9 (8) an individual who is not more than 22 years of age and in the
10 custody of the secretary of children and families on the date that the
11 individual reached 18 years of age; and

12 (9) any individual who the secretary determines is experiencing
13 hardship.

14 New Sec. 4. (a) Except to the extent prohibited by 42 U.S.C. §
15 1396u-2(a)(2), as it exists on the effective date of this act, the secretary of
16 health and environment shall administer medical assistance benefits using
17 a managed care delivery system using organizations subject to assessment
18 of the privilege fee under K.S.A. 40-3213, and amendments thereto. If the
19 United States centers for medicare and medicaid services determines that
20 the assessment of a privilege fee provided in K.S.A. 40-3213, and
21 amendments thereto, is unlawful or otherwise invalid, then the secretary of
22 health and environment shall administer state medicaid services using a
23 managed care delivery system.

24 (b) In awarding a contract for an entity to administer state medicaid
25 services using a managed care delivery system, the secretary of health and
26 environment shall:

27 (1) Not provide favorable or unfavorable treatment in awarding a
28 contract based on an entity's for-profit or not-for-profit tax status;

29 (2) give preference in awarding a contract to an entity that provides
30 health insurance coverage plans on the health benefit exchange in Kansas
31 established under the federal patient protection and affordable care act; and

32 (3) require that any entity administering state medicaid services
33 provide tiered benefit plans with enhanced benefits for covered individuals
34 who demonstrate healthy behaviors, as determined by the secretary of
35 health and environment, to be implemented on or before July 1, 2027.

36 New Sec. 5. If the federal medical assistance percentage for coverage
37 of medical assistance participants described in section 1902(a)(10)(A)(i)
38 (VIII) of the federal social security act, 42 U.S.C. § 1396a, as it exists on
39 the effective date of this act, becomes lower than 90%, then the secretary
40 of health and environment shall terminate coverage under the act over a
41 12-month period, beginning on the first day that the federal medical
42 assistance percentage becomes lower than 90%. No individual shall be
43 newly enrolled for coverage under the act after such date.

1 New Sec. 6. (a) Section 5, and amendments thereto, shall be
2 nonseverable from the remainder of the act. If the provisions of section 5,
3 and amendments thereto, are not approved by the United States centers for
4 medicare and medicaid services, then the act shall be null and void and
5 shall have no force and effect.

6 (b) A denial of federal approval or federal financial participation that
7 applies to any provision of the act not enumerated in subsection (a) shall
8 not prohibit the secretary of health and environment from implementing
9 any other provision of the act.

10 New Sec. 7. (a) On or before January 10, 2027, and on or before the
11 first day of the regular session of the legislature each year thereafter, the
12 secretary of health and environment shall prepare and deliver a report to
13 the legislature that summarizes the cost savings achieved by the state from
14 the movement of covered individuals from the KanCare program to
15 coverage under the act, including, but not limited to, the MediKan
16 program, the medically needy spend-down program and the breast and
17 cervical cancer program.

18 (b) State cost savings shall be determined by calculating the cost of
19 providing services to covered individuals in the KanCare program less the
20 cost of services provided to covered individuals under the act.

21 (c) If the secretary of health and environment implements other
22 initiatives using cost savings achieved through the implementation of the
23 act, the secretary shall include such initiatives as part of the report required
24 in subsection (a).

25 New Sec. 8. (a) The secretary of corrections and the secretary of
26 health and environment shall coordinate with a county sheriff or such
27 sheriff's deputy who requests assistance in facilitating medicaid coverage
28 for any individual committed to a county jail or correctional facility during
29 any time period that such individual is eligible for coverage under state or
30 federal law.

31 (b) If an individual is enrolled in medicaid when such individual is
32 committed to a county jail or correctional facility, such medicaid status
33 shall not be suspended or terminated based on such individual's
34 incarceration for a minimum of 30 days. After 30 days, medicaid coverage
35 may be suspended, but not terminated, up to the maximum amount of time
36 permitted by state and federal law.

37 (c) The secretary of health and environment shall coordinate with a
38 county sheriff or such sheriff's deputy and the department of corrections to
39 assist any individual who is committed to a county jail or correctional
40 facility in applying for medicaid coverage prior to such individual's release
41 from custody if such individual is likely to meet the requirements for
42 medicaid coverage to allow adequate time for medicaid coverage to begin
43 promptly upon release.

1 (d) The secretary of health and environment shall adopt any rules and
2 regulations and supporting policies and procedures as necessary to
3 implement and administer this section prior to January 1, 2026.

4 New Sec. 9. On or before February 15, 2027, and on or before
5 February 15 of each year thereafter, the secretary of health and
6 environment shall present a report to the house of representatives standing
7 committee on appropriations and the senate standing committee on ways
8 and means that summarizes the costs of the act and the cost savings and
9 additional revenues generated during the preceding fiscal year.

10 New Sec. 10. (a) There is hereby established the rural health advisory
11 committee.

12 (b) The rural health advisory committee shall consist of 15 members
13 appointed by the governor. The membership shall be comprised of
14 individuals with a variety of backgrounds including medicine, education,
15 farming, finance, business and individuals representing community
16 interests in rural Kansas.

17 (c) The governor shall designate one of the appointed members to be
18 chairperson of the committee. The members of the advisory committee
19 shall select a vice chairperson from the membership of the advisory
20 committee.

21 (d) Upon first appointment, five of the members shall serve for a term
22 of one year, five of the members shall be appointed for a term of two years
23 and five of the members shall be appointed for term of three years, as
24 designated by the governor. The member designated as chairperson shall
25 serve for a term of three years. Subsequent appointees shall serve terms of
26 three years.

27 (e) (1) The advisory committee may meet at any time and at any
28 place within the state on the call of the chairperson. The advisory
29 committee shall meet regularly, but shall meet at least once every calendar
30 quarter.

31 (2) A quorum of the advisory committee shall be eight voting
32 members. All actions of the advisory committee shall be adopted by a
33 majority of those voting members present when there is a quorum.

34 (f) The advisory committee shall:

35 (1) Advise the governor and other state agencies on rural health
36 issues;

37 (2) recommend and evaluate mechanisms to encourage greater
38 cooperation between rural communities and rural health providers;

39 (3) recommend and evaluate approaches to rural health issues that are
40 sensitive to the needs of local communities;

41 (4) develop methods to identify individuals who are underserved by
42 the Kansas rural healthcare system; and

43 (5) beginning in 2026, provide an annual report to the governor

1 containing the advice, recommendations and conclusions of the advisory
2 committee.

3 (g) The secretary of health and environment shall facilitate the work
4 of the committee by providing access to meeting space and other necessary
5 staff and office support. The secretary of health and environment may
6 adopt any rules and regulations and supporting policies and procedures
7 that are necessary to support the work of the advisory committee.

8 New Sec. 11. The healthcare access for working Kansans (HAWK)
9 act shall not provide coverage for abortion services, except in cases where
10 coverage is mandated by federal law and federal financial participation is
11 available.

12 Sec. 12. K.S.A. 39-7,160 is hereby amended to read as follows: 39-
13 7,160. (a) There is hereby established the Robert G. (Bob) Bethell joint
14 committee on home and community based services and KanCare
15 oversight. The joint committee shall review the number of individuals who
16 are transferred from state or private institutions and long-term care
17 facilities to the home and community based services and the associated
18 cost savings and other outcomes of the money-follows-the-person
19 program. The joint committee shall review the funding targets
20 recommended by the interim report submitted for the 2007 legislature by
21 the joint committee on legislative budget and use them as guidelines for
22 future funding planning and policy making. The joint committee shall have
23 oversight of savings resulting from the transfer of individuals from state or
24 private institutions to home and community based services. As used in
25 K.S.A. 39-7,159 through 39-7,162, and amendments thereto, "savings"
26 means the difference between the average cost of providing services for
27 individuals in an institutional setting and the cost of providing services in a
28 home and community based setting. The joint committee shall study and
29 determine the effectiveness of the program and cost-analysis of the state
30 institutions or long-term care facilities based on the success of the transfer
31 of individuals to home and community based services. The joint
32 committee shall consider the issues of whether sufficient funding is
33 provided for enhancement of wages and benefits of direct individual care
34 workers and their staff training and whether adequate progress is being
35 made to transfer individuals from the institutions and to move them from
36 the waiver waiting lists to receive home and community based services.
37 The joint committee shall review and ensure that any proceeds resulting
38 from the successful transfer be applied to the system of provision of
39 services for long-term care and home and community based services. The
40 joint committee shall monitor and study the implementation and operations
41 of the home and community based service programs, the children's health
42 insurance program, the program for the all-inclusive care of the elderly
43 and the state medicaid programs including, but not limited to, access to

1 and quality of services provided and any financial information and
2 budgetary issues. Any state agency shall provide data and information on
3 KanCare programs, including, but not limited to, pay for performance
4 measures, quality measures and enrollment and disenrollment in specific
5 plans, KanCare provider network data and appeals and grievances made to
6 the KanCare ombudsman, to the joint committee, as requested.

7 (b) The joint committee shall consist of 11 members of the legislature
8 appointed as follows: (1) Two members of the house committee on health
9 and human services appointed by the speaker of the house of
10 representatives; (2) one member of the house committee on health and
11 human services appointed by the minority leader of the house of
12 representatives; (3) two members of the senate committee on public health
13 and welfare appointed by the president of the senate; (4) one member of
14 the senate committee on public health and welfare appointed by the
15 minority leader of the senate; (5) two members of the house of
16 representatives appointed by the speaker of the house of representatives,
17 one of whom shall be a member of the house committee on appropriations;
18 (6) one member of the house of representatives appointed by the minority
19 leader of the house of representatives; and (7) two members of the senate
20 appointed by the president of the senate, one of whom shall be a member
21 of the senate committee on ways and means.

22 (c) Members shall be appointed for terms coinciding with the
23 legislative terms for which such members are elected or appointed. All
24 members appointed to fill vacancies in the membership of the joint
25 committee and all members appointed to succeed members appointed to
26 membership on the joint committee shall be appointed in the manner
27 provided for the original appointment of the member succeeded.

28 (d) (1) The members originally appointed as members of the joint
29 committee shall meet upon the call of the member appointed by the
30 speaker of the house of representatives, who shall be the first chairperson,
31 within 30 days of the effective date of this act. The vice-chairperson of the
32 joint committee shall be appointed by the president of the senate.
33 Chairperson and vice-chairperson shall alternate annually between the
34 members appointed by the speaker of the house of representatives and the
35 president of the senate. The ranking minority member shall be from the
36 same chamber as the chairperson. ~~On and after the effective date of this act~~
37 *Except as provided in paragraph (2),* the joint committee shall meet at
38 least once in January and once in April when the legislature is in regular
39 session and at least once for two consecutive days during each of the third
40 and fourth calendar quarters, on the call of the chairperson, but not to
41 exceed six meetings in a calendar year, except additional meetings may be
42 held on call of the chairperson when urgent circumstances exist which
43 require such meetings. Six members of the joint committee shall constitute

1 a quorum.

2 (2) *During calendar year 2026 and calendar year 2027, the joint*
3 *committee shall meet for one additional day per meeting pursuant to*
4 *paragraph (1) in order to monitor the implementation of the healthcare*
5 *access for working Kansans act and to review the following topics relating*
6 *to such implementation:*

7 (A) *Payment integrity and eligibility audits;*

8 (B) *outcomes related to section 3, and amendments thereto;*

9 (C) *health outcomes for individuals covered under the act;*

10 (D) *budget projections and actual expenditures related to*
11 *implementation of the act; and*

12 (E) *expenses incurred by hospitals arising from charity care and*
13 *services provided to patients who are unwilling or unable to pay for such*
14 *services.*

15 (e) (1) At the beginning of each regular session of the legislature, the
16 committee shall submit to the president of the senate, the speaker of the
17 house of representatives, the house committee on health and human
18 services and the senate committee on public health and welfare a written
19 report on numbers of individuals transferred from the state or private
20 institutions to the home and community based services including the
21 average daily census in the state institutions and long-term care facilities,
22 savings resulting from the transfer certified by the secretary for aging and
23 disability services in a quarterly report filed in accordance with K.S.A. 39-
24 7,162, and amendments thereto, and the current balance in the home and
25 community based services savings fund of the Kansas department for
26 aging and disability services.

27 (2) Such report submitted under this subsection shall also include, but
28 not be limited to, the following information on the KanCare program:

29 (A) Quality of care and health outcomes of individuals receiving state
30 medicaid services under the KanCare program, as compared to the
31 provision of state medicaid services prior to January 1, 2013;

32 (B) integration and coordination of ~~health care~~ *healthcare* procedures
33 for individuals receiving state medicaid services under the KanCare
34 program;

35 (C) availability of information to the public about the provision of
36 state medicaid services under the KanCare program, including, but not
37 limited to, accessibility to health services, expenditures for health services,
38 extent of consumer satisfaction with health services provided and
39 grievance procedures, including quantitative case data and summaries of
40 case resolution by the KanCare ombudsman;

41 (D) provisions for community outreach and efforts to promote the
42 public understanding of the KanCare program;

43 (E) comparison of the actual medicaid costs expended in providing

1 state medicaid services under the KanCare program after January 1, 2013,
2 to the actual costs expended under the provision of state medicaid services
3 prior to January 1, 2013, including the manner in which such cost
4 expenditures are calculated;

5 (F) comparison of the estimated costs expended in a managed care
6 system of providing state medicaid services under the KanCare program
7 after January 1, 2013, to the actual costs expended under the KanCare
8 program of providing state medicaid services after January 1, 2013;

9 (G) comparison of caseload information for individuals receiving
10 state medicaid services prior to January 1, 2013, to the caseload
11 information for individuals receiving state medicaid services under the
12 KanCare program after January 1, 2013; and

13 (H) all written testimony provided to the joint committee regarding
14 the impact of the provision of state medicaid services under the KanCare
15 program upon residents of adult care homes.

16 (3) The joint committee shall consider the external quality review
17 reports and quality assessment and performance improvement program
18 plans of each managed care organization providing state medicaid services
19 under the KanCare program in the development of the report submitted
20 under this subsection.

21 (4) The report submitted under this subsection shall be published on
22 the official website of the legislative research department.

23 (f) Members of the committee shall have access to any medical
24 assistance report and caseload data generated by the Kansas department of
25 health and environment division of health care finance. Members of the
26 committee shall have access to any report submitted by the Kansas
27 department of health and environment division of health care finance to
28 the centers for medicare and medicaid services of the United States
29 department of health and human services.

30 (g) Members of the committee shall be paid compensation, travel
31 expenses and subsistence expenses or allowance as provided in K.S.A. 75-
32 3212, and amendments thereto, for attendance at any meeting of the joint
33 committee or any subcommittee meeting authorized by the committee.

34 (h) In accordance with K.S.A. 46-1204, and amendments thereto, the
35 legislative coordinating council may provide for such professional services
36 as may be requested by the joint committee.

37 (i) The joint committee may make recommendations and introduce
38 legislation as it deems necessary in performing its functions.

39 Sec. 13. K.S.A. 40-3213 is hereby amended to read as follows: 40-
40 3213. (a) Every health maintenance organization and medicare provider
41 organization subject to this act shall pay to the commissioner the following
42 fees:

43 (1) For filing an application for a certificate of authority, \$150;

1 (2) for filing each annual report, \$50; *and*

2 (3) for filing an amendment to the certificate of authority, \$10.

3 (b) Every health maintenance organization subject to this act shall
4 pay annually to the commissioner at the time such organization files its
5 annual report, a privilege fee in an amount equal to ~~the following~~
6 ~~percentages~~ 5.77% of the total of all premiums, subscription charges or
7 any other term that may be used to describe the charges made by such
8 organization to enrollees: ~~3.31% during the reporting period beginning~~
9 ~~January 1, 2015, and ending December 31, 2017; and 5.77% on and after~~
10 ~~January 1, 2018~~. In such computations all such organizations shall be
11 entitled to deduct therefrom any premiums or subscription charges
12 returned on account of cancellations and dividends returned to enrollees. If
13 the commissioner shall determine at any time that the application of the
14 privilege fee, or a change in the rate of the privilege fee, would cause a
15 denial of, reduction in or elimination of federal financial assistance to the
16 state or to any health maintenance organization subject to this act, the
17 commissioner is hereby authorized to terminate the operation of such
18 privilege fee or the change in such privilege fee.

19 (c) For the purpose of insuring the collection of the privilege fee
20 provided for by subsection (b), every health maintenance organization
21 subject to this act and required by subsection (b) to pay such privilege fee
22 shall at the time it files its annual report, as required by K.S.A. 40-3220,
23 and amendments thereto, make a return, generated by or at the direction of
24 its chief officer or principal managing director, under penalty of K.S.A.
25 21-5824, and amendments thereto, to the commissioner, stating the amount
26 of all premiums, assessments and charges received by the health
27 maintenance organization, whether in cash or notes, during the year ending
28 on the last day of the preceding calendar year. Upon the receipt of such
29 returns the commissioner of insurance shall verify such returns and
30 reconcile the fees pursuant to subsection (f) upon such organization on the
31 basis and at the rate provided in this section.

32 (d) Premiums or other charges received by an insurance company
33 from the operation of a health maintenance organization subject to this act
34 shall not be subject to any fee or tax imposed under the provisions of
35 K.S.A. 40-252, and amendments thereto.

36 (e) Fees charged under this section shall be remitted to the state
37 treasurer in accordance with the provisions of K.S.A. 75-4215, and
38 amendments thereto. Upon receipt of each such remittance, the state
39 treasurer shall deposit the entire amount in the state treasury to the credit
40 of the medical assistance fee fund created by K.S.A. 40-3236, and
41 amendments thereto.

42 (f) (1) ~~On and after January 1, 2018,~~ In addition to any other filing or
43 return required by this section, each health maintenance organization shall

1 submit a report to the commissioner on or before March 31 and September
2 30 of each year containing an estimate of the total amount of all premiums,
3 subscription charges or any other term that may be used to describe the
4 charges made by such organization to enrollees that the organization
5 expects to collect during the current calendar year. Upon filing each March
6 31 report, the organization shall submit payment equal to $\frac{1}{2}$ of the
7 privilege fee that would be assessed by the commissioner for the current
8 calendar year based upon the organization's reported estimate. Upon filing
9 each September 30 report, the organization shall submit payment equal to
10 the balance of the privilege fee that would be assessed by the
11 commissioner for the current calendar year based upon the organization's
12 reported estimates.

13 (2) Any amount of privilege fees actually owed by a health
14 maintenance organization during any calendar year in excess of estimated
15 privilege fees paid shall be assessed by the commissioner and shall be due
16 and payable upon issuance of such assessment.

17 (3) Any amount of estimated privilege fees paid by a health
18 maintenance organization during any calendar year in excess of privilege
19 fees actually owed shall be reconciled when the commissioner assesses
20 privilege fees in the ensuing calendar year. The commissioner shall credit
21 such excess amount against future privilege fee assessments. Any such
22 excess amount paid by a health maintenance organization that is no longer
23 doing business in Kansas and that no longer has a duty to pay the privilege
24 fee shall be refunded by the commissioner from funds appropriated by the
25 legislature for such purpose.

26 Sec. 14. K.S.A. 39-7,160 and 40-3213 are hereby repealed.

27 Sec. 15. This act shall take effect and be in force from and after its
28 publication in the Kansas register.