

HOUSE BILL No. 2668

By Committee on Appropriations

2-12

1 ~~AN ACT concerning insurance for qualified professional associations;~~
2 ~~amending K.S.A. 40-2222a and 40-2222b and K.S.A. 2013 Supp. 40-~~
3 ~~2222 and repealing the existing sections~~ *health care predetermination*
4 *requests relating to health insurance benefits coverage.*
5

6 *WHEREAS, The legislature hereby finds and declares that:*

7 *(1) Health plans have the ability today to provide a real-time*
8 *explanation of benefits (EOB), enabling patients and their physicians to*
9 *learn how a claim for services will be adjudicated at the point of care,*
10 *including information on if the service is covered, the amount to be paid*
11 *to the physician and the patient's financial responsibility for*
12 *copayments, coinsurance and any remaining deductible obligation;*

13 *(2) real-time EOBs have the potential to significantly reduce health*
14 *care costs by making the true cost of health care services transparent to*
15 *patients and their physicians at the time treatment decisions are being*
16 *made and by reducing the costs of collections which accrue when paper*
17 *EOBs are not received until weeks or months after the services are*
18 *provided; and*

19 *(3) real-time EOBs also have the potential to eliminate the financial*
20 *uncertainty that currently plagues the health care system and would*
21 *remove another layer of complexity and anxiety for patients at a time*
22 *when they should be focused on their health. This is particularly*
23 *important for patients for whom this financial exposure may be large,*
24 *such as for the increasing number of patients with high-deductible*
25 *health plans, or for those patients who purchase coverage on a health*
26 *insurance exchange, for whom relatively modest changes to patient*
27 *income can affect eligibility and enrollment status as they transition*
28 *between medicaid, subsidized and unsubsidized qualified health plans;*
29 *and*

30 *WHEREAS, The people of the state of Kansas would all benefit if*
31 *health plans were required to provide real-time EOBs on request when a*
32 *physician submits an electronic claim predetermination request:*

33 *Now, therefore,*
34

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

2 Section 1. ~~K.S.A. 2013 Supp. 40-2222 is hereby amended to read as~~
3 ~~follows: 40-2222. (a) Any person or other entity which provides coverage~~
4 ~~in this state for medical, surgical, chiropractic, physical therapy, speech~~
5 ~~pathology, audiology, professional mental health, dental, hospital, or~~
6 ~~optometric expenses, whether such coverage is by direct payment,~~
7 ~~reimbursement, or otherwise, shall be presumed to be subject to the~~
8 ~~jurisdiction of the commissioner of insurance unless the person or other~~
9 ~~entity: (a)~~

10 ~~(1) Is a professional association of architects incorporated in Kansas~~
11 ~~on October 4, 1954, which provides coverage for the payment of expenses~~
12 ~~described herein to or for the members of the association or dependents~~
13 ~~through a trust established November 1, 1986, and complies with K.S.A.~~
14 ~~40-2222a, and amendments thereto;~~

15 ~~(b)(2) is a professional association of dentists incorporated in Kansas~~
16 ~~on July 3, 1972, which provides coverage for the payment of expenses~~
17 ~~described herein to or for the members of the association or dependents~~
18 ~~through a trust established November 1, 1985, and complies with K.S.A.~~
19 ~~40-2222a, and amendments thereto;~~

20 ~~(e) (1)(3) (A) is a trade association of banks incorporated in Kansas~~
21 ~~on August 9, 1978, which provides coverage for the payment of expenses~~
22 ~~described herein to or for the members of the association or dependents~~
23 ~~through a trust established July 1, 1989, and complies with K.S.A. 40-~~
24 ~~2222a, and amendments thereto; or~~

25 ~~(2)(B) is a trade organization of banks incorporated in Kansas on~~
26 ~~June 1, 1982, which provides coverage for expenses described herein to or~~
27 ~~for members of the association or dependents, and complies with K.S.A.~~
28 ~~40-2222a, and amendments thereto;~~

29 ~~(d)(4) is a trade association of truckers incorporated in Kansas on~~
30 ~~July 1, 1985, which provides coverage for the payment of expenses~~
31 ~~described herein to or for the members of the association or dependents~~
32 ~~through a trust established January 1, 1990, and complies with K.S.A. 40-~~
33 ~~2222a, and amendments thereto;~~

34 ~~(e)(5) is an association of physicians practicing in the Kansas City~~
35 ~~metropolitan area, incorporated in Missouri on March 5, 1891, and~~
36 ~~qualified as a foreign corporation in Kansas on May 19, 1987, which~~
37 ~~provides coverage for the payment of expenses described herein to or for~~
38 ~~the members of the association, their employees and dependents through a~~
39 ~~trust established November 1, 1984, and complies with K.S.A. 40-2222a,~~
40 ~~and amendments thereto;~~

41 ~~(6) is organized as a farmers' cooperative under the Kansas~~
42 ~~cooperative marketing act, K.S.A. 17-1601 et seq., and amendments~~
43 ~~thereto, on January 13, 1983, and is an association of farmers'~~

1 ~~cooperatives and other like associations operated on a cooperative~~
2 ~~basis and their affiliated companies, which provides benefits for~~
3 ~~employees, and family members of such employees, of such~~
4 ~~associations, and complies with K.S.A. 40-2222a, and amendments~~
5 ~~thereto;~~

6 ~~(f)(7) is any other qualified trade, merchant, retail or professional~~
7 ~~association, trade association or business league incorporated in Kansas~~
8 ~~which complies with K.S.A. 40-2222a, and amendments thereto;—~~

9 ~~(g)(8) conclusively shows by submission of an appropriate certificate,~~
10 ~~license, letter or other document issued by the United States department of~~
11 ~~labor that such person or entity is not subject to Kansas law; or~~

12 ~~(g)(h)(9) conclusively shows that it is subject to the jurisdiction of an~~
13 ~~agency of this state or the federal government. For purposes of this act, tax~~
14 ~~exempt status under section 501(c) of the federal internal revenue code of~~
15 ~~1986 shall not be deemed to be jurisdiction of the federal government.~~

16 ~~(b) For the purposes of this section, a qualified trade, merchant,~~
17 ~~retail or professional association or business league shall mean any~~
18 ~~bona fide trade, merchant, retail or professional association or~~
19 ~~business league that:~~

20 ~~(1) Has been in existence for at least five calendar years; and~~

21 ~~(2) is comprised of five or more employers.~~

22 ~~Sec. 2. K.S.A. 40-2222a is hereby amended to read as follows: 40-~~
23 ~~2222a. At the time the initial application for coverage is taken with respect~~
24 ~~to new applicants and upon the first renewal, reinstatement or extension of~~
25 ~~coverage following the effective date of this act with respect to persons~~
26 ~~previously covered, each association described in subsections (a), (b), (c),~~
27 ~~(d) and, (e) and (f) subsection (a) of K.S.A. 40-2222, and amendments~~
28 ~~thereto, shall provide a written notice stating that:~~

29 ~~(a) The coverage is not provided by an insurance company;~~

30 ~~(b) the plan is not subject to the laws and regulations relating to~~
31 ~~insurance companies;~~

32 ~~(c) the plan is not under the jurisdiction of the commissioner of~~
33 ~~insurance; and~~

34 ~~(d) if the plan does not pay medical expenses that are eligible for~~
35 ~~payment under the plan for any reason, the individuals covered by the plan~~
36 ~~may be liable for such expenses;~~

37 ~~Sec. 3. K.S.A. 40-2222b is hereby amended to read as follows: 40-~~
38 ~~2222b. (a) As a condition precedent to continuation of the exemption~~
39 ~~provided by K.S.A. 40-2222, and amendments thereto, each association~~
40 ~~described in subsections (a), (b), (c), (d) and, (e) thereof and (f) of K.S.A.~~
41 ~~subsection (a) of K.S.A. 40-2222, and amendments thereto, shall, no later~~
42 ~~than May 1 of each year, pay a tax at the rate of 1% per annum upon the~~
43 ~~annual Kansas gross premium collected during the preceding calendar~~

1 ~~year. In the computation of the tax, such associations shall be entitled to~~
2 ~~deduct any annual Kansas gross premiums returned on account of~~
3 ~~cancellation or dividends returned to members or expenditures used for the~~
4 ~~purchase of reinsurance or stop-loss coverage.~~

5 ~~(b) Every association subject to taxation under the provisions of this~~
6 ~~section shall pay the tax imposed and make a return thereof under oath to~~
7 ~~the commissioner of insurance under such rules and regulations and in~~
8 ~~such form and manner as the commissioner may prescribe.~~

9 ~~Sec. 4. K.S.A. 40-2222a and 40-2222b and K.S.A. 2013 Supp. 40-~~
10 ~~2222 are hereby repealed.~~

11 *Section 1. (a) This section shall be known as and may be cited as*
12 *the predetermination of health care benefits act.*

13 *(b)(1) Health plans that receive an electronic health care*
14 *predetermination request consistent with the requirements set forth in*
15 *subsection (c) shall provide to the requesting healthcare provider*
16 *information on the amounts of expected benefits coverage on the*
17 *procedures specified in the request that is accurate at the time of the*
18 *health plan's response.*

19 *(2) Any predetermination request provided under this section in*
20 *good faith shall be deemed to be an estimate only and shall not be*
21 *binding upon the health plan with regard to the final amount of benefits*
22 *actually provided by the health plan.*

23 *(c) The amounts for the referenced services in subsection (b) shall*
24 *include:*

25 *(1) The amount the patient will be expected to pay, clearly*
26 *identifying any deductible amount, coinsurance and copayment;*

27 *(2) the amount the healthcare provider will be paid;*

28 *(3) the amount the institution will be paid; and*

29 *(4) whether any payments will be reduced, but not to \$0, or*
30 *increased from the agreed fee schedule amounts, and if so, the health*
31 *care policy that identifies why the payments will be reduced or increased.*

32 *(d) This electronic request and response transaction shall be known*
33 *as the health care predetermination request and response. The health*
34 *care predetermination request and response shall be conducted in*
35 *accordance with the transactions and code sets standards promulgated*
36 *pursuant to the health insurance portability and accountability act of*
37 *1996 (HIPAA) public law 104-191, and 45 code of federal regulations,*
38 *parts 160 and 162 or later versions, specifically, the ASC X12 837 health*
39 *care predetermination: Professional transaction or the ASC X12 837*
40 *healthcare predetermination; institutional and any of their respective*
41 *successors, without regard to whether this transaction is mandated by*
42 *HIPAA. It shall also comply with any operating rules that may be*
43 *adopted with respect to this transaction or any of its successors, without*

1 *regard to whether these operating rules are mandated by HIPAA.*

2 *(e) The health plan's response to the health care predetermination*
3 *request shall be returned using the same transmission method as that of*
4 *the submission. This includes a real-time response for a real-time*
5 *request.*

6 *(f) For purposes of this section:*

7 *(1) "Health plan" shall have the same meaning as that term is*
8 *defined in K.S.A. 40-4602, and amendments thereto;*

9 *(2) "healthcare provider" shall have the same meaning as the term*
10 *"provider" as such term is defined in K.S.A. 40-4602, and amendments*
11 *thereto. Healthcare provider shall also include:*

12 *(A) An advanced practice registered nurse as defined in K.S.A. 65-*
13 *1113, and amendments thereto; and*

14 *(B) a physician assistant as defined in K.S.A. 65-28a02, and*
15 *amendments thereto; and*

16 *(3) "payment" means only a deductible or coinsurance payment*
17 *and does not include a copayment.*

18 *(g) This act precludes the collection of any payment prior to or as a*
19 *condition of receiving the health benefit services that are the subject of a*
20 *predetermination request, unless this practice is not prohibited by the*
21 *provider agreement with the health plan.*

22 *(h) The commissioner of insurance shall adopt rules and*
23 *regulations necessary to carry out the provisions of this section.*

24 ~~Sec. 5.~~ 2. This act shall take effect and be in force from and after *July*
25 *1, 2017, and* its publication in the statute book.