

As Amended by House Committee

Session of 2009

HOUSE BILL No. 2198

By Committee on Health and Human Services

2-2

10 AN ACT regarding health insurance; relating to cafeteria plans, health
11 savings accounts, high deductible health insurance plans and small em-
12 ployers; amending K.S.A. 2008 Supp. 40-2240, 40-2261 and 75-6501
13 and repealing the existing sections.
14

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

16 New Section 1. (a) Any insurer who offers small group health plans
17 shall offer a high deductible health plan in conjunction with the estab-
18 lishment of a health savings account.

19 (b) As used in this section:

20 (1) "Health savings account" shall have the meaning ascribed to it in
21 subsection (d) of 26 U.S.C. section 223.

22 (2) "High deductible health plan" shall mean a policy or contract of
23 health insurance or health care plan that meets the criteria established in
24 subsection (c) of 26 U.S.C. section 223 and any regulations promulgated
25 thereunder.

26 (3) "Insurer" means any insurance company, fraternal benefit society,
27 health maintenance organization and nonprofit hospital and medical serv-
28 ice corporation authorized to transact accident and sickness insurance
29 business in this state.

30 Sec. 2. K.S.A. 2008 Supp. 40-2240 is hereby amended to read as
31 follows: 40-2240. (a) Any small employer as defined in subsection (4) of
32 K.S.A. 40-2209d, and amendments thereto, may establish a small em-
33 ployer health benefit plan for the purpose of providing a health benefit
34 plan as described in subsection (u) of K.S.A. 40-2209d, and amendments
35 thereto, covering such employers' eligible employees and such employ-
36 ees' family members. If an association or trust is used for such purposes,
37 the association or trust may not condition eligibility or membership on
38 the health status of members or employees.

39 (b) The commissioner shall provide assistance to employers desiring
40 to organize and maintain any such benefit plan and may aid in the ac-
41 quisition of the health care insurance by the small employer health benefit
42 plan.

43 (c) *Any small employer who offers a health benefit plan shall may*

1 offer to all eligible individuals the option of receiving health care coverage
2 through a high deductible plan and the establishment of a health savings
3 account.

4 (d) For the purposes of this section, the term:

5 (1) “Health savings account” shall have the meaning ascribed to it in
6 subsection (d) of 26 U.S.C. Section 223.

7 (2) “High deductible health plan” shall mean a policy or contract of
8 health insurance or health care plan that meets the criteria established in
9 subsection (c) of 26 U.S.C. Section 223 and any regulations promulgated
10 thereunder.

11 Sec. 3. K.S.A. 2008 Supp. 40-2261 is hereby amended to read as
12 follows: 40-2261. (a) ~~Any~~ Any employer that provides health insurance
13 coverage for which any portion of the premium is payable by an employee
14 ~~may also offer shall~~ **may** provide a health benefit plan that includes a
15 premium only cafeteria plan as permitted under 26 U.S.C. Section 125.
16 The provisions of this subsection shall not apply to any employer who
17 offers health insurance through any self-insured or self-funded group
18 health benefit plan of any type or description.

19 (b) No provision of this section shall prohibit or otherwise restrict an
20 employer’s ability to either provide a group health benefit plan or create
21 a premium only cafeteria plan with defined contributions and in which
22 the employee purchases the policy.

23 (c) ~~(1) For any health benefit plan offered on or after January 1,~~
24 ~~2010, if the employer’s health benefit plan also includes the option of~~
25 ~~receiving health insurance through a high deductible health plan and the~~
26 ~~establishment of a health savings account and if an employee elects the~~
27 ~~high deductible health plan and health savings account, the employer’s~~
28 ~~contribution shall be equal to the employer’s contribution to any other~~
29 ~~health benefit plan offered by the employer. The cost savings to the em-~~
30 ~~ployer for the high deductible health plan shall be deposited monthly into~~
31 ~~the employee’s health savings account up to the maximum annual amount~~
32 ~~allowed pursuant to subsection (d) of 26 U.S.C. 223, as amended, for as~~
33 ~~long as the employee participates in the high deductible plan.~~

34 ~~(2) If the employee had not previously participated in the employer’s~~
35 ~~health benefit plan, the employer shall calculate the average savings to~~
36 ~~the employer of the high deductible plan compared to the other available~~
37 ~~plans and contribute that amount monthly to the employee’s health sav-~~
38 ~~ings account up to the maximum annual amount allowed pursuant to~~
39 ~~subsection (d) of 26 U.S.C. 223, as amended.~~

40 ~~(3) The employer shall allow additional voluntary contributions by~~
41 ~~the employee to such employee’s health savings account by payroll de-~~
42 ~~duction up to the maximum annual amount allowed pursuant to subsec-~~
43 ~~tion (d) of 26 U.S.C. 223, as amended.~~

1 (d) For the purposes of this section:

2 (1) “Health benefit plan” means any hospital or medical expense pol-
3 icy, health, hospital or medical service corporation contract and a plan
4 provided by a municipal group-funded pool or a health maintenance or-
5 ganization contract offered by an employer or any certificate issued under
6 any such policies, contracts or plans. Health benefit plan also includes a
7 cafeteria plan authorized by 26 U.S.C. Section 125. The cafeteria plan
8 may offer the option of paying all or any portion of the health insurance
9 premium or the option of receiving health insurance coverage through a
10 high deductible health plan and the establishment of a health savings
11 account. In order for an eligible individual to obtain a high deductible
12 health plan through the cafeteria plan, such individual shall present evi-
13 dence to the employer that such individual has established a health sav-
14 ings account in compliance with 26 U.S.C. Section 223 and any amend-
15 ments and regulations. “Health benefit plan” does not include policies or
16 certificates covering only accident, credit, dental, disability income, long-
17 term care, hospital indemnity, medicare supplement, specified disease,
18 vision care, coverage issued as a supplement to liability insurance, insur-
19 ance arising out of a workers compensation or similar law, automobile
20 medical-payment insurance or insurance under which benefits are paya-
21 ble with or without regard to fault and which is statutorily required to be
22 contained in any liability insurance policy or equivalent self-insurance.

23 (2) “Health savings account” shall have the same meaning ascribed
24 to it as in subsection (d) of 26 U.S.C. Section 223.

25 (3) “High deductible health plan” shall mean a policy or contract of
26 health insurance or health care plan that meets the criteria established in
27 subsection (c) of 26 U.S.C. Section 223 and any amendments and
28 regulations.

29 ~~(d) The provisions of this section shall not take effect until July 1,~~
30 ~~2008.~~

31 Sec. 4. K.S.A. 2008 Supp. 75-6501 is hereby amended to read as
32 follows: 75-6501. (a) Within the limits of appropriations made or available
33 therefor and subject to the provisions of appropriation acts relating
34 thereto, the Kansas state employees health care commission shall develop
35 and provide for the implementation and administration of a state health
36 care benefits program.

37 (b) The state health care benefits program may provide benefits for
38 persons qualified to participate in the program for hospitalization, medical
39 services, surgical services, nonmedical remedial care and treatment ren-
40 dered in accordance with a religious method of healing and other health
41 services. The program may include such provisions as are established by
42 the Kansas state employees health care commission, including but not
43 limited to qualifications for benefits, services covered, schedules and

1 graduation of benefits, conversion privileges, deductible amounts, limi-
2 tations on eligibility for benefits by reason of termination of employment
3 or other change of status, leaves of absence, military service or other
4 interruptions in service and other reasonable provisions as may be estab-
5 lished by the commission.

6 (c) The Kansas state employees health care commission shall desig-
7 nate by rules and regulations those persons who are qualified to partici-
8 pate in the state health care benefits program, including active and retired
9 public officers and employees and their dependents as defined by rules
10 and regulations of the commission. Such rules and regulations shall not
11 apply to students attending a state educational institution as defined in
12 K.S.A. 76-711, and amendments thereto, who are covered by insurance
13 contracts entered into by the board of regents pursuant to K.S.A. 75-
14 4101, and amendments thereto. In designating persons qualified to par-
15 ticipate in the state health care benefits program, the commission may
16 establish such conditions, restrictions, limitations and exclusions as the
17 commission deems reasonable. Such conditions, restrictions, limitations
18 and exclusions shall include the conditions contained in subsection (d) of
19 K.S.A. 75-6506, and amendments thereto. Each person who was formerly
20 elected or appointed and qualified to an elective state office and who was
21 covered immediately preceding the date such person ceased to hold such
22 office by the provisions of group health insurance or a health maintenance
23 organization plan under the law in effect prior to August 1, 1984, or the
24 state health care benefits program in effect after that date, shall continue
25 to be qualified to participate in the state health care benefits program
26 and shall pay the cost of participation in the program as established and
27 in accordance with the procedures prescribed by the commission if such
28 person chooses to participate therein.

29 (d) (1) Commencing with the ~~2009~~ 2010 plan year that begins Jan-
30 uary 1, ~~2009~~, ~~if~~ 2010, the state health care benefits program shall offer a
31 high deductible health plan and health savings account. If a state em-
32 ployee elects the high deductible health plan and health savings account,
33 the state's employer contribution shall equal the state's contribution to
34 any other health benefit plan offered by the state. The cost savings to the
35 state for the high deductible health plan shall be deposited monthly into
36 the employee's health savings account up to the maximum annual amount
37 allowed pursuant to subsection (d) of 26 U.S.C. 223, as amended, for as
38 long as the employee participates in the high deductible plan.

39 (2) If the employee had not previously participated in the state health
40 benefits plan, the employer shall calculate the average savings to the em-
41 ployer of the high deductible plan compared to the other available plans
42 and contribute that amount monthly to the employee's health savings
43 account up to the maximum annual amount allowed pursuant to subsec-

1 tion (d) of 26 U.S.C. 223, as amended.

2 (3) The employer shall allow additional voluntary contributions by the
3 employee to their health savings account by payroll deduction up to the
4 maximum annual amount allowed pursuant to subsection (d) of 26 U.S.C.
5 223, as amended.

6 (e) The commission shall have no authority to assess charges for em-
7 ployer contributions under the student health care benefits component
8 of the state health care benefits program for persons who are covered by
9 insurance contracts entered into by the board of regents pursuant to
10 K.S.A. 75-4101, and amendments thereto.

11 (f) Nothing in this act shall be construed to permit the Kansas state
12 employees health care commission to discontinue the student health care
13 benefits component of the state health care benefits program until the
14 state board of regents has contracts in effect that provide student coverage
15 pursuant to the authority granted therefor in K.S.A. 75-4101, and amend-
16 ments thereto.

17 Sec. 5. K.S.A. 2008 Supp. 40-2240, 40-2261 and 75-6501 are hereby
18 repealed.

19 Sec. 6. This act shall take effect and be in force from and after its
20 publication in the statute book.