

As Amended by House Committee

Session of 2010

HOUSE BILL No. 2491

By Committee on Insurance

1-20

10 AN ACT concerning insurance; relating to health insurance and credit-
11 able coverage plans; amending K.S.A. 2009 Supp. 40-2118 and re-
12 pealing the existing section.
13

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

15 Section 1. K.S.A. 2009 Supp. 40-2118 is hereby amended to read as
16 follows: 40-2118. As used in this act, unless the context otherwise re-
17 quires, the following words and phrases shall have the meanings ascribed
18 to them in this section:

19 (a) "Administering carrier" means the insurer or third-party admin-
20 istrator designated in K.S.A. 40-2120, and amendments thereto.

21 (b) "Association" means the Kansas health insurance association es-
22 tablished in K.S.A. 40-2119, and amendments thereto.

23 (c) "Board" means the board of directors of the association.

24 (d) "Church plan" means a plan as defined under section 3(33) of the
25 Employee Retirement Income Security Act of 1974.

26 (e) "Commissioner" means the commissioner of insurance.

27 (f) "Creditable coverage" means with respect to an individual, cov-
28 erage of the individual under any of the following:

29 (1) A group health plan;

30 (2) health insurance coverage;

31 (3) part A or part B of Title XVIII of the Social Security Act;

32 (4) title XIX of the Social Security Act, other than coverage consisting
33 solely of benefit under Section 1928;

34 (5) chapter 55 of Title 10, United States Code;

35 (6) a medical care program of the Indian Health Service or of a tribal
36 organization;

37 (7) a state health benefit risk pool;

38 (8) a health plan offered under Chapter 89 of Title 5, United States
39 Code;

40 (9) a public health plan as defined under regulations promulgated by
41 the secretary of health and human services; ~~and~~

42 (10) a health benefit plan under section 5(e) of the Peace Corps Act
43 (22 U.S.C. 2504(d));; *and*

- 1 (11) *A state children’s health insurance program established pursuant*
2 *to title XXI of the Social Security Act.*
- 3 (g) “Dependent” means a resident spouse or resident unmarried
4 child under the age of 19 years, a child who is a student under the age
5 of 23 years and who is financially dependent upon the parent, or a child
6 of any age who is disabled and dependent upon the parent.
- 7 (h) “Excess loss” means the total dollar amount by which claims
8 expense incurred for any issuer of a medicare supplement policy or cer-
9 tificate delivered or issued for delivery to persons in this state eligible for
10 medicare by reason of disability and who are under age 65 exceeds 65%
11 of the premium earned by such issuer during a calendar year.
- 12 (i) “Federally defined eligible individual” means an individual:
- 13 (1) For whom, as of the date the individual seeks coverage under this
14 section, the aggregate of the periods of creditable coverage is 18 or more
15 months and whose most recent prior coverage was under a group health
16 plan, government plan or church plan;
- 17 (2) who is not eligible for coverage under a group health plan, Part
18 A or B of Title XVII of the Social Security Act, or a state plan under Title
19 XIX of the Social Security Act, or any successor program, and who does
20 not have any other health insurance coverage;
- 21 (3) with respect to whom the most recent coverage was not termi-
22 nated for factors relating to nonpayment of premiums or fraud; and
- 23 (4) who ~~had been~~ if offered the option of continuation coverage under
24 COBRA or under a similar program, ~~who~~ elected such continuation
25 coverage, and ~~who~~ has exhausted such continuation coverage.
- 26 (j) “Federally defined eligible individuals for FTAA” means an indi-
27 vidual who is:
- 28 (1) Legally domiciled in this state; and
- 29 (2) eligible for the credit for health insurance costs under section 35
30 of the internal revenue code of 1986.
- 31 (k) “FTAA” means federal trade adjustment assistance under the fed-
32 eral trade adjustment assistance reform act of 2002, public law 107-210.
- 33 (l) “Governmental plan” means a plan as defined under section 3(32)
34 of the Employee Retirement Income Security Act of 1974 and any plan
35 maintained for its employees by the government of the United States or
36 by any agency or instrumentality of such government.
- 37 (m) “Group health plan” means an employee benefit plan as defined
38 by section 3(1) of the Employee Retirement Income Security Act of 1974
39 to the extent that the plan provides any hospital, surgical or medical ex-
40 pense benefits to employees or their dependents (as defined under the
41 terms of the plan) directly or through insurance, reimbursement or
42 otherwise.
- 43 (n) “Health insurance” means any hospital or medical expense policy,

1 health, hospital or medical service corporation contract, and a plan pro-
2 vided by a municipal group-funded pool, or a health maintenance organ-
3 ization contract offered by an employer or any certificate issued under
4 any such policies, contracts or plans. “Health insurance” does not include
5 policies or certificates covering only accident, credit, dental, disability
6 income, long-term care, hospital indemnity, medicare supplement, spec-
7 ified disease, vision care, coverage issued as a supplement to liability in-
8 surance, insurance arising out of a workers compensation or similar law,
9 automobile medical-payment insurance, or insurance under which ben-
10 efits are payable with or without regard to fault and which is statutorily
11 required to be contained in any liability insurance policy or equivalent
12 self-insurance.

13 (o) “Health maintenance organization” means any organization
14 granted a certificate of authority under the provisions of the health main-
15 tenance organization act.

16 (p) “Insurance arrangement” means any plan, program, contract or
17 any other arrangement under which one or more employers, unions or
18 other organizations provide to their employees or members, either di-
19 rectly or indirectly through a group-funded pool, trust or third-party ad-
20 ministrator, health care services or benefits other than through an insurer.

21 (q) “Insurer” means any insurance company, fraternal benefit society,
22 health maintenance organization and nonprofit hospital and medical serv-
23 ice corporation authorized to transact health insurance business in this
24 state.

25 (r) “Medicaid” means the medical assistance program operated by
26 the state under title XIX of the federal social security act.

27 (s) “Medicare” means coverage under both parts A and B of title
28 XVIII of the federal social security act, 42 USC 1395.

29 (t) “Medicare supplement policy” means a group or individual policy
30 of accident and sickness insurance or a subscriber contract of hospitals
31 and medical service associations or health maintenance organizations,
32 other than a policy issued pursuant to a contract under section 1876 of
33 the federal social security act (42 USC 1395 et seq.) or an issued policy
34 under a demonstration project specified in 42 USC 1395ss(g)(1), which
35 is advertised, marketed or designed primarily as a supplement to reim-
36 bursements under medicare for the hospital, medical or surgical expenses
37 of persons eligible for medicare.

38 (u) “Member” means all insurers and insurance arrangements par-
39 ticipating in the association.

40 (v) “Plan” means the Kansas uninsurable health insurance plan cre-
41 ated pursuant to this act.

42 (w) “Plan of operation” means the plan to create and operate the
43 Kansas uninsurable health insurance plan, including articles, bylaws and

- 1 operating rules, adopted by the board pursuant to K.S.A. 40-2119, and
- 2 amendments thereto.
- 3 Sec. 2. K.S.A. 2009 Supp. 40-2118 is hereby repealed.
- 4 Sec. 3. This act shall take effect and be in force from and after its
- 5 publication in the statute book.