

Session of 2020

SENATE BILL No. 252

By Senators Denning, Hensley, Baumgardner, Berger, Bollier, Bowers, Doll, Faust-Goudeau, Francisco, Givens, Goddard, Haley, Hardy, Hawk, Holland, Longbine, Miller, Pettey, Skubal, Sykes, Taylor and Ware

1-9

1 AN ACT concerning health and healthcare; relating to health insurance
2 coverage; expanding medical assistance eligibility; implementing a
3 health insurance plan reinsurance program; directing the department of
4 health and environment to study certain medicaid expansion topics;
5 adding meeting days to the Robert G. (Bob) Bethell joint committee on
6 home and community based services and KanCare oversight to monitor
7 implementation; making and concerning appropriations for the fiscal
8 years ending June 30, 2020, June 30, 2021, and June 30, 2022;
9 amending K.S.A. 65-6207, 65-6208, 65-6209, 65-6210, 65-6211, 65-
10 6212, 65-6217 and 65-6218 and K.S.A. 2019 Supp. 39-7,160 and 40-
11 3213 and repealing the existing sections.
12

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

14 New Section 1. (a) Sections 1 through 13 and 16 through 19, and
15 amendments thereto, shall be known and may be cited as the Kansas
16 innovative solutions for affordable healthcare act.

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

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

24 (d) As used in sections 1 through 13 and 16 through 19, and
25 amendments thereto, unless otherwise specified:

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

29 (2) "Act" means the Kansas innovative solutions for affordable
30 healthcare act.

31 New Sec. 2. (a) The secretary of health and environment and the
32 insurance commissioner shall submit to the United States centers for
33 medicare and medicaid services and the United States department of the
34 treasury any state plan amendment, waiver request or other approval

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and section 23

1 request necessary to implement the act. At least 10 calendar days prior to
2 submission of any such approval request to the United States centers for
3 medicare and medicaid services or the United States department of the
4 treasury, the secretary of health and environment or the insurance
5 commissioner, as applicable, shall submit such approval request
6 application to the state finance council.

7 (b) For purposes of eligibility determinations under the Kansas
8 program of medical assistance on and after ~~January 1, 2021~~, medical
9 assistance shall be granted to any adult under 65 years of age who is not
10 pregnant and whose income meets the limitation established in subsection
11 (c), as permitted under the provisions of 42 U.S.C. § 1396a, as it exists on
12 the effective date of the act, and subject to a 90% federal medical
13 assistance percentage and all requirements and limitations established in
14 the act.

the date specified in section 23(b)(1), and amendments thereto

15 (c) (1) The secretary of health and environment shall submit to the
16 United States centers for medicare and medicaid services any approval
17 request necessary to provide medical assistance eligibility to individuals
18 described in subsection (b) whose modified adjusted gross income does
19 not exceed 138% of the federal poverty level.

20 (2) (A) Following submission to and approval by the state finance
21 council in accordance with sections 20 and 22, the insurance commissioner
22 shall submit to the United States department of the treasury and the United
23 States centers for medicare and medicaid services a waiver request under
24 section 1332 of the federal patient protection and affordable care act, 42
25 U.S.C. § 18052, as it exists on the effective date of the act, for a
26 reinsurance program for health insurance plans sold in the Kansas
27 individual market that are qualified health plans, as defined in 42 U.S.C. §
28 18021(a). The insurance commissioner shall design the reinsurance
29 program in coordination with the secretary of health and environment to
30 offset any cost of the section 1115 waiver described in this paragraph to
31 the United States government in order to meet federal budget neutrality
32 requirements for medicaid waivers. The insurance commissioner shall
33 implement the reinsurance program to begin on ~~January 1, 2023~~.

the date specified in section 23(b)(2), and amendments thereto

34 (B) The secretary of health and environment shall submit to the
35 United States centers for medicare and medicaid services a waiver request
36 under section 1115 of the federal social security act, 42 U.S.C. § 1315, as
37 it exists on the effective date of the act, to provide medical assistance
38 eligibility to individuals described in subsection (b) whose modified
39 adjusted gross income does not exceed 100% of the federal poverty level
40 and to transition those individuals described in subsection (b) whose
41 modified adjusted gross income is greater than 100% but does not exceed
42 138% of the federal poverty level to health insurance plans on the health
43 benefit exchange in Kansas established under the federal patient protection

1 and affordable care act. The secretary of health and environment shall
2 implement medical assistance eligibility under this subparagraph to begin
3 on ~~January 1, 2022~~, in conjunction with the implementation of the
4 reinsurance program under subparagraph (A).

[stricken material in line 3]

5 (C) If the waiver request submission under subparagraph (A) is not
6 approved by the state finance council in accordance with sections 20 and
7 22, or if both waiver requests under subparagraphs (A) and (B) are not
8 approved by the United States centers for medicare and medicaid services
9 and the United States department of the treasury, as applicable, then
10 medical assistance eligibility under the act shall continue to be determined
11 in accordance with paragraph (1).

12 (d) The insurance commissioner shall identify and procure a
13 contractor for services to prepare the section 1332 waiver for a reinsurance
14 program described in this section. Such contractor shall have experience in
15 developing and submitting section 1332 waivers for reinsurance programs.

16 New Sec. 3. (a) The secretary of health and environment shall refer
17 each non-disabled adult applying for or receiving coverage under the act
18 who is unemployed or working less than 20 hours per week to the
19 Kansasworks program administered by the department of commerce. The
20 secretary of commerce shall coordinate with the secretary of health and
21 environment to certify to the secretary of health and environment each
22 covered individual's compliance with this section. The secretary of
23 commerce shall maintain a unique identifier for Kansasworks participants
24 who are covered individuals under the act to track employment outcomes
25 and progress toward employment.

26 (b) The secretary of health and environment shall evaluate each new
27 applicant for coverage under the act for education status, employment
28 status and any factors impacting the applicant's employment status, if less
29 than full-time employment, and shall require each applicant to
30 acknowledge the referral required under subsection (a). Such evaluation
31 shall be a prerequisite for coverage under the act.

32 (c) 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, shall be exempt from the referral required under
35 subsection (a) for each year the student is enrolled in such educational
36 setting.

37 (d) The secretary of health and environment shall report annually to
38 the legislature, in coordination with the secretary of commerce, on or
39 before the first day of each regular session of the legislature regarding the
40 employment outcomes of covered individuals under the act.

41 New Sec. 4. (a) (1) Except to the extent prohibited by 42 U.S.C.
42 1396o-1(a)(2) and (b)(3), as such provisions exist on the effective date of
43 this act, the department of health and environment shall charge to each

Proposed amendment to SB 252
Senate Committee on Public Health and Welfare
Prepared by Scott Abbott, Assistant Revisor of Statutes

On page 14, following line 9, by inserting:

"New Sec. 23. (a) The act shall not be implemented until the date specified in subsection (b) following both of the following requirements being met:

(1) A decision by the United States supreme court in the civil action Texas v. United States, No. 4:18-cv-00167 (N.D. Tex.), determining that the individual mandate implemented under the federal patient protection and affordable care act is constitutional or is unconstitutional but severable from the remainder of the federal patient protection and affordable care act, denying certiorari in such civil action or ruling on such civil action on grounds that do not materially affect the implementation of the act; and

(2) the approval by the electors of the state of Kansas of a constitutional amendment to amend the bill of rights of the constitution of the state of Kansas by adding a new section 22 thereto concerning the regulation of abortion.

(b) (1) Expanded medical assistance eligibility under the act shall not be implemented until the first January 1 following the conditions specified in subsection (a).

(2) Health insurance plan reinsurance under the act shall not be implemented until the second January 1 following the conditions specified in subsection (a).

(c) If the United States supreme court rules in such civil action that the individual mandate is unconstitutional and nonseverable from the remainder of the federal patient protection and affordable care act, then the provisions of the act shall be null and void and shall have no force and effect."

And by renumbering sections accordingly