

HOUSE BILL No. 2044

By Joint Committee on Administrative Rules and Regulations

1-21

9 AN ACT concerning insurance; relating to converted policies; pertaining
10 to premium payments by terminated employees; amending K.S.A.
11 2008 Supp. 40-2209 and repealing the existing section.
12

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

14 Section 1. K.S.A. 2008 Supp. 40-2209 is hereby amended to read as
15 follows: 40-2209. (a) (1) Group sickness and accident insurance is de-
16 clared to be that form of sickness and accident insurance covering groups
17 of persons, with or without one or more members of their families or one
18 or more dependents. Except at the option of the employee or member
19 and except employees or members enrolling in a group policy after the
20 close of an open enrollment opportunity, no individual employee or mem-
21 ber of an insured group and no individual dependent or family member
22 may be excluded from eligibility or coverage under a policy providing
23 hospital, medical or surgical expense benefits both with respect to policies
24 issued or renewed within this state and with respect to policies issued or
25 renewed outside this state covering persons residing in this state. For
26 purposes of this section, an open enrollment opportunity shall be deemed
27 to be a period no less favorable than a period beginning on the employee's
28 or member's date of initial eligibility and ending 31 days thereafter.

29 (2) An eligible employee, member or dependent who requests en-
30 rollment following the open enrollment opportunity or any special en-
31 rollment period for dependents as specified in subsection (3) shall be
32 considered a late enrollee. An accident and sickness insurer may exclude
33 a late enrollee, except during an open enrollment period. However, an
34 eligible employee, member or dependent shall not be considered a late
35 enrollee if:

36 (A) The individual:

37 (i) Was covered under another group policy which provided hospital,
38 medical or surgical expense benefits or was covered under section 607(1)
39 of the employee retirement income security act of 1974 (ERISA) at the
40 time the individual was eligible to enroll;

41 (ii) states in writing, at the time of the open enrollment period, that
42 coverage under another group policy which provided hospital, medical or
43 surgical expense benefits was the reason for declining enrollment, but

1 only if the group policyholder or the accident and sickness insurer re-
2 quired such a written statement and provided the individual with notice
3 of the requirement for a written statement and the consequences of such
4 written statement;

5 (iii) has lost coverage under another group policy providing hospital,
6 medical or surgical expense benefits or under section 607(1) of the em-
7 ployee retirement income security act of 1974 (ERISA) as a result of the
8 termination of employment, reduction in the number of hours of em-
9 ployment, termination of employer contributions toward such coverage,
10 the termination of the other policy's coverage, death of a spouse or di-
11 vorce or legal separation or was under a COBRA continuation provision
12 and the coverage under such provision was exhausted; and

13 (iv) requests enrollment within 30 days after the termination of cov-
14 erage under the other policy; or

15 (B) a court has ordered coverage to be provided for a spouse or minor
16 child under a covered employee's or member's policy.

17 (3) (A) If an accident and sickness insurer issues a group policy pro-
18 viding hospital, medical or surgical expenses and makes coverage available
19 to a dependent of an eligible employee or member and such dependent
20 becomes a dependent of the employee or member through marriage,
21 birth, adoption or placement for adoption, then such group policy shall
22 provide for a dependent special enrollment period as described in sub-
23 section (3) (B) of this section during which the dependent may be en-
24 rolled under the policy and in the case of the birth or adoption of a child,
25 the spouse of an eligible employee or member may be enrolled if oth-
26 erwise eligible for coverage.

27 (B) A dependent special enrollment period under this subsection
28 shall be a period of not less than 30 days and shall begin on the later of
29 (i) the date such dependent coverage is made available, or (ii) the date
30 of the marriage, birth or adoption or placement for adoption.

31 (C) If an eligible employee or member seeks to enroll a dependent
32 during the first 30 days of such a dependent special enrollment period,
33 the coverage of the dependent shall become effective: (i) in the case of
34 marriage, not later than the first day of the first month beginning after
35 the date the completed request for enrollment is received; (ii) in the case
36 of the birth of a dependent, as of the date of such birth; or (iii) in the
37 case of a dependent's adoption or placement for adoption, the date of
38 such adoption or placement for adoption.

39 (4) (A) No group policy providing hospital, medical or surgical ex-
40 pense benefits issued or renewed within this state or issued or renewed
41 outside this state covering residents within this state shall limit or exclude
42 benefits for specific conditions existing at or prior to the effective date of
43 coverage thereunder. Such policy may impose a preexisting conditions

1 exclusion, not to exceed 90 days following the date of enrollment for
2 benefits for conditions whether mental or physical, regardless of the cause
3 of the condition for which medical advice, diagnosis, care or treatment
4 was recommended or received in the 90 days prior to the effective date
5 of enrollment. Any preexisting conditions exclusion shall run concurrently
6 with any waiting period.

7 (B) Such policy may impose a waiting period after full-time employ-
8 ment starts before an employee is first eligible to enroll in any applicable
9 group policy.

10 (C) A health maintenance organization which offers such policy
11 which does not impose any preexisting conditions exclusion may impose
12 an affiliation period for such coverage, provided that: (i) such application
13 period is applied uniformly without regard to any health status related
14 factors and (ii) such affiliation period does not exceed two months. The
15 affiliation period shall run concurrently with any waiting period under the
16 plan.

17 (D) A health maintenance organization may use alternative methods
18 from those described in this subsection to address adverse selection if
19 approved by the commissioner.

20 (E) For the purposes of this section, the term “preexisting conditions
21 exclusion” shall mean, with respect to coverage, a limitation or exclusion
22 of benefits relating to a condition based on the fact that the condition
23 was present before the date of enrollment for such coverage whether or
24 not any medical advice, diagnosis, care or treatment was recommended
25 or received before such date.

26 (F) For the purposes of this section, the term “date of enrollment”
27 means the date the individual is enrolled under the group policy or, if
28 earlier, the first day of the waiting period for such enrollment.

29 (G) For the purposes of this section, the term “waiting period” means
30 with respect to a group policy the period which must pass before the
31 individual is eligible to be covered for benefits under the terms of the
32 policy.

33 (5) Genetic information shall not be treated as a preexisting condition
34 in the absence of a diagnosis of the condition related to such information.

35 (6) A group policy providing hospital, medical or surgical expense
36 benefits may not impose any preexisting condition exclusion relating to
37 pregnancy as a preexisting condition.

38 (7) A group policy providing hospital, medical or surgical expense
39 benefits may not impose any preexisting condition waiting period in the
40 case of a child who is adopted or placed for adoption before attaining 18
41 years of age and who, as of the last day of a 30-day period beginning on
42 the date of the adoption or placement for adoption, is covered by a policy
43 specified in subsection (a). This subsection shall not apply to coverage

1 before the date of such adoption or placement for adoption.

2 (8) Such policy shall waive such a preexisting conditions exclusion to
3 the extent the employee or member or individual dependent or family
4 member was covered by (A) a group or individual sickness and accident
5 policy, (B) coverage under section 607(1) of the employees retirement
6 income security act of 1974 (ERISA), (C) a group specified in K.S.A. 40-
7 2222 and amendments thereto, (D) part A or part B of title XVIII of the
8 social security act, (E) title XIX of the social security act, other than
9 coverage consisting solely of benefits under section 1928, (F) a state chil-
10 dren's health insurance program established pursuant to title XXI of the
11 social security act, (G) chapter 55 of title 10 United States code, (H) a
12 medical care program of the Indian health service or of a tribal organi-
13 zation, (I) the Kansas uninsurable health plan act pursuant to K.S.A. 40-
14 2217 et seq. and amendments thereto or a similar health benefits risk
15 pool of another state, (J) a health plan offered under chapter 89 of title
16 5, United States code, (K) a health benefit plan under section 5(e) of the
17 peace corps act (22 U.S.C. 2504(e)), or (L) a group subject to K.S.A. 12-
18 2616 et seq. and amendments thereto which provided hospital, medical
19 and surgical expense benefits within 63 days prior to the effective date of
20 coverage with no gap in coverage. A group policy shall credit the periods
21 of prior coverage specified in subsection (a)(7) without regard to the spe-
22 cific benefits covered during the period of prior coverage. Any period that
23 the employee or member is in a waiting period for any coverage under a
24 group health plan or is in an affiliation period shall not be taken into
25 account in determining the continuous period under this subsection.

26 (b) (1) An accident and sickness insurer which offers group policies
27 providing hospital, medical or surgical expense benefits shall provide a
28 certification as described in subsection (b)(2): (A) At the time an eligible
29 employee, member or dependent ceases to be covered under such policy
30 or otherwise becomes covered under a COBRA continuation provision;
31 (B) in the case of an eligible employee, member or dependent being
32 covered under a COBRA continuation provision, at the time such eligible
33 employee, member or dependent ceases to be covered under a COBRA
34 continuation provision; and (C) on the request on behalf of such eligible
35 employee, member or dependent made not later than 24 months after
36 the date of the cessation of the coverage described in subsection (b)(1)
37 (A) or (b)(1) (B), whichever is later.

38 (2) The certification described in this subsection is a written certifi-
39 cation of (A) the period of coverage under a policy specified in subsection
40 (a) and any coverage under such COBRA continuation provision, and (B)
41 any waiting period imposed with respect to the eligible employee, mem-
42 ber or dependent for any coverage under such policy.

43 (c) Any group policy may impose participation requirements, define

1 full-time employees or members and otherwise be designed for the group
2 as a whole through negotiations between the group sponsor and the in-
3 surer to the extent such design is not contrary to or inconsistent with this
4 act.

5 (d) (1) An accident and sickness insurer offering a group policy pro-
6 viding hospital, medical or surgical expense benefits must renew or con-
7 tinue in force such coverage at the option of the policyholder or certifi-
8 cateholder except as provided in paragraph (2) below.

9 (2) An accident and sickness insurer may nonrenew or discontinue
10 coverage under a group policy providing hospital, medical or surgical
11 expense benefits based only on one or more of the following
12 circumstances:

13 (A) If the policyholder or certificateholder has failed to pay any pre-
14 mium or contributions in accordance with the terms of the group policy
15 providing hospital, medical or surgical expense benefits or the accident
16 and sickness insurer has not received timely premium payments;

17 (B) if the policyholder or certificateholder has performed an act or
18 practice that constitutes fraud or made an intentional misrepresentation
19 of material fact under the terms of such coverage;

20 (C) if the policyholder or certificateholder has failed to comply with
21 a material plan provision relating to employer contribution or group par-
22 ticipation rules;

23 (D) if the accident and sickness insurer is ceasing to offer coverage
24 in such group market in accordance with subsections (d)(3) or (d)(4);

25 (E) in the case of accident and sickness insurer that offers coverage
26 under a policy providing hospital, medical or surgical expense benefits
27 through an enrollment area, there is no longer any eligible employee,
28 member or dependent in connection with such policy who lives, resides
29 or works in the medical service enrollment area of the accident and sick-
30 ness insurer or in the area for which the accident and sickness insurer is
31 authorized to do business; or

32 (F) in the case of a group policy providing hospital, medical or sur-
33 gical expense benefits which is offered through an association or trust
34 pursuant to subsections (f)(3) or (f)(5), the membership of the employer
35 in such association or trust ceases but only if such coverage is terminated
36 uniformly without regard to any health status related factor relating to
37 any eligible employee, member or dependent.

38 (3) In any case in which an accident and sickness insurer which offers
39 a group policy providing hospital, medical or surgical expense benefits
40 decides to discontinue offering such type of group policy, such coverage
41 may be discontinued only if:

42 (A) The accident and sickness insurer notifies all policyholders and
43 certificateholders and all eligible employees or members of such discon-

1 continuation at least 90 days prior to the date of the discontinuation of such
2 coverage;

3 (B) the accident and sickness insurer offers to each policyholder who
4 is provided such group policy providing hospital, medical or surgical ex-
5 pense benefits which is being discontinued the option to purchase any
6 other group policy providing hospital, medical or surgical expense bene-
7 fits currently being offered by such accident and sickness insurer; and

8 (C) in exercising the option to discontinue coverage and in offering
9 the option of coverage under subparagraph (B), the accident and sickness
10 insurer acts uniformly without regard to the claims experience of those
11 policyholders or certificateholders or any health status related factors re-
12 lating to any eligible employee, member or dependent covered by such
13 group policy or new employees or members who may become eligible
14 for such coverage.

15 (4) If the accident and sickness insurer elects to discontinue offering
16 group policies providing hospital, medical or surgical expense benefits or
17 group coverage to a small employer pursuant to K.S.A. 40-2209f and
18 amendments thereto, such coverage may be discontinued only if:

19 (A) The accident and sickness insurer provides notice to the insur-
20 ance commissioner, to all policyholders or certificateholders and to all
21 eligible employees and members covered by such group policy providing
22 hospital, medical or surgical expense benefits at least 180 days prior to
23 the date of the discontinuation of such coverage;

24 (B) all group policies providing hospital, medical or surgical expense
25 benefits offered by such accident and sickness insurer are discontinued
26 and coverage under such policies are not renewed; and

27 (C) the accident and sickness insurer may not provide for the issuance
28 of any group policies providing hospital, medical or surgical expense ben-
29 efits in the discontinued market during a five year period beginning on
30 the date of the discontinuation of the last such group policy which is
31 nonrenewed.

32 (e) An accident and sickness insurer offering a group policy providing
33 hospital, medical or surgical expense benefits may not establish rules for
34 eligibility (including continued eligibility) of any employee, member or
35 dependent to enroll under the terms of the group policy based on any of
36 the following factors in relation to the eligible employee, member or
37 dependent: (A) Health status, (B) medical condition, including both
38 physical and mental illness, (C) claims experience, (D) receipt of health
39 care, (E) medical history, (F) genetic information, (G) evidence of insur-
40 ability, including conditions arising out of acts of domestic violence, or
41 (H) disability. This subsection shall not be construed to require a policy
42 providing hospital, medical or surgical expense benefits to provide par-
43 ticular benefits other than those provided under the terms of such group

1 policy or to prevent a group policy providing hospital, medical or surgical
2 expense benefits from establishing limitations or restrictions on the
3 amount, level, extent or nature of the benefits or coverage for similarly
4 situated individuals enrolled under the group policy.

5 (f) Group accident and health insurance may be offered to a group
6 under the following basis:

7 (1) Under a policy issued to an employer or trustees of a fund estab-
8 lished by an employer, who is the policyholder, insuring at least two em-
9 ployees of such employer, for the benefit of persons other than the em-
10 ployer. The term "employees" shall include the officers, managers,
11 employees and retired employees of the employer, the partners, if the
12 employer is a partnership, the proprietor, if the employer is an individual
13 proprietorship, the officers, managers and employees and retired em-
14 ployees of subsidiary or affiliated corporations of a corporation employer,
15 and the individual proprietors, partners, employees and retired employ-
16 ees of individuals and firms, the business of which and of the insured
17 employer is under common control through stock ownership contract, or
18 otherwise. The policy may provide that the term "employees" may include
19 the trustees or their employees, or both, if their duties are principally
20 connected with such trusteeship. A policy issued to insure the employees
21 of a public body may provide that the term "employees" shall include
22 elected or appointed officials.

23 (2) Under a policy issued to a labor union which shall have a consti-
24 tution and bylaws insuring at least 25 members of such union.

25 (3) Under a policy issued to the trustees of a fund established by two
26 or more employers or business associations or by one or more labor un-
27 ions or by one or more employers and one or more labor unions, which
28 trustees shall be the policyholder, to insure employees of the employers
29 or members of the union or members of the association for the benefit
30 of persons other than the employers or the unions or the associations.
31 The term "employees" shall include the officers, managers, employees
32 and retired employees of the employer and the individual proprietor or
33 partners if the employer is an individual proprietor or partnership. The
34 policy may provide that the term "employees" shall include the trustees
35 or their employees, or both, if their duties are principally connected with
36 such trusteeship.

37 (4) A policy issued to a creditor, who shall be deemed the policyhol-
38 der, to insure debtors of the creditor, subject to the following require-
39 ments: (a) The debtors eligible for insurance under the policy shall be all
40 of the debtors of the creditor whose indebtedness is repayable in install-
41 ments, or all of any class or classes determined by conditions pertaining
42 to the indebtedness or to the purchase giving rise to the indebtedness.
43 (b) The premium for the policy shall be paid by the policyholder, either

1 from the creditor's funds or from charges collected from the insured
2 debtors, or from both.

3 (5) A policy issued to an association which has been organized and is
4 maintained for the purposes other than that of obtaining insurance, in-
5 suring at least 25 members, employees, or employees of members of the
6 association for the benefit of persons other than the association or its
7 officers. The term "employees" shall include retired employees. The pre-
8 miums for the policies shall be paid by the policyholder, either wholly
9 from association funds, or funds contributed by the members of such
10 association or by employees of such members or any combination thereof.

11 (6) Under a policy issued to any other type of group which the com-
12 missioner of insurance may find is properly subject to the issuance of a
13 group sickness and accident policy or contract.

14 (g) Each such policy shall contain in substance: (1) A provision that
15 a copy of the application, if any, of the policyholder shall be attached to
16 the policy when issued, that all statements made by the policyholder or
17 by the persons insured shall be deemed representations and not warran-
18 ties, and that no statement made by any person insured shall be used in
19 any contest unless a copy of the instrument containing the statement is
20 or has been furnished to such person or the insured's beneficiary.

21 (2) A provision setting forth the conditions under which an individ-
22 ual's coverage terminates under the policy, including the age, if any, to
23 which an individual's coverage under the policy shall be limited, or, the
24 age, if any, at which any additional limitations or restrictions are placed
25 upon an individual's coverage under the policy.

26 (3) Provisions setting forth the notice of claim, proofs of loss and
27 claim forms, physical examination and autopsy, time of payment of claims,
28 to whom benefits are payable, payment of claims, change of beneficiary,
29 and legal action requirements. Such provisions shall not be less favorable
30 to the individual insured or the insured's beneficiary than those corre-
31 sponding policy provisions required to be contained in individual accident
32 and sickness policies.

33 (4) A provision that the insurer will furnish to the policyholder, for
34 the delivery to each employee or member of the insured group, an in-
35 dividual certificate approved by the commissioner of insurance setting
36 forth in summary form a statement of the essential features of the insur-
37 ance coverage of such employee or member, the procedure to be followed
38 in making claim under the policy and to whom benefits are payable. Such
39 certificate shall also contain a summary of those provisions required under
40 paragraphs (2) and (3) of this subsection (g) in addition to the other
41 essential features of the insurance coverage. If dependents are included
42 in the coverage, only one certificate need be issued for each family unit.

43 (h) No group disability income policy which integrates benefits with

1 social security benefits, shall provide that the amount of any disability
2 benefit actually being paid to the disabled person shall be reduced by
3 changes in the level of social security benefits resulting either from
4 changes in the social security law or due to cost of living adjustments
5 which become effective after the first day for which disability benefits
6 become payable.

7 (i) A group policy of insurance delivered or issued for delivery or
8 renewed which provides hospital, surgical or major medical expense in-
9 surance, or any combination of these coverages, on an expense incurred
10 basis, shall provide that an employee or member or such employee's or
11 member's covered dependents whose insurance under the group policy
12 has been terminated for any reason, including discontinuance of the
13 group policy in its entirety or with respect to an insured class, and who
14 has been continuously insured under the group policy or under any group
15 policy providing similar benefits which it replaces for at least three
16 months immediately prior to termination, shall be entitled to have such
17 coverage nonetheless continued under the group policy for a period of
18 18 months and have issued to the employee or member or such em-
19 ployee's or member's covered dependents by the insurer, at the end of
20 such eighteen-month period of continuation, a policy of health insurance
21 which conforms to the applicable requirements specified in this subsec-
22 tion. This requirement shall not apply to a group policy which provides
23 benefits for specific diseases or for accidental injuries only or a group
24 policy issued to an employer subject to the continuation and conversion
25 obligations set forth at title I, subtitle B, part 6 of the employee retirement
26 income security act of 1974 or at title XXII of the public health service
27 act, as each act was in effect on January 1, 1987 to the extent federal law
28 provides the employee or member or such employee's or member's cov-
29 ered dependents with equal or greater continuation or conversion rights;
30 or an employee or member or such employee's or member's covered
31 dependents shall not be entitled to have such coverage continued or a
32 converted policy issued to the employee or member or such employee's
33 or member's covered dependents if termination of the insurance under
34 the group policy occurred because:

35 (1) The employee or member or such employee's or member's cov-
36 ered dependents failed to pay any required contribution after receiving
37 reasonable notice of such required contribution from the insurer in ac-
38 cordance with rules and regulations adopted by the commissioner of in-
39 surance; (2) any discontinued group coverage was replaced by similar
40 group coverage within 31 days; (3) the employee or member is or could
41 be covered by medicare (title XVIII of the United States social security
42 act as added by the social security amendments of 1965 or as later
43 amended or superseded); (4) the employee or member is or could be

1 covered to the same extent by any other insured or lawful self-insured
2 arrangement which provides expense incurred hospital, surgical or med-
3 ical coverage and benefits for individuals in a group under which the
4 person was not covered prior to such termination; or (5) coverage for the
5 employee or member, or any covered dependent thereof, was terminated
6 for cause as permitted by the group policy or certificate of coverage ap-
7 proved by the commissioner. In the event the group policy is terminated
8 and not replaced the insurer may issue an individual policy or certificate
9 in lieu of a conversion policy or the continuation of group coverage re-
10 quired herein if the individual policy or certificate provides substantially
11 similar coverage for the same or less premium as the group policy. In any
12 event, the employee or member shall have the option to be issued a
13 conversion policy which meets the requirements set forth in this subsec-
14 tion in lieu of the right to continue group coverage.

15 (j) The continued coverage and the issuance of a converted policy
16 shall be subject to the following conditions:

17 (1) Written application for the converted policy shall be made and
18 the first premium paid to the insurer not later than 31 days after termi-
19 nation of coverage under the group policy or not later than 31 days after
20 notice is received pursuant to paragraph (20) of this subsection.

21 (2) The converted policy shall be issued without evidence of
22 insurability.

23 (3) The employer shall give the employee and such employee's cov-
24 ered dependents reasonable notice of the right to continuation of cov-
25 erage. The terminated employee or member shall pay to the ~~employer~~
26 *insurer* the premium for the eighteen-month continuation of coverage
27 and such premium shall be the same as that applicable to members or
28 employees remaining in the group. Failure to pay such premium shall
29 terminate coverage under the group policy at the end of the period for
30 which the premium has been paid. The premium rate charged for con-
31 verted policies issued subsequent to the period of continued coverage
32 shall be such that can be expected to produce an anticipated loss ratio of
33 not less than 80% based upon conversion, morbidity and reasonable as-
34 sumptions for expected trends in medical care costs. In the event the
35 group policy is terminated and is not replaced, converted policies may be
36 issued at self-sustaining rates that are not unreasonable in relation to the
37 coverage provided based on conversion, morbidity and reasonable as-
38 sumptions for expected trends in medical care costs. The frequency of
39 premium payment shall be the frequency customarily required by the
40 insurer for the policy form and plan selected, provided that the insurer
41 shall not require premium payments less frequently than quarterly.

42 (4) The effective date of the converted policy shall be the day follow-
43 ing the termination of insurance under the group policy.

- 1 (5) The converted policy shall cover the employee or member and
2 the employee's or member's dependents who were covered by the group
3 policy on the date of termination of insurance. At the option of the in-
4 surer, a separate converted policy may be issued to cover any dependent.
- 5 (6) The insurer shall not be required to issue a converted policy cov-
6 ering any person if such person is or could be covered by medicare (title
7 XVIII of the United States social security act as added by the social se-
8 curity amendments of 1965 or as later amended or superseded). Fur-
9 thermore, the insurer shall not be required to issue a converted policy
10 covering any person if:
- 11 (A) (i) Such person is covered for similar benefits by another hos-
12 pital, surgical, medical or major medical expense insurance policy or hos-
13 pital or medical service subscriber contract or medical practice or other
14 prepayment plan or by any other plan or program, or
- 15 (ii) such person is eligible for similar benefits (whether or not covered
16 therefor) under any arrangement of coverage for individuals in a group,
17 whether on an insured or uninsured basis, or
- 18 (iii) similar benefits are provided for or available to such person, pur-
19 suant to or in accordance with the requirements of any state or federal
20 law, and
- 21 (B) the benefits provided under the sources referred to in clause (A)
22 (i) above for such person or benefits provided or available under the
23 sources referred to in clauses (A) (ii) and (A) (iii) above for such person,
24 together with the benefits provided by the converted policy, would result
25 in over-insurance according to the insurer's standards. The insurer's stan-
26 dards must bear some reasonable relationship to actual health care costs
27 in the area in which the insured lives at the time of conversion and must
28 be filed with the commissioner of insurance prior to their use in denying
29 coverage.
- 30 (7) A converted policy may include a provision whereby the insurer
31 may request information in advance of any premium due date of such
32 policy of any person covered as to whether:
- 33 (A) Such person is covered for similar benefits by another hospital,
34 surgical, medical or major medical expense insurance policy or hospital
35 or medical service subscriber contract or medical practice or other pre-
36 payment plan or by any other plan or program;
- 37 (B) such person is covered for similar benefits under any arrange-
38 ment of coverage for individuals in a group, whether on an insured or
39 uninsured basis; or
- 40 (C) similar benefits are provided for or available to such person, pur-
41 suant to or in accordance with the requirements of any state or federal
42 law.
- 43 (8) The converted policy may provide that the insurer may refuse to

1 renew the policy and the coverage of any person insured for the following
2 reasons only:

3 (A) Either the benefits provided under the sources referred to in
4 clauses (A) (i) and (A) (ii) of paragraph (6) for such person or benefits
5 provided or available under the sources referred to in clause (A) (iii) of
6 paragraph (6) for such person, together with the benefits provided by the
7 converted policy, would result in over-insurance according to the insurer's
8 standards on file with the commissioner of insurance, or the converted
9 policyholder fails to provide the requested information;

10 (B) fraud or material misrepresentation in applying for any benefits
11 under the converted policy; or

12 (C) other reasons approved by the commissioner of insurance.

13 (9) An insurer shall not be required to issue a converted policy which
14 provides coverage and benefits in excess of those provided under the
15 group policy from which conversion is made.

16 (10) If the converted policy provides that any hospital, surgical or
17 medical benefits payable may be reduced by the amount of any such
18 benefits payable under the group policy after the termination of the in-
19 dividual's insurance or the converted policy includes provisions so that
20 during the first policy year the benefits payable under the converted pol-
21 icy, together with the benefits payable under the group policy, shall not
22 exceed those that would have been payable had the individual's insurance
23 under the group policy remained in force and effect, the converted policy
24 shall provide credit for deductibles, copayments and other conditions sat-
25 isfied under the group policy.

26 (11) Subject to the provisions and conditions of this act, if the group
27 insurance policy from which conversion is made insures the employee or
28 member for major medical expense insurance, the employee or member
29 shall be entitled to obtain a converted policy providing catastrophic or
30 major medical coverage under a plan meeting the following requirements:

31 (A) A maximum benefit at least equal to either, at the option of the
32 insurer, paragraphs (i) or (ii) below:

33 (i) The smaller of the following amounts:

34 The maximum benefit provided under the group policy or a maximum
35 payment of \$250,000 per covered person for all covered medical expenses
36 incurred during the covered person's lifetime.

37 (ii) The smaller of the following amounts:

38 The maximum benefit provided under the group policy or a maximum
39 payment of \$250,000 for each unrelated injury or sickness.

40 (B) Payment of benefits at the rate of 80% of covered medical ex-
41 penses which are in excess of the deductible, until 20% of such expenses
42 in a benefit period reaches \$1,000, after which benefits will be paid at
43 the rate of 100% during the remainder of such benefit period. Payment

1 of benefits for outpatient treatment of mental illness, if provided in the
2 converted policy, may be at a lesser rate but not less than 50%.

3 (C) A deductible for each benefit period which, at the option of the
4 insurer, shall be (i) the sum of the benefits deductible and \$100, or (ii)
5 the corresponding deductible in the group policy. The term “benefits
6 deductible,” as used herein, means the value of any benefits provided on
7 an expense incurred basis which are provided with respect to covered
8 medical expenses by any other hospital, surgical, or medical insurance
9 policy or hospital or medical service subscriber contract or medical prac-
10 tice or other prepayment plan, or any other plan or program whether on
11 an insured or uninsured basis, or in accordance with the requirements of
12 any state or federal law and, if pursuant to the conditions of paragraph
13 (13), the converted policy provides both basic hospital or surgical cover-
14 age and major medical coverage, the value of such basic benefits.

15 If the maximum benefit is determined by clause (A)(ii) of this para-
16 graph, the insurer may require that the deductible be satisfied during a
17 period of not less than three months if the deductible is \$100 or less, and
18 not less than six months if the deductible exceeds \$100.

19 (D) The benefit period shall be each calendar year when the maxi-
20 mum benefit is determined by clause (A)(i) of this paragraph or 24 months
21 when the maximum benefit is determined by clause (A)(ii) of this
22 paragraph.

23 (E) The term “covered medical expenses,” as used above, shall in-
24 clude at least, in the case of hospital room and board charges 80% of the
25 average semiprivate room and board rate for the hospital in which the
26 individual is confined and twice such amount for charges in an intensive
27 care unit. Any surgical schedule shall be consistent with those customarily
28 offered by the insurer under group or individual health insurance policies
29 and must provide at least a \$1,200 maximum benefit.

30 (12) The conversion privilege required by this act shall, if the group
31 insurance policy insures the employee or member for basic hospital or
32 surgical expense insurance as well as major medical expense insurance,
33 make available the plans of benefits set forth in paragraph (11). At the
34 option of the insurer, such plans of benefits may be provided under one
35 policy.

36 The insurer may also, in lieu of the plans of benefits set forth in par-
37 agraph (11), provide a policy of comprehensive medical expense benefits
38 without first dollar coverage. The policy shall conform to the require-
39 ments of paragraph (11). An insurer electing to provide such a policy shall
40 make available a low deductible option, not to exceed \$100, a high de-
41 ductible option between \$500 and \$1,000, and a third deductible option
42 midway between the high and low deductible options.

43 (13) The insurer, at its option, may also offer alternative plans for

1 group health conversion in addition to those required by this act.

2 (14) In the event coverage would be continued under the group pol-
3 icy on an employee following the employee's retirement prior to the time
4 the employee is or could be covered by medicare, the employee may
5 elect, in lieu of such continuation of group insurance, to have the same
6 conversion rights as would apply had such person's insurance terminated
7 at retirement by reason of termination of employment or membership.

8 (15) The converted policy may provide for reduction of coverage on
9 any person upon such person's eligibility for coverage under medicare
10 (title XVIII of the United States social security act as added by the social
11 security amendments of 1965 or as later amended or superseded) or un-
12 der any other state or federal law providing for benefits similar to those
13 provided by the converted policy.

14 (16) Subject to the conditions set forth above, the continuation and
15 conversion privileges shall also be available:

16 (A) To the surviving spouse, if any, at the death of the employee or
17 member, with respect to the spouse and such children whose coverage
18 under the group policy terminates by reason of such death, otherwise to
19 each surviving child whose coverage under the group policy terminates
20 by reason of such death, or, if the group policy provides for continuation
21 of dependents' coverage following the employee's or member's death, at
22 the end of such continuation;

23 (B) to the spouse of the employee or member upon termination of
24 coverage of the spouse, while the employee or member remains insured
25 under the group policy, by reason of ceasing to be a qualified family
26 member under the group policy, with respect to the spouse and such
27 children whose coverage under the group policy terminates at the same
28 time; or

29 (C) to a child solely with respect to such child upon termination of
30 such coverage by reason of ceasing to be a qualified family member under
31 the group policy, if a conversion privilege is not otherwise provided above
32 with respect to such termination.

33 (17) The insurer may elect to provide group insurance coverage
34 which complies with this act in lieu of the issuance of a converted indi-
35 vidual policy.

36 (18) A notification of the conversion privilege shall be included in
37 each certificate of coverage.

38 (19) A converted policy which is delivered outside this state must be
39 on a form which could be delivered in such other jurisdiction as a con-
40 verted policy had the group policy been issued in that jurisdiction.

41 (20) The insurer shall give the employee or member and such em-
42 ployee's or member's covered dependents: (A) Reasonable notice of the
43 right to convert at least once during the eighteen-month continuation

1 period; or (B) for persons covered under 29 U.S.C. 1161 et seq., notice
2 of the right to a conversion policy required by this subsection (d) shall be
3 given at least 30 days prior to the end of the continuation period provided
4 by 29 U.S.C. 1161 et seq. or from the date the employer ceases to provide
5 any similar group health plan to any employee. Such notices shall be
6 provided in accordance with rules and regulations adopted by the com-
7 missioner of insurance.

8 (k) (1) No policy issued by an insurer to which this section applies
9 shall contain a provision which excludes, limits or otherwise restricts cov-
10 erage because medicaid benefits as permitted by title XIX of the social
11 security act of 1965 are or may be available for the same accident or
12 illness.

13 (2) Violation of this subsection shall be subject to the penalties pre-
14 scribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

15 (l) The commissioner is hereby authorized to adopt such rules and
16 regulations as may be necessary to carry out the provisions of this section.

17 Sec. 2. K.S.A. 2008 Supp. 40-2209 is hereby repealed.

18 Sec. 3. This act shall take effect and be in force from and after its
19 publication in the statute book.