

As Amended by House Committee

Session of 2011

SENATE BILL No. 14

By Committee on Financial Institutions and Insurance

1-14

1 AN ACT concerning the Kansas uninsurable health insurance plan act;
2 pertaining to lifetime limits; pertaining to participation in plan by
3 certain children; amending K.S.A. 2010 Supp. 40-2122 and 40-2124
4 and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2010 Supp. 40-2122 is hereby amended to read as
8 follows: 40-2122. (a) The following individuals shall be eligible for plan
9 coverage provided they meet the criteria set forth in subsection (b):

10 (1) Any person who has been a resident of this state for at least six
11 months;

12 (2) any person who is a legal domiciliary of this state who previously
13 was covered under the high risk pool of another state, provided they apply
14 for coverage under the plan within 63 days of losing such other coverage
15 for reasons other than fraud or nonpayment of premiums;

16 (3) any federally defined eligible individual who is a legal
17 domiciliary of this state; or

18 (4) any federally defined eligible individual for FTAA.

19 (b) Those individuals who are eligible for plan coverage under
20 subsection (a) must provide evidence satisfactory to the administering
21 carrier that such person meets one of the following criteria:

22 (1) Such person has had health insurance coverage involuntarily
23 terminated for any reason other than nonpayment of premium;

24 (2) such person has applied for health insurance and been rejected by
25 two carriers because of health conditions;

26 (3) *Such person is a child under the age of 19 years and has been*
27 *unable to purchase or obtain coverage under an individual health*
28 *insurance policy providing health insurance coverage, because such*
29 *coverage is not available for sale in the county in which the child resides;*

30 ~~(3)~~ (4) such person has applied for health insurance and has been
31 quoted a premium rate which is in excess of the plan rate;

32 ~~(4)~~ (5) such person has been accepted for health insurance subject to a
33 permanent exclusion of a preexisting disease or medical condition;

34 ~~(5)~~ (6) such person is a federally defined eligible individual; or

35 ~~(6)~~ (7) such person is a federally defined eligible individual for
36 FTAA.

1 (c) Each resident dependent of a person who is eligible for plan
2 coverage shall also be eligible for plan coverage.

3 (d) The following persons shall not be eligible for coverage under the
4 plan:

5 (1) Any person who is eligible for medicare or is eligible for
6 medicaid benefits;

7 (2) any person who has had coverage under the plan terminated less
8 than 12 months prior to the date of the current application, except that this
9 provision shall not apply with respect to an applicant who is a federally
10 defined eligible individual;

11 (3) any person who has received accumulated benefits from the plan
12 equal to or in excess of the lifetime maximum benefits under the plan
13 prescribed by K.S.A. 40-2124, and amendments thereto;

14 (4) any person having access to accident and health insurance through
15 an employer-sponsored group or self-insured plan, including coverage
16 under the consolidated omnibus budget reconciliation act (COBRA),
17 except that the requirement for exhaustion of any available COBRA or
18 state continuation is waived whenever such person:

19 (A) Is eligible for the credit for health care costs under section 35 of
20 the internal revenue code of 1986; and

21 (B) has three months of prior creditable coverage as described in
22 subsection (c) of K.S.A. 40-2124, and amendments thereto; or

23 (5) any person who is eligible for any other public or private program
24 that provides or indemnifies for health services.

25 (e) Any person who ceases to meet the eligibility requirements of this
26 section may be terminated at the end of a policy period.

27 (f) All plan members, insurers and insurance arrangements shall
28 notify in writing persons denied health insurance coverage, for any reason,
29 of the availability of coverage through the Kansas health insurance
30 association.

31 Sec. 2. K.S.A. 2010 Supp. 40-2124 is hereby amended to read as
32 follows: 40-2124. (a) Coverage under the plan shall be subject to both
33 deductible and coinsurance provisions set by the board. The plan shall
34 offer to current participants and new enrollees no fewer than four choices
35 of deductible and copayment options. Coverage shall contain a
36 coinsurance provision for each service covered by the plan, and such
37 copayment requirement shall not be subject to a stop-loss provision. Such
38 coverage may provide for a percentage or dollar amount of coinsurance
39 reduction at specific thresholds of copayment expenditures by the insured.

40 (b) Coverage under the plan shall be subject to a maximum lifetime
41 benefit of ~~\$2,000,000~~ \$3,000,000 per covered individual. ~~In succeeding~~
42 ~~years of operation of the plan and subject to the approval of the~~
43 ~~commissioner, coverage under the plan shall be subject to a maximum~~

~~lifetime benefit per covered individual as determined by the board. Such recommendation regarding the maximum lifetime benefit per covered individual shall be submitted to the commissioner and shall become effective upon approval in writing by the commissioner.~~

(c) Coverage under the plan shall exclude charges or expenses incurred during the first 90 days following the effective date of coverage as to any condition: (1) Which manifested itself during the six-month period immediately prior to the application for coverage in such manner as would cause an ordinarily prudent person to seek diagnosis, care or treatment; or (2) for which medical advice, care or treatment was recommended or received in the six-month period immediately prior to the application for coverage. In succeeding years of operation of the plan, coverage of preexisting conditions may be excluded as determined by the board, except that no such exclusion shall exceed 180 calendar days, and no exclusion shall be applied to *either* a federally defined eligible individual provided that application for coverage is made not later than 63 days following the applicant's most recent prior creditable coverage *or an individual under the age of 19 years who is eligible for enrollment in the plan under paragraph (3) of subsection (b) of K.S.A. 40-2122, and amendments thereto.* For any individual who is eligible for the credit for health insurance costs under section 35 of the internal revenue code of 1986, the preexisting conditions limitation will not apply whenever such individual has maintained creditable health insurance coverage for an aggregate period of three months, not counting any period prior to a 63-day break in coverage, as of the date on which such individual seeks to enroll in coverage provided by this act.

(d) (1) Benefits otherwise payable under plan coverage shall be reduced by all amounts paid or payable through any other health insurance, or insurance arrangement, and by all hospital and medical expense benefits paid or payable under any workers compensation coverage, automobile medical payment or liability insurance whether provided on the basis of fault or nonfault, and by any hospital or medical benefits paid or payable under or provided pursuant to any state or federal law or program.

(2) The association shall have a cause of action against an eligible person for the recovery of the amount of benefits paid which are not covered expenses. Benefits due from the plan may be reduced or refused as a set-off against any amount recoverable under this section.

Sec. 3. K.S.A. 2010 Supp. 40-2122 and 40-2124 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the Kansas register.