

**HOUSE BILL No. 2693**

By Committee on Insurance

1-24

10 AN ACT concerning ~~certain insurance contracts~~ **[insurance]**; pertaining  
11 to continuation of certain group policies; **[establishing a pilot pro-**  
12 **gram to allow certain small businesses to provide health insur-**  
13 **ance through the state employees health benefits program]**  
14 amending K.S.A. 40-3209 and repealing the existing section.  
15

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

17 Section 1. **[On July 1, 2006,]** K.S.A. 40-3209 is hereby amended to  
18 read as follows: 40-3209. (a) All forms of group and individual certificates  
19 of coverage and contracts issued by the organization to enrollees or other  
20 marketing documents purporting to describe the organization's health  
21 care services shall contain as a minimum:

22 (1) A complete description of the health care services and other ben-  
23 efits to which the enrollee is entitled;

24 (2) The locations of all facilities, the hours of operation and the serv-  
25 ices which are provided in each facility in the case of individual practice  
26 associations or medical staff and group practices, and, in all other cases,  
27 a list of providers by specialty with a list of addresses and telephone  
28 numbers;

29 (3) the financial responsibilities of the enrollee and the amount of  
30 any deductible, copayment or coinsurance required;

31 (4) all exclusions and limitations on services or any other benefits to  
32 be provided including any deductible or copayment feature and all re-  
33 strictions relating to pre-existing conditions;

34 (5) all criteria by which an enrollee may be disenrolled or denied  
35 reenrollment;

36 (6) service priorities in case of epidemic, or other emergency condi-  
37 tions affecting demand for medical services;

38 (7) in the case of a health maintenance organization, a provision that  
39 an enrollee or a covered dependent of an enrollee whose coverage under  
40 a health maintenance organization group contract has been terminated  
41 for any reason but who remains in the service area and who has been  
42 continuously covered by the health maintenance organization *or under*  
43 *any group policy providing similar benefits which it replaces* for at least

1 three months *immediately prior to termination* shall be entitled to obtain  
2 a converted contract or have such coverage continued under the group  
3 contract for a period of six months following which such enrollee or de-  
4 pendent shall be entitled to obtain a converted contract in accordance  
5 with the provisions of this section. The converted contract shall provide  
6 coverage at least equal to the conversion coverage options generally avail-  
7 able from insurers or mutual nonprofit hospital and medical service cor-  
8 porations in the service area at the applicable premium cost. The group  
9 enrollee or enrollees shall be solely responsible for paying the premiums  
10 for the alternative coverage. The frequency of premium payment shall be  
11 the frequency customarily required by the health maintenance organi-  
12 zation, mutual nonprofit hospital and medical service corporation or in-  
13 surer for the policy form and plan selected, except that the insurer, mutual  
14 nonprofit hospital and medical service corporation or health maintenance  
15 organization shall require premium payments at least quarterly. The cov-  
16 erage shall be available to all enrollees of any group without medical  
17 underwriting. The requirement imposed by this subsection shall not apply  
18 to a contract which provides benefits for specific diseases or for accidental  
19 injuries only, nor shall it apply to any employee or member or such em-  
20 ployee's or member's covered dependents when:

21 (A) Such person was terminated for cause as permitted by the group  
22 contract approved by the commissioner;

23 (B) any discontinued group coverage was replaced by similar group  
24 coverage within 31 days; or

25 (C) the employee or member is or could be covered by any other  
26 insured or noninsured arrangement which provides expense incurred hos-  
27 pital, surgical or medical coverage and benefits for individuals in a group  
28 under which the person was not covered prior to such termination. Writ-  
29 ten application for the converted contract shall be made and the first  
30 premium paid not later than 31 days after termination of the group cov-  
31 erage or receipt of notice of conversion rights from the health mainte-  
32 nance organization, whichever is later, and shall become effective the day  
33 following the termination of coverage under the group contract. The  
34 health maintenance organization shall give the employee or member and  
35 such employee's or member's covered dependents reasonable notice of  
36 the right to convert at least once within 30 days of termination of coverage  
37 under the group contract. The group contract and certificates may include  
38 provisions necessary to identify or obtain identification of persons and  
39 notification of events that would activate the notice requirements and  
40 conversion rights created by this section but such requirements and rights  
41 shall not be invalidated by failure of persons other than the employee or  
42 member entitled to conversion to comply with any such provisions. In  
43 addition, the converted contract shall be subject to the provisions con-

1 tained in paragraphs (2), (4), (5), (6), (7), (8), (9), (13), (14), (15), (16),  
2 (17) and (19) of subsection (j) of K.S.A. 40-2209, and amendments  
3 thereto;

4 (8) (A) group contracts shall contain a provision extending payment  
5 of such benefits until discharged or for a period not less than 31 days  
6 following the expiration date of the contract, whichever is earlier, for  
7 covered enrollees and dependents confined in a hospital on the date of  
8 termination;

9 (B) a provision that coverage under any subsequent replacement con-  
10 tract that is intended to afford continuous coverage will commence im-  
11 mediately following expiration of any prior contract with respect to cov-  
12 ered services not provided pursuant to subparagraph (8)(A); and

13 (9) an individual contract shall provide for a 10-day period for the  
14 enrollee to examine and return the contract and have the premium re-  
15 funded, but if services were received by the enrollee during the 10-day  
16 period, and the enrollee returns the contract to receive a refund of the  
17 premium paid, the enrollee must pay for such services.

18 (b) No health maintenance organization or medicare provider organ-  
19 ization authorized under this act shall contract with any provider under  
20 provisions which require enrollees to guarantee payment, other than co-  
21 payments and deductibles, to such provider in the event of nonpayment  
22 by the health maintenance organization or medicare provider organiza-  
23 tion for any services which have been performed under contracts between  
24 such enrollees and the health maintenance organization or medicare pro-  
25 vider organization. Further, any contract between a health maintenance  
26 organization or medicare provider organization and a provider shall pro-  
27 vide that if the health maintenance organization or medicare provider  
28 organization fails to pay for covered health care services as set forth in  
29 the contract between the health maintenance organization or medicare  
30 provider organization and its enrollee, the enrollee or covered dependents  
31 shall not be liable to any provider for any amounts owed by the health  
32 maintenance organization or medicare provider organization. If there is  
33 no written contract between the health maintenance organization or med-  
34 icare provider organization and the provider or if the written contract fails  
35 to include the above provision, the enrollee and dependents are not liable  
36 to any provider for any amounts owed by the health maintenance organ-  
37 ization or medicare provider organization. Any action by a provider to  
38 collect or attempt to collect from a subscriber or enrollee any sum owed  
39 by the health maintenance organization to a provider shall be deemed to  
40 be an unconscionable act within the meaning of K.S.A. 50-627 and  
41 amendments thereto.

42 (c) No group or individual certificate of coverage or contract form or  
43 amendment to an approved certificate of coverage or contract form shall

1 be issued unless it is filed with the commissioner. Such contract form or  
2 amendment shall become effective within 30 days of such filing unless  
3 the commissioner finds that such contract form or amendment does not  
4 comply with the requirements of this section.

5 (d) Every contract shall include a clear and understandable descrip-  
6 tion of the health maintenance organization's or medicare provider or-  
7 ganization's method for resolving enrollee grievances.

8 (e) The provisions of subsections (A), (B), (C), (D) and (E) of K.S.A.  
9 40-2209 and 40-2215 and amendments thereto shall apply to all contracts  
10 issued under this section, and the provisions of such sections shall apply  
11 to health maintenance organizations.

12 (f) In lieu of any of the requirements of subsection (a), the commis-  
13 sioner may accept certificates of coverage issued by a medicare provider  
14 organization in conformity with requirements imposed by any appropriate  
15 federal regulatory agency.

16 **[New Sec. 2. (a) Commencing in plan year 2007, the Kansas**  
17 **state employees health care commission shall establish a pilot pro-**  
18 **gram which would allow a qualified small business to provide**  
19 **health insurance to its employees by allowing eligible employees**  
20 **to participate in the state health care benefits program.**

21 **[(1) The pilot program established by this section shall expire**  
22 **on January 1, 2011.**

23 **[(2) Participation in the pilot program shall be limited to a total**  
24 **of 1,000 eligible employees regardless of the number of qualified**  
25 **small businesses involved.**

26 **[(3) Notwithstanding the provisions of K.S.A. 75-6501, and**  
27 **amendments thereto, eligibility of eligible employees of a qualified**  
28 **small business in this pilot program shall not be required to be**  
29 **designated by rule and regulation.**

30 **[(4) Each participating qualified small business shall agree to**  
31 **stay in the pilot program for at least two years.**

32 **[(5) Each participating qualified small business shall pay the**  
33 **required health insurance premium for each of its participating**  
34 **eligible employees; however, the employer shall be paid by the**  
35 **eligible employee for such employee's portion of the premium.**  
36 **The determination of the portion of the premium to be paid by**  
37 **the eligible employee shall be subject to negotiation.**

38 **[(b) As used in this section:**

39 **[(1) "Small business" means any business that has at most 30**  
40 **employees.**

41 **[(2) "Qualified small business" means a small business that has**  
42 **not provided health insurance to its employees during the previous**  
43 **24 months.**

1     **[(3) “Eligible employee” means an employee who is not al-**  
2 **ready covered under another health insurance policy or program.**  
3     **[(c) The Kansas state employees health care commission shall**  
4 **report its findings and any recommendations which the commis-**  
5 **sion may have concerning the pilot program established under this**  
6 **section to the governor and to the legislature annually.**  
7     **[(d) The secretary of administration is hereby authorized to**  
8 **receive grants, gifts or donations from the United States govern-**  
9 **ment, or its agencies, the Sunflower Foundation: Healthcare for**  
10 **Kansas, or any other source whatsoever for the purposes of the**  
11 **pilot program established under this section and amendments**  
12 **thereto, and any moneys so received shall be deposited in the state**  
13 **treasury and credited to the cafeteria benefits fund established by**  
14 **K.S.A. 75-6513 and amendments thereto. All funds received pur-**  
15 **suant to this section shall be placed in a separate account within**  
16 **the cafeteria benefits fund. All expenditures made from such fund**  
17 **for the purposes of this section shall be made in accordance with**  
18 **appropriation acts upon warrants of the director of accounts and**  
19 **reports issued by the secretary of administration or a person des-**  
20 **ignated by the secretary of administration.]**  
21     Sec. 2 [3]. **[On July 1, 2006,]** K.S.A. 40-3209 is hereby repealed.  
22     Sec. 3 [4]. This act shall take effect and be in force from and after  
23 its publication in the ~~statute book~~ **[Kansas register].**