

SENATE BILL No. 49

By Committee on Financial Institutions and Insurance

1-20

9 AN ACT relating to insurance; concerning mental health and alcoholism,
10 drug abuse or other substance use disorder benefits; amending K.S.A.
11 2008 Supp. 40-2,105a and 40-2258 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 2008 Supp. 40-2,105a is hereby amended to read
15 as follows: 40-2,105a. (a) (1) Any group health insurance policy, *certificate*
16 *of coverage*, medical service plan, contract, hospital service corporation
17 contract, hospital and medical service corporation contract, fraternal ben-
18 efit society or health maintenance organization which provides coverage
19 for mental health benefits and which is delivered, issued for delivery,
20 amended or renewed on or after January 1, 2002, shall include coverage
21 for diagnosis and treatment of mental illnesses. Except as provided in
22 paragraph (2), such coverage shall be subject to the same deductibles,
23 *copayments*, coinsurance, *out-of-pocket expenses* and other limitations as
24 apply to other covered services.

25 (2) The coverage required by paragraph (1) shall include annual cov-
26 erage for *not less than* both 45 days of in-patient care for mental illness
27 and for 45 visits for out-patient care for mental illness.

28 (b) Notwithstanding the provisions of K.S.A. 40-2249a, and amend-
29 ments thereto, the state insurance department shall deliver to the presi-
30 dent of the senate and to the speaker of the house of representatives on
31 or before January 1, 2003, a report indicating the impact of providing
32 mental illness benefits required by this act. Such report shall include
33 information regarding access to and usage of such services and the cost
34 of such services.

35 (c) For the purposes of this section, "mental illness" means the fol-
36 lowing: Schizophrenia, schizoaffective disorder, schizophreniform disorder,
37 brief reactive psychosis, paranoid or delusional disorder, atypical psy-
38 chosis, major affective disorders (bipolar and major depression),
39 cyclothymic and dysthymic disorders, obsessive compulsive disorder,
40 panic disorder, pervasive developmental disorder, including autism, at-
41 tention deficit disorder and attention deficit hyperactive disorder as such
42 terms are defined in the diagnostic and statistical manual of mental dis-
43 orders, fourth edition, (DSM-IV, 1994) of the American psychiatric as-

1 sociation but shall not include conditions not attributable to a mental
2 disorder that are a focus of attention or treatment.

3 (d) The provisions of this section shall be applicable to health main-
4 tenance organizations organized under article 32 of chapter 40 of the
5 Kansas Statutes Annotated.

6 (e) The provisions of this section shall not apply to any medicare
7 supplement policy of insurance, as defined by the commissioner of in-
8 surance by rule and regulation.

9 (f) The provisions of this section shall be applicable to the Kansas
10 state employees health care benefits program and municipal funded
11 pools.

12 (g) The provisions of this section shall not apply to any policy or cer-
13 tificate which provides coverage for any specified disease, specified ac-
14 cident or accident only coverage, credit, dental, disability income, hospital
15 indemnity, long-term care insurance as defined by K.S.A. 40-2227, and
16 amendments thereto, vision care or any other limited supplemental ben-
17 efit nor to any medicare supplement policy of insurance as defined by
18 the commissioner of insurance by rule and regulation, any coverage issued
19 as a supplement to liability insurance, workers compensation or similar
20 insurance, automobile medical-payment insurance or any insurance un-
21 der which benefits are payable with or without regard to fault, whether
22 written on a group, blanket or individual basis.

23 (h) From and after January 1, 2002, the provisions of K.S.A. 40-2,105,
24 and amendments thereto, shall not apply to mental illnesses as defined
25 in this act.

26 (i) There shall be no coverage under this section for evaluations and
27 diagnostic tests ordered or requested in connection with criminal actions,
28 divorce, child custody or child visitation proceedings.

29 Sec. 2. On and after November 1, 2009, K.S.A. 2008 Supp. 40-2258
30 is hereby amended to read as follows: 40-2258. (a) An accident and sick-
31 ness insurer which offers coverage through a group policy or *certificate*
32 *of coverage* providing hospital, medical or surgical expense benefits pur-
33 suant to K.S.A. 40-2209, and amendments thereto, which includes mental
34 health or *alcoholism, drug abuse or other substance use disorder* benefits
35 shall be subject to the following requirements:

36 (1) If the policy does not include an aggregate lifetime limit on sub-
37 stantially all hospital, medical and surgical expense benefits, the policy
38 may not impose any aggregate lifetime limit on mental health or *alco-*
39 *holism, drug abuse or other substance use disorder* benefits;

40 (2) if the policy includes an aggregate lifetime limit on substantially
41 all hospital, medical and surgical expense benefits the plan shall either:
42 (A) Apply the applicable lifetime limit both to the hospital, medical and
43 surgical expense benefits to which it otherwise would apply and to mental

1 health *or alcoholism, drug abuse or other substance use disorder* benefits
2 and not distinguished in the application of such limit between such hos-
3 pital, medical and surgical expense benefits and mental health *or alco-*
4 *holism, drug abuse or other substance use disorder* benefits; or (B) not
5 include any aggregate lifetime limit on mental health *or alcoholism, drug*
6 *abuse or other substance use disorder* benefits that is less than the appli-
7 cable lifetime limit on hospital, medical and surgical expense benefits;
8 (3) if the policy does not include an annual limit on substantially all
9 hospital, medical and surgical expense benefits, the plan or coverage may
10 not impose any annual limit on mental health *or alcoholism, drug abuse*
11 *or other substance use disorder* benefits; and
12 (4) if the policy includes an annual limit on substantially all hospital,
13 medical and surgical expense benefits the policy shall either: (A) Apply
14 the applicable annual limit both to hospital, medical and surgical expense
15 benefits to which it otherwise would apply and to mental health *or al-*
16 *coholism, drug abuse or other substance use disorder* benefits and not
17 distinguish in the application of such limit between such hospital, medical
18 and surgical expense benefits and mental health *or alcoholism, drug abuse*
19 *or other substance use disorder* benefits; or (B) not include any annual
20 limit on mental health *or alcoholism, drug abuse or other substance use*
21 *disorder* benefits that is less than the applicable annual limit.
22 (b) If the group policy providing hospital, medical or surgical expense
23 benefits is not otherwise covered by subsection (a) and either does not
24 apply a lifetime or annual benefit or applies different lifetime or annual
25 benefits to different categories of hospital, medical and surgical expense
26 benefits, the commissioner may adopt rules and regulations under which
27 subsections (a)(2) and (a)(4) are applied to such policies with respect to
28 mental health *or alcoholism, drug abuse or other substance use disorder*
29 benefits by substituting for the applicable lifetime or annual limits an
30 average limit that is computed taking into account the weighted average
31 of the lifetime or annual limits applicable to such categories.
32 (c) Nothing in this section shall be construed as either:
33 (1) Requiring an accident and sickness policy to offer mental health
34 *or alcoholism, drug abuse or other substance use disorder* benefits except
35 as otherwise required by K.S.A. 40-2,105 and amendments thereto; or
36 (2) affecting any terms and conditions of a policy which does include
37 mental health *or alcoholism, drug abuse or other substance use disorder*
38 benefits including provisions regarding cost sharing, limits on the number
39 of visits or days of coverage, requirements relating to medical necessity,
40 requirements relating to the amount, duration or scope of mental health
41 *or alcoholism, drug abuse or other substance use disorder* benefits under
42 the plan or coverage, except as specifically provided in subsection (a).
43 (d) This section shall not apply to any group accident and health in-

1 surance policy which is sold to a small employer as defined in K.S.A. 40-
2 2209, and amendments thereto.

3 (e) This section shall not apply with respect to a group policy provid-
4 ing hospital, medical or surgical expense benefits if the application of this
5 section will result in an increase in the cost under the plan of at least ~~1%~~
6 *2% in the case of the first plan year in which this section is applied and*
7 *1% in the case of each subsequent plan year.*

8 (f) In the case of a group policy providing hospital, medical or surgical
9 expense benefits that offers an eligible employee, member or dependent
10 two or more benefit package options under the policy, subsections (a)
11 and (b) shall be applied separately with respect to each such option.

12 (g) As used in this section:

13 (1) "Aggregate lifetime limit" means, with respect to benefits under
14 a group policy providing hospital, medical or surgical expense benefits, a
15 dollar limitation on the total amount that may be paid with respect to
16 such benefits under the policy with respect to an eligible employee, mem-
17 ber or dependent;

18 (2) "annual limit" means, with respect to benefits under a group pol-
19 icy providing hospital, medical or surgical expense benefits, a dollar lim-
20 itation on the total amount of benefits that may be paid with respect to
21 such benefits in a 12-month period under the policy with respect to an
22 eligible employee, member or dependent;

23 (3) "hospital, medical or surgical expense benefits" means benefits
24 with respect to hospital, medical or surgical services, as defined under
25 the terms of the policy, but does not include mental health benefits;

26 (4) "mental health benefits" means benefits with respect to mental
27 health services, as defined under the terms of the policy, ~~but does not~~
28 ~~include benefits with respect to treatment of substance abuse or chemical~~
29 ~~dependency;~~

30 (5) "*alcoholism, drug abuse or substance use disorder benefits*" means
31 *benefits with respect to services for the treatment of alcoholism, drug*
32 *abuse or other substance use disorders, as defined under the terms of the*
33 *policy.*

34 (h) This section shall be effective for group policies providing hos-
35 pital, medical or surgical expense benefits which are entered into or re-
36 newed after January 1, 1998. ~~This section shall not apply to benefits for~~
37 ~~services furnished on or after December 31, 2008.~~

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

40 Sec. 3. K.S.A. 2008 Supp. 40-2,105a is hereby repealed.

41 Sec. 4. On and after November 1, 2009, K.S.A. 2008 Supp. 40-2258
42 is hereby repealed.

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1 Sec. 5. This act shall take effect and be in force from and after its
2 publication in the statute book.