

*[As Amended by Senate Committee of the Whole]*

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*As Amended by Senate Committee*

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*Session of 2010*

## SENATE BILL No. 390

By Committee on Financial Institutions and Insurance

1-19

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12 AN ACT relating to health insurance; concerning genetic testing by in-  
13 surance and health entities; ***[providing reimbursement for orally***  
14 ***administered anticancer medications;]*** amending K.S.A. 40-2259  
15 and ***[K.S.A. 2009 Supp. 40-2,103 and 40-19c09 and]*** repealing the  
16 existing ~~section~~ ***[sections]***.  
17

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

19 ***[New Section 1. (a) Any individual or group health insurance***  
20 ***policy, medical service plan, contract, hospital service corporation***  
21 ***contract, hospital and medical service corporation contract, fraternal***  
22 ***benefit society or health maintenance organization, municipal***  
23 ***group-funded pool and the state employee health care benefits plan***  
24 ***which provides coverage for prescription drugs and which is deliv-***  
25 ***ered, issued for delivery, amended or renewed on and after July 1,***  
26 ***2011, shall provide coverage for a prescribed, orally administered***  
27 ***anticancer medication used to kill or slow the growth of cancerous***  
28 ***cells on a basis no less favorable than intravenously administered***  
29 ***or injected cancer medications that are covered as medical benefits.***

30 ***[(b) Any policy, provision, contract, plan or agreement under***  
31 ***this section may apply the same deductibles, coinsurance and other***  
32 ***limitations as apply to other covered services.***

33 ***[(c) (1) From and after the effective date of this act, the pro-***  
34 ***visions of this section shall apply to the state employees health care***  
35 ***benefits program.***

36 ***[(2) Pursuant to the provisions of K.S.A. 40-2249a, and amend-***  
37 ***ments thereto, on or before March 1, 2011, the state health care***  
38 ***benefits commission shall submit to the president of the senate and***  
39 ***to the speaker of the house of representatives, a report indicating***  
40 ***the impact the provisions of this section has had on the state health***  
41 ***care benefits program, including data on the utilization and costs***  
42 ***of such coverage. Such report shall also include a recommendation***  
43 ***whether such coverage should continue for the state health care***

1 *benefits program or whether additional utilization and cost data is*  
2 *required.*

3 *[Sec. 2. K.S.A. ~~2008~~ 2009 Supp. 40-2,103 is hereby amended to*  
4 *read as follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-*  
5 *2,101, 40-2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165*  
6 *through 40-2,170, inclusive, 40-2250, K.S.A. 2008 Supp. 40-2,105a*  
7 *and 40-2,105b and section 1, and amendments thereto, shall apply*  
8 *to all insurance policies, subscriber contracts or certificates of in-*  
9 *surance delivered, renewed or issued for delivery within or outside*  
10 *of this state or used within this state by or for an individual who*  
11 *resides or is employed in this state.*

12 *[Sec. 3. K.S.A. ~~2008~~ 2009 Supp. 40-19c09 is hereby amended to*  
13 *read as follows: 40-19c09. (a) Corporations organized under the*  
14 *nonprofit medical and hospital service corporation act shall be sub-*  
15 *ject to the provisions of the Kansas general corporation code, arti-*  
16 *cles 60 to 74, inclusive, of chapter 17 of the Kansas Statutes An-*  
17 *notated, applicable to nonprofit corporations, to the provisions of*  
18 *K.S.A. 40-214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-*  
19 *224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-235, 40-236, 40-*  
20 *237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252, 40-254, 40-*  
21 *2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-2,116,*  
22 *40-2,117, 40-2,153, 40-2,154, 40-2,160, 40-2,161, 40-2,163 through*  
23 *40-2,170, inclusive, 40-2a01 et seq., 40-2111 to 40-2116, inclusive,*  
24 *40-2215 to 40-2220, inclusive, 40-2221a, 40-2221b, 40-2229, 40-*  
25 *2230, 40-2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-2421, in-*  
26 *clusive, and 40-3301 to 40-3313, inclusive, K.S.A. 2008 Supp. 40-*  
27 *2,105a and 40-2,105b and section 1, and amendments thereto, except*  
28 *as the context otherwise requires, and shall not be subject to any*  
29 *other provisions of the insurance code except as expressly provided*  
30 *in this act.*

31 *[(b) No policy, agreement, contract or certificate issued by a*  
32 *corporation to which this section applies shall contain a provision*  
33 *which excludes, limits or otherwise restricts coverage because med-*  
34 *icaid benefits as permitted by title XIX of the social security act of*  
35 *1965 are or may be available for the same accident or illness.*

36 *[(c) Violation of subsection (b) shall be subject to the penalties*  
37 *prescribed by K.S.A. 40-2407 and 40-2411, and amendments*  
38 *thereto.]*

39 ~~Section 4.~~ *[Sec. 4.] K.S.A. 40-2259 is hereby amended to read as*  
40 *follows: 40-2259. (a) As used in this section, “genetic screening or testing”*  
41 *means a laboratory test of a person’s genes or chromosomes for abnor-*  
42 *malities, defects or deficiencies, including carrier status, that are linked*  
43 *to physical or mental disorders or impairments, or that indicate a suscep-*

1 tibility to illness, disease or other disorders, whether physical or mental,  
 2 which test is a direct test for abnormalities, defects or deficiencies, and  
 3 not an indirect manifestation of genetic disorders.

4 ~~(b) Except as permitted by subsection (c), an~~ **An** insurance company,  
 5 health maintenance organization, nonprofit medical and hospital, dental,  
 6 optometric or pharmacy ~~corporations~~ *corporation*, or a group subject to  
 7 K.S.A. 12-2616 et seq., and amendments thereto, *offering group policies*  
 8 *and certificates of coverage or individual policies providing hospital, med-*  
 9 *ical or surgical expense benefits*, shall not:

10 (1) Require or request directly or indirectly any individual or a mem-  
 11 ber of the individual's family to obtain a genetic test;

12 (2) require or request directly or indirectly any individual to reveal  
 13 whether the individual or a member of the individual's family has ob-  
 14 tained a genetic test or the results of the test, if obtained by the individual  
 15 or a member of the individual's family;

16 (3) condition the provision of insurance coverage or health care ben-  
 17 efits on whether an individual or a member of the individual's family has  
 18 obtained a genetic test or the results of the test, if obtained by the indi-  
 19 vidual or a member of the individual's family; ~~or~~

20 (4) consider in the determination of rates or any other aspect of in-  
 21 surance coverage or health care benefits provided to an individual  
 22 whether an individual or a member of the individual's family has obtained  
 23 a genetic test or the results of the test, if obtained by the individual or a  
 24 member of the individual's family;

25 (5) *require any individual, as a condition of enrollment or continued*  
 26 *enrollment, to pay a premium or contribution which is greater than such*  
 27 *premium or contribution for a similarly situated individual on the basis*  
 28 *of whether the individual or a member of the individual's family has*  
 29 *obtained a genetic test or the results of such test; or*

30 (6) *adjust premium or contribution amounts on the basis of whether*  
 31 *the individual or a member of the individual's family has obtained a ge-*  
 32 *netic test or the result of such test.*

33 ~~(c) An insurance company, health maintenance organization, non-~~  
 34 ~~profit medical and hospital, dental, optometric or pharmacy corporation,~~  
 35 ~~or a group subject to K.S.A. 12-2616 et seq., and amendments thereto,~~  
 36 ~~offering group policies and certificates of coverage or individual policies~~  
 37 ~~providing hospital, medical or surgical expense benefits may request, but~~  
 38 ~~shall not require, that an individual or a member of the individual's family~~  
 39 ~~undergo a genetic test if each of the following conditions are met:~~

40 ~~—(1) A written request is made pursuant to research that complies with~~  
 41 ~~part 46 of Title 45 of the Code of Federal Regulations or equivalent federal~~  
 42 ~~regulations as in existence immediately prior to July 1, 2010, or any later~~  
 43 ~~version as may be adopted by the insurance commissioner by rule or~~

1 ~~regulation and any applicable state or local laws or regulations for the~~  
2 ~~protection of human subjects in research;~~  
3 ~~—(2) the individual or a member of the individual's family, or in the~~  
4 ~~case of a minor child, a legal guardian of such minor child, to whom such~~  
5 ~~written request is made is advised in writing that:~~  
6 ~~—(i) Compliance with the request is voluntary; and~~  
7 ~~—(ii) non-compliance will have no effect on enrollment status or pre-~~  
8 ~~mium or contribution amounts;~~  
9 ~~—(3) no genetic information collected or acquired under subsection (c)~~  
10 ~~shall be used for underwriting purposes;~~  
11 ~~—(4) the insurance commissioner is advised in writing that such insur-~~  
12 ~~ance company, health maintenance organization, non-profit medical and~~  
13 ~~hospital, dental, optometric or pharmacy corporation, or group subject to~~  
14 ~~K.S.A. 12-2616 et seq., and amendments thereto, is conducting activities~~  
15 ~~permitted pursuant to subsection (c), including a description of the activ-~~  
16 ~~ities conducted; and~~  
17 ~~—(5) such insurance company, health maintenance organization, non-~~  
18 ~~profit medical and hospital, dental, optometric or pharmacy corporation,~~  
19 ~~or group subject to K.S.A. 12-2616 et seq., and amendments thereto, is in~~  
20 ~~compliance with all other conditions the insurance commissioner may, by~~  
21 ~~regulation, require for activities conducted under this section.~~  
22 ~~(c)~~ **(c)** Subsection (b) does not apply to an insurer writing life  
23 insurance, disability income insurance or long-term care insurance  
24 coverage.  
25 ~~(d)~~ **(d)** An insurer writing life insurance, disability income insur-  
26 ance or long-term care insurance coverage that obtains information under  
27 paragraphs (1) or (2) of subsection (b), shall not:  
28 (1) Use the information contrary to paragraphs (3) or (4) of subsec-  
29 tion (b) in writing a type of insurance coverage other than life for the  
30 individual or a member of the individual's family; or  
31 (2) provide for rates or any other aspect of coverage that is not rea-  
32 sonably related to the risk involved.  
33 Sec. ~~2~~ **[5.]** K.S.A. 40-2259 is **[and K.S.A. 2009 Supp. 40-2,103**  
34 **and 40-19c09 are]** hereby repealed.  
35 Sec. ~~3~~ **[6.]** This act shall take effect and be in force from and after  
36 its publication in the statute book.