

{As Amended by Senate Committee of the Whole}

As Amended by Senate Committee

As Amended by House Committee

Session of 2014

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:*

1 *Now, therefore,*

2
3 *Be it enacted by the Legislature of the State of Kansas:*

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

12 ~~(1) Is a professional association of architects incorporated in Kansas~~
13 ~~on October 4, 1954, which provides coverage for the payment of expenses~~
14 ~~described herein to or for the members of the association or dependents~~
15 ~~through a trust established November 1, 1986, and complies with K.S.A.~~
16 ~~40-2222a, and amendments thereto;~~

17 ~~(b)(2) is a professional association of dentists incorporated in Kansas~~
18 ~~on July 3, 1972, which provides coverage for the payment of expenses~~
19 ~~described herein to or for the members of the association or dependents~~
20 ~~through a trust established November 1, 1985, and complies with K.S.A.~~
21 ~~40-2222a, and amendments thereto;~~

22 ~~(e) (1)(3) (A) is a trade association of banks incorporated in Kansas~~
23 ~~on August 9, 1978, which provides coverage for the payment of expenses~~
24 ~~described herein to or for the members of the association or dependents~~
25 ~~through a trust established July 1, 1989, and complies with K.S.A. 40-~~
26 ~~2222a, and amendments thereto; or~~

27 ~~(2)(B) is a trade organization of banks incorporated in Kansas on~~
28 ~~June 1, 1982, which provides coverage for expenses described herein to or~~
29 ~~for members of the association or dependents, and complies with K.S.A.~~
30 ~~40-2222a, and amendments thereto;~~

31 ~~(d)(4) is a trade association of truckers incorporated in Kansas on~~
32 ~~July 1, 1985, which provides coverage for the payment of expenses~~
33 ~~described herein to or for the members of the association or dependents~~
34 ~~through a trust established January 1, 1990, and complies with K.S.A. 40-~~
35 ~~2222a, and amendments thereto;~~

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

43 ~~(6) is organized as a farmers' cooperative under the Kansas~~

1 ~~cooperative marketing act, K.S.A. 17-1601 et seq., and amendments~~
2 ~~thereto, on January 13, 1983, and is an association of farmers'~~
3 ~~cooperatives and other like associations operated on a cooperative~~
4 ~~basis and their affiliated companies, which provides benefits for~~
5 ~~employees, and family members of such employees, of such~~
6 ~~associations, and complies with K.S.A. 40-2222a, and amendments~~
7 ~~thereto;~~

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

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

14 ~~(g)(h)(9) conclusively shows that it is subject to the jurisdiction of an~~
15 ~~agency of this state or the federal government. For purposes of this act, tax~~
16 ~~exempt status under section 501(c) of the federal internal revenue code of~~
17 ~~1986 shall not be deemed to be jurisdiction of the federal government.~~

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

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

23 ~~(2) is comprised of five or more employers;~~

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

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

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

34 ~~(c) the plan is not under the jurisdiction of the commissioner of~~
35 ~~insurance; and~~

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

39 ~~Sec. 3. K.S.A. 40-2222b is hereby amended to read as follows: 40-~~
40 ~~2222b. (a) As a condition precedent to continuation of the exemption~~
41 ~~provided by K.S.A. 40-2222, and amendments thereto, each association~~
42 ~~described in subsections (a), (b), (c), (d) and, (e) thereof and (f) of K.S.A.~~
43 ~~subsection (a) of K.S.A. 40-2222, and amendments thereto, shall, no later~~

1 ~~than May 1 of each year, pay a tax at the rate of 1% per annum upon the~~
2 ~~annual Kansas gross premium collected during the preceding calendar~~
3 ~~year. In the computation of the tax, such associations shall be entitled to~~
4 ~~deduct any annual Kansas gross premiums returned on account of~~
5 ~~cancellation or dividends returned to members or expenditures used for the~~
6 ~~purchase of reinsurance or stop-loss coverage.~~

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

11 ~~Sec. 4. K.S.A. 40-2222a and 40-2222b and K.S.A. 2013 Supp. 40-~~
12 ~~2222 are hereby repealed.~~

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

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

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

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

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

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

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

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

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

1 *HIPAA. It shall also comply with any operating rules that may be*
2 *adopted with respect to this transaction or any of its successors, without*
3 *regard to whether these operating rules are mandated by HIPAA.*

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

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

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

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

14 *(A) An advanced practice registered nurse as defined in K.S.A. 65-*
15 *1113, and amendments thereto; and*

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

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

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

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

26 *Sec. ~~5~~ 2. This act shall take effect and be in force from and after July*
27 *1, 2017, and its publication in the statute book.*