

HOUSE BILL No. 2735

By Committee on Insurance

Requested by Representative B. Carpenter on behalf of a constituent

2-5

AN ACT concerning insurance; relating to health insurance; enacting the patient's right to save act; establishing shared savings programs maintained by health insurers; providing for the duties and requirements of such shared savings programs.

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

Section 1. (a) This act shall be known and may be cited as the patient's right to save act.

(b) As used in this section:

(1) "Healthcare entity" means a hospital, clinic, facility or location that provides healthcare items and services to patients paying out-of-pocket for such items and services or whose care will be partially paid by a private third party.

(2) "Health insurer" means the same as defined in K.S.A. 40-4602, and amendments thereto.

(3) "Shared savings incentive" means a voluntary and optional financial incentive that a health insurer may provide to an enrollee for choosing certain shoppable healthcare services under a shared savings incentive program.

(4) "Shared savings incentive program" means a voluntary and optional incentive program established by a health insurer pursuant to this section.

(5) "Shoppable healthcare service" means a lower-cost, high-quality, nonemergency healthcare service that a shared savings incentive is available for enrollee's under an insurer's shared incentive program. Shoppable healthcare services include, but are not limited to:

(A) Clinical laboratory services;

(B) infusion therapy;

(C) inpatient and outpatient surgical procedures;

(D) obstetrical and gynecological services;

(E) inpatient and outpatient nonsurgical diagnostic tests and procedures;

(F) physical and occupational therapy services;

(G) radiology and imaging services;

(H) prescription drugs; and

1 (I) services provided through telehealth.

2 (c) A health insurer may offer a shared saving incentive program to
3 provide incentives to an enrollee when such enrollee obtains shoppable
4 healthcare services from the health insurer's shared savings list. An
5 enrollee shall not be required to participate in a shared savings incentive
6 program.

7 (d) A health insurer that offers a shared savings incentive program
8 shall:

9 (1) Establish the program as a component part of the policy or
10 certificate of insurance provided by the health insurer and notify the
11 enrollees and the Kansas department of insurance not less than 30 days
12 before the program begins;

13 (2) file a description of the program on a form to be determined by
14 the department of insurance. The department shall review the filing and
15 determine if the shared savings incentive program complies with this
16 section;

17 (3) notify an enrollee, annually and at the time of renewal, and an
18 applicant for insurance, at the time of enrollment, of the availability of the
19 shared savings incentive program and the procedure to participate in such
20 program;

21 (4) publish on a webpage easily accessible to enrollees and to
22 applicants for insurance a list of shoppable healthcare services, healthcare
23 providers and the shared savings incentive amount for each service. A
24 shared savings incentive shall not be less than 25% of the savings
25 generated by the enrollee's participation in any shared savings incentive
26 offered by the health insurer. The baseline for the savings calculation is the
27 average in-network amount paid for a service in the most recent 12-month
28 period or another methodology established by the health insurer and
29 approved by the department of insurance;

30 (5) each quarter, credit or deposit the shared savings incentive amount
31 to the enrollee's account as a return or reduction in premium or credit the
32 shared savings incentive amount to the enrollee's flexible spending
33 account, health savings account or health reimbursement account, such
34 that the amount does not constitute income to the enrollee; and

35 (6) submit an annual report to the department of insurance within 90
36 business days after the end of each plan year. The report shall include:

37 (A) The number of enrollees who participated in the program during
38 the plan year and the number of instances of participation;

39 (B) the total cost of services provided as a part of the program;

40 (C) the total value of the shared savings incentive payments made to
41 enrollees participating in the program and the values distributed as
42 premium reductions, credits to flexible spending accounts, credits to health
43 savings accounts or credits to health reimbursement accounts; and

1 (D) an inventory of the shoppable healthcare services offered by the
2 health insurer.

3 (e) A shared savings incentive offered by a health insurer in
4 accordance with this section shall not:

5 (1) Be considered an administrative expense for rate development or
6 rate filing purposes; and

7 (2) constitute an unfair or deceptive act or practice pursuant to K.S.A.
8 50-626, and amendments thereto, and is presumed to be appropriate unless
9 credible data clearly demonstrates otherwise.

10 (f) The department of insurance may adopt rules and regulations as
11 necessary to implement and enforce this act.

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