

SENATE BILL No. 163

By Committee on Public Health and Welfare

2-13

1 AN ACT AN ACT concerning insurance; relating to health insurance
2 plans; requiring coverage for contraceptives; amending K.S.A. 2018
3 Supp. 40-2,103 and 40-19c09 and repealing the existing sections.
4

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

6 New Section 1. (a) (1) Except as provided in subsection (b), any
7 individual or group health insurance policy, medical service plan, contract,
8 hospital service corporation contract, hospital and medical service
9 corporation contract, fraternal benefit society or health maintenance
10 organization that provides coverage for accident and health services and
11 that is delivered, issued for delivery, amended or renewed on or after
12 January 1, 2020, shall provide coverage for all of the following services
13 and contraceptive methods:

14 (A) All United States food and drug administration-approved
15 contraceptive drugs, devices and other products as of July 1, 2019, or
16 substantially equivalent drugs, devices and other products as established
17 by rules and regulations adopted by the insurance department, including
18 those prescribed by the insured's provider or as otherwise authorized under
19 state or federal law, subject to the following conditions:

20 (i) If there is a therapeutic equivalent of a United States food and
21 drug administration-approved contraceptive drug, device or product, the
22 health insurance plan shall include either the original United States food
23 and drug administration-approved contraceptive drug, device or product or
24 at least one of its therapeutic equivalents; and

25 (ii) if the covered contraceptive drug, device or product is deemed
26 medically inadvisable by the insured's provider, the health insurance plan
27 shall defer to the determination and judgment of the provider and provide
28 coverage for an alternative prescribed contraceptive drug, device or
29 product;

30 (B) voluntary sterilization procedures;

31 (C) patient education and counseling on contraception; and

32 (D) follow-up services related to the drugs, devices, products and
33 procedures covered under this section, including, but not limited to,
34 management of side effects, counseling for continued adherence and
35 device insertion and removal.

36 (2) A health insurance plan subject to this section shall not impose a

1 deductible, coinsurance, copayment, or any other cost-sharing requirement
2 on the coverage provided pursuant to this subsection. This paragraph shall
3 not apply to grandfathered health plans.

4 (3) Except as otherwise authorized under this section, a health
5 insurance plan shall not impose any restrictions or delays on the coverage
6 required under this section.

7 (4) Benefits for an insured under this section shall be the same for an
8 insured's covered spouse or domestic partner and covered nonspouse
9 dependents.

10 (b) (1) A religious employer may request a health insurance plan
11 contract without coverage for United States food or drug administration-
12 approved contraceptive methods used for contraceptive purposes that are
13 contrary to the religious employer's religious tenets. If so requested, a
14 health insurance plan contract shall be provided without coverage for
15 contraceptive methods. Every religious employer that invokes the
16 exemption provided under this subsection shall provide written notice to
17 prospective enrollees prior to enrollment with the health insurance plan,
18 listing the contraceptive healthcare services the employer refuses to cover
19 for religious reasons.

20 (2) The provisions of this section shall not apply to any policy or
21 certificate that provides coverage for any specified disease, specified
22 accident or accident-only coverage, credit, dental, disability income,
23 hospital indemnity, long-term care insurance as defined by K.S.A. 40-
24 2227, and amendments thereto, vision care or any other limited
25 supplemental benefit nor to any medicare supplement policy of insurance
26 as defined by the commissioner of insurance by rule and regulation, any
27 coverage issued as a supplement to liability insurance, workers
28 compensation or similar insurance, automobile medical-payment insurance
29 or any insurance under which benefits are payable with or without regard
30 to fault, whether written on a group, blanket or individual basis.

31 (c) Nothing in this section shall be construed to exclude coverage for
32 contraceptive supplies as prescribed by a provider, acting within the
33 provider's scope of practice, for reasons other than contraceptive purposes
34 or for contraception that is necessary to preserve the life or health of an
35 insured.

36 (d) Nothing in this section shall be construed to require a health
37 insurance plan contract to cover experimental or investigational
38 treatments.

39 (e) As used in this section:

40 (1) "Grandfathered health plan" means the same as set forth in section
41 1251 of the federal patient protection and affordable care act, public law
42 111-148, as amended by the federal healthcare and education
43 reconciliation act of 2010, public law 111-152, and any rules, regulations

1 or guidance issued thereunder, as in effect on July 1, 2019.

2 (2) "Provider" means an individual who is certified or licensed
3 pursuant to law with authority to prescribe drugs.

4 (3) "Religious employer" means an organization that is organized and
5 operates as a nonprofit entity and is referred to in section 6033(a)(3)(A)(i)
6 or (iii) of the internal revenue code of 1986, as amended.

7 (4) "Therapeutic equivalent" means the same as set forth by the
8 United States food and drug administration, as in effect on July 1, 2019.

9 (f) The provisions of K.S.A. 40-2249a, and amendments thereto, shall
10 not apply to the provisions of this section.

11 Sec. 2. K.S.A. 2018 Supp. 40-2,103 is hereby amended to read as
12 follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-
13 2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170;
14 *and* 40-2250, *and amendments thereto*, *and* K.S.A. 2018 Supp. 40-2,105a,
15 40-2,105b, 40-2,184, 40-2,190, 40-2,194 ~~and~~, 40-2,210 through 40-2,216
16 *and section 1*, and amendments thereto, shall apply to all insurance
17 policies, subscriber contracts or certificates of insurance delivered,
18 renewed or issued for delivery within or outside of this state or used within
19 this state by or for an individual who resides or is employed in this state.

20 Sec. 3. K.S.A. 2018 Supp. 40-19c09 is hereby amended to read as
21 follows: 40-19c09. (a) Corporations organized under the nonprofit medical
22 and hospital service corporation act shall be subject to the provisions of
23 the Kansas general corporation code, articles 60 through 74 of chapter 17
24 of the Kansas Statutes Annotated, and amendments thereto, applicable to
25 nonprofit corporations, to the provisions of K.S.A. 40-214, 40-215, 40-
26 216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-229, 40-230, 40-
27 231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-
28 252, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-
29 2,116, 40-2,117, 40-2,125, 40-2,153, 40-2,154, 40-2,160, 40-2,161, 40-
30 2,163 through 40-2,170, 40-2a01 et seq., 40-2111 through 40-2116, 40-
31 2215 through 40-2220, 40-2221a, 40-2221b, 40-2229, 40-2230, 40-2250,
32 40-2251, 40-2253, 40-2254, 40-2401 through 40-2421, and 40-3301
33 through 40-3313, *and amendments thereto*, *and* K.S.A. 2018 Supp. 40-
34 2,105a, 40-2,105b, 40-2,184, 40-2,190, 40-2,194 ~~and~~, 40-2,210 through
35 40-2,216 *and section 1*, and amendments thereto, except as the context
36 otherwise requires, and shall not be subject to any other provisions of the
37 insurance code except as expressly provided in this act.

38 (b) No policy, agreement, contract or certificate issued by a
39 corporation to which this section applies shall contain a provision ~~which~~
40 *that* excludes, limits or otherwise restricts coverage because medicaid
41 benefits as permitted by title XIX of the social security act of 1965 are or
42 may be available for the same accident or illness.

43 (c) Violation of subsection (b) shall be subject to the penalties

1 prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

2 Sec. 4. K.S.A. 2018 Supp. 40-2,103 and 40-19c09 are hereby
3 repealed.

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