

CHAPTER 120

SENATE Substitute for HOUSE BILL No. 2160

AN ACT concerning insurance; providing coverage for autism spectrum disorder; providing reimbursement for orally administered anticancer medications; amending K.S.A. 2009 Supp. 40-2,103, 40-19c09 and 75-6501 and repealing the existing sections.

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

New Section 1. (a) In the coverage for the next health plan coverage year commencing on January 1, 2011, the state employees health care commission shall provide for the coverage of services for the diagnosis and treatment of autism spectrum disorder in any covered individual whose age is less than 19 years. Such coverage shall be subject to the following terms and conditions:

(1) Such coverage shall be provided in a manner determined in consultation with the autism services provider and the patient. Services provided by an autism services provider under this section shall include applied behavioral analysis when required by a licensed physician, licensed psychologist or licensed specialist clinical social worker but otherwise shall be limited to those services prescribed or ordered by a licensed physician, licensed psychologist or licensed specialist clinical social worker. Services provided pursuant to this paragraph shall be those services which are or have been recognized by peer reviewed literature as providing medical benefit to the patient based upon the patient's particular autism spectrum disorder.

(2) Such coverage may be subject to appropriate annual deductibles and coinsurance provisions as are consistent with those established for other physical illness benefits under the state employees health plan.

(3) Coverage for benefits for any covered person diagnosed with one or more autism spectrum disorders and whose age is between birth and less than seven years shall not exceed \$36,000 per year.

(4) Coverage for benefits for any covered person diagnosed with one or more autism spectrum disorders and whose age is at least seven years and less than 19 years shall not exceed \$27,000 per year.

(5) Coverages required under paragraphs (3) and (4) shall be subject to the same copays, deductibles and dollar limits as benefits for physical illness; and such other utilization or benefit limits as the state employees health care commission may determine.

(6) Reimbursement shall be allowed only for services provided by a provider licensed, trained and qualified to provide such services or by an autism specialist or an intensive individual service provider as such terms are defined by the department of social and rehabilitation services Kansas autism waiver as it exists on July 1, 2010.

(7) Any insurer or other entity which administers claims for services provided for the treatment of autism spectrum disorder under this section, and amendments thereto, shall have the right and obligation to:

(A) Review utilization of such services; and

(B) deny any claim for services based upon medical necessity or a determination that the covered individual has reached the maximum medical improvement for the covered individual's autism spectrum disorder.

(b) For the purposes of this section:

(1) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement and functional analysis of the relationship between environment and behavior.

(2) "Autism spectrum disorder" means the following disorders within the autism spectrum: Autistic disorder, Asperger's syndrome and pervasive developmental disorder not otherwise specified, as such terms are specified in the diagnostic and statistical manual of mental disorders, fourth edition, text revision (DSM-IV-TR), of the American psychiatric association, as published in May, 2000, or later versions as established in rules and regulations adopted by the behavioral sciences regulatory board pursuant to K.S.A. 74-7507 and amendments thereto.

(3) "Diagnosis of autism spectrum disorder" means any medically necessary assessment, evaluation or test to determine whether an individual has an autism spectrum disorder.

(c) (1) Pursuant to the provisions of K.S.A. 40-2249a, and amend-

ments thereto, on or before March 1, 2012, the state employees health care commission shall submit to the president of the senate and to the speaker of the house of representatives, a report including the following information pertaining to the mandated coverage for autism spectrum disorder provided during the plan year commencing on January 1, 2011, and ending on December 31, 2011:

(A) The impact that the mandated coverage for autism spectrum disorder required by subsection (a) has had on the state health care benefits program;

(B) data on the utilization of coverage for autism spectrum disorder by covered individuals and the cost of providing such coverage for autism spectrum disorder; and

(C) a recommendation whether such mandated coverage for autism spectrum disorder should continue for the state health care benefits program or whether additional utilization and cost data is required.

(2) At the next legislative session following receipt of the report required in paragraph (1), the legislature may consider whether or not to require the coverage for autism spectrum disorder required by subsection (a) to be included in any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization which provides coverage for accident and health services and which is delivered, issued for delivery, amended or renewed in this state on or after July 1, 2013.

Sec. 2. K.S.A. 2009 Supp. 75-6501 is hereby amended to read as follows: 75-6501. (a) Within the limits of appropriations made or available therefor and subject to the provisions of appropriation acts relating thereto, the Kansas state employees health care commission shall develop and provide for the implementation and administration of a state health care benefits program.

(b) (1) *Subject to the provisions of paragraph (2)*, the state health care benefits program may provide benefits for persons qualified to participate in the program for hospitalization, medical services, surgical services, nonmedical remedial care and treatment rendered in accordance with a religious method of healing and other health services. The program may include such provisions as are established by the Kansas state employees health care commission, including but not limited to qualifications for benefits, services covered, schedules and graduation of benefits, conversion privileges, deductible amounts, limitations on eligibility for benefits by reason of termination of employment or other change of status, leaves of absence, military service or other interruptions in service and other reasonable provisions as may be established by the commission.

(2) *The state health care benefits program shall provide the benefits and services required by section 1 and amendments thereto.*

(c) The Kansas state employees health care commission shall designate by rules and regulations those persons who are qualified to participate in the state health care benefits program, including active and retired public officers and employees and their dependents as defined by rules and regulations of the commission. Such rules and regulations shall not apply to students attending a state educational institution as defined in K.S.A. 76-711, and amendments thereto, who are covered by insurance contracts entered into by the board of regents pursuant to K.S.A. 75-4101, and amendments thereto. In designating persons qualified to participate in the state health care benefits program, the commission may establish such conditions, restrictions, limitations and exclusions as the commission deems reasonable. Such conditions, restrictions, limitations and exclusions shall include the conditions contained in subsection (d) of K.S.A. 75-6506, and amendments thereto. Each person who was formerly elected or appointed and qualified to an elective state office and who was covered immediately preceding the date such person ceased to hold such office by the provisions of group health insurance or a health maintenance organization plan under the law in effect prior to August 1, 1984, or the state health care benefits program in effect after that date, shall continue to be qualified to participate in the state health care benefits program and shall pay the cost of participation in the program as established and in accordance with the procedures prescribed by the commission if such person chooses to participate therein.

(d) (1) Commencing with the 2009 plan year that begins January 1, 2009, if a state employee elects the high deductible health plan and health

savings account, the state's employer contribution shall equal the state's contribution to any other health benefit plan offered by the state. The cost savings to the state for the high deductible health plan shall be deposited monthly into the employee's health savings account up to the maximum annual amount allowed pursuant to subsection (d) of 26 U.S.C. 223, as amended, for as long as the employee participates in the high deductible plan.

(2) If the employee had not previously participated in the state health benefits plan, the employer shall calculate the average savings to the employer of the high deductible plan compared to the other available plans and contribute that amount monthly to the employee's health savings account up to the maximum annual amount allowed pursuant to subsection (d) of 26 U.S.C. 223, as amended.

(3) The employer shall allow additional voluntary contributions by the employee to their health savings account by payroll deduction up to the maximum annual amount allowed pursuant to subsection (d) of 26 U.S.C. 223, as amended.

(e) The commission shall have no authority to assess charges for employer contributions under the student health care benefits component of the state health care benefits program for persons who are covered by insurance contracts entered into by the board of regents pursuant to K.S.A. 75-4101, and amendments thereto.

(f) Nothing in this act shall be construed to permit the Kansas state employees health care commission to discontinue the student health care benefits component of the state health care benefits program until the state board of regents has contracts in effect that provide student coverage pursuant to the authority granted therefor in K.S.A. 75-4101, and amendments thereto.

New Sec. 3. (a) Any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization, municipal group-funded pool and the state employee health care benefits plan which provides coverage for prescription drugs and which is delivered, issued for delivery, amended or renewed on and after July 1, 2011, shall provide coverage for a prescribed, orally administered anticancer medication used to kill or slow the growth of cancerous cells on a basis no less favorable than intravenously administered or injected cancer medications that are covered as medical benefits.

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

(c) (1) From and after the effective date of this act, the provisions of this section shall apply to the state employees health care benefits program.

(2) Pursuant to the provisions of K.S.A. 40-2249a, and amendments thereto, on or before March 1, 2011, the state health care benefits commission shall submit to the president of the senate and to the speaker of the house of representatives, a report indicating the impact the provisions of this section has had on the state health care benefits program, including data on the utilization and costs of such coverage. Such report shall also include a recommendation whether such coverage should continue for the state health care benefits program or whether additional utilization and cost data is required.

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

Sec. 5. K.S.A. 2009 Supp. 40-19c09 is hereby amended to read as follows: 40-19c09. (a) Corporations organized under the nonprofit medical and hospital service corporation act shall be subject to the provisions of the Kansas general corporation code, articles 60 to 74, inclusive, of chapter 17 of the Kansas Statutes Annotated, applicable to nonprofit corporations, to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-

235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252, 40-254, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-2,116, 40-2,117, 40-2,153, 40-2,154, 40-2,160, 40-2,161, 40-2,163 through 40-2,170, inclusive, 40-2a01 et seq., 40-2111 to 40-2116, inclusive, 40-2215 to 40-2220, inclusive, 40-2221a, 40-2221b, 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-2421, inclusive, and 40-3301 to 40-3313, inclusive, K.S.A. 2009 Supp. 40-2,105a ~~and~~ 40-2,105b *and section* 3, and amendments thereto, except as the context otherwise requires, and shall not be subject to any other provisions of the insurance code except as expressly provided in this act.

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

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

Sec. 6. K.S.A. 2009 Supp. 40-2,103, 40-19c09 and 75-6501 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 19, 2010.
