

1 AN ACT relating to coverage for annual pap smears.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304
4 IS CREATED TO READ AS FOLLOWS:

5 (1) Any health insurance policy, plan, certificate, or contract, including but not
6 limited to a health benefit plan, that provides coverage for medical or surgical
7 services with respect to treatment of cervical cancer shall provide coverage for an
8 annual pap smear without a referral from a primary care provider.

9 (2) (a) Except as provided in paragraph (b) of this subsection, the coverage
10 required under this section shall not be subject to any deductible,
11 coinsurance, copayment, or other cost-sharing requirement.

12 (b) If the application of any requirement of paragraph (a) of this subsection
13 would be the sole cause of a health insurance policy's, certificate's, plan's,
14 or contract's failure to qualify as a Health Savings Account-qualified High
15 Deductible Health Plan under 26 U.S.C. sec. 223, as amended, then the
16 requirement shall not apply to that health insurance policy, certificate, plan,
17 or contract until the minimum deductible under 26 U.S.C. sec. 223, as
18 amended, is satisfied.

19 ➔Section 2. KRS 304.17A-647 is amended to read as follows:

20 ~~{(1)}~~—An insurer shall not, under its health benefit plan, prohibit a primary care physician
21 from authorizing a covered person's referral to a participating obstetrician or
22 gynecologist. A primary care physician treating a covered person who is pregnant or has
23 a chronic gynecological condition may authorize a referral to a participating obstetrician
24 or gynecologist, up to twelve (12) months or for the contract period, whichever is shorter.
25 Under this referral arrangement the covered person shall have direct access to the
26 obstetrician or gynecologist, without the need of further contact or referral by the primary
27 care physician.

~~[(2) A female covered person shall be covered for an annual pap smear performed by an obstetrician or gynecologist without a referral from a primary care provider.]~~

➔Section 3. KRS 304.17C-125 (Effective January 1, 2025) is amended to read as follows:

The following~~[KRS 304.17A-262]~~ shall apply to limited health service benefit plans, including any limited health service contract, as defined in KRS 304.38A-010:

(1) KRS 304.17A-262; and

(2) Section 1 of this Act.

➔Section 4. KRS 205.522 (Effective January 1, 2024) is amended to read as follows:

(1) **With respect to the administration and provision of Medicaid benefits pursuant to this chapter,** the Department for Medicaid Services,~~[and]~~ any managed care organization contracted to provide Medicaid benefits pursuant to this chapter,**and the state's medical assistance program** shall **be subject to, and** comply with, the **following, as applicable:**~~[provisions of]~~

(a) KRS 304.17A-163;~~[and]~~

(b) KRS 304.17A-1631;~~[and]~~

(c) KRS 304.17A-167;~~[and]~~

(d) KRS 304.17A-235;~~[and]~~

(e) KRS 304.17A-257;~~[and]~~

(f) KRS 304.17A-259;~~[and]~~

(g) KRS 304.17A-263;~~[and]~~

(h) KRS 304.17A-515;~~[and]~~

(i) KRS 304.17A-580;~~[and]~~

(j) KRS 304.17A-600, 304.17A-603, and 304.17A-607;~~[and]~~

(k) KRS 304.17A-740 to 304.17A-743; and~~[as applicable]~~

(l) Section 1 of this Act.

(2) A managed care organization contracted to provide Medicaid benefits pursuant to this chapter shall comply with the reporting requirements of KRS 304.17A-732.

➔Section 5. KRS 164.2871 (Effective January 1, 2025) is amended to read as follows:

(1) The governing board of each state postsecondary educational institution is authorized to purchase liability insurance for the protection of the individual members of the governing board, faculty, and staff of such institutions from liability for acts and omissions committed in the course and scope of the individual's employment or service. Each institution may purchase the type and amount of liability coverage deemed to best serve the interest of such institution.

(2) All retirement annuity allowances accrued or accruing to any employee of a state postsecondary educational institution through a retirement program sponsored by the state postsecondary educational institution are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court. Except retirement benefits accrued or accruing to any employee of a state postsecondary educational institution through a retirement program sponsored by the state postsecondary educational institution on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(3) Except as provided in KRS Chapter 44, the purchase of liability insurance for members of governing boards, faculty and staff of institutions of higher education in this state shall not be construed to be a waiver of sovereign immunity or any other immunity or privilege.

(4) The governing board of each state postsecondary education institution is authorized to provide a self-insured employer group health plan to its employees, which plan shall:

- 1 (a) Conform to the requirements of Subtitle 32 of KRS Chapter 304; and
- 2 (b) Except as provided in subsection (5) of this section, be exempt from
- 3 conformity with Subtitle 17A of KRS Chapter 304.

4 (5) A self-insured employer group health plan provided by the governing board of a
 5 state postsecondary education institution to its employees shall comply with:

- 6 (a) KRS 304.17A-163 and 304.17A-1631;
- 7 (b) KRS 304.17A-265;
- 8 (c) KRS 304.17A-261;~~and~~
- 9 (d) KRS 304.17A-262;and

10 (e) Section 1 of this Act.

11 ➔Section 6. KRS 18A.225 (Effective January 1, 2025) is amended to read as
 12 follows:

13 (1) (a) The term "employee" for purposes of this section means:

- 14 1. Any person, including an elected public official, who is regularly
- 15 employed by any department, office, board, agency, or branch of state
- 16 government; or by a public postsecondary educational institution; or by
- 17 any city, urban-county, charter county, county, or consolidated local
- 18 government, whose legislative body has opted to participate in the state-
- 19 sponsored health insurance program pursuant to KRS 79.080; and who
- 20 is either a contributing member to any one (1) of the retirement systems
- 21 administered by the state, including but not limited to the Kentucky
- 22 Retirement Systems, County Employees Retirement System, Kentucky
- 23 Teachers' Retirement System, the Legislators' Retirement Plan, or the
- 24 Judicial Retirement Plan; or is receiving a contractual contribution from
- 25 the state toward a retirement plan; or, in the case of a public
- 26 postsecondary education institution, is an individual participating in an
- 27 optional retirement plan authorized by KRS 161.567; or is eligible to

- 1 participate in a retirement plan established by an employer who ceases
 2 participating in the Kentucky Employees Retirement System pursuant to
 3 KRS 61.522 whose employees participated in the health insurance plans
 4 administered by the Personnel Cabinet prior to the employer's effective
 5 cessation date in the Kentucky Employees Retirement System;
- 6 2. Any certified or classified employee of a local board of education or a
 7 public charter school as defined in KRS 160.1590;
- 8 3. Any elected member of a local board of education;
- 9 4. Any person who is a present or future recipient of a retirement
 10 allowance from the Kentucky Retirement Systems, County Employees
 11 Retirement System, Kentucky Teachers' Retirement System, the
 12 Legislators' Retirement Plan, the Judicial Retirement Plan, or the
 13 Kentucky Community and Technical College System's optional
 14 retirement plan authorized by KRS 161.567, except that a person who is
 15 receiving a retirement allowance and who is age sixty-five (65) or older
 16 shall not be included, with the exception of persons covered under KRS
 17 61.702(2)(b)3. and 78.5536(2)(b)3., unless he or she is actively
 18 employed pursuant to subparagraph 1. of this paragraph; and
- 19 5. Any eligible dependents and beneficiaries of participating employees
 20 and retirees who are entitled to participate in the state-sponsored health
 21 insurance program;
- 22 (b) The term "health benefit plan" for the purposes of this section means a health
 23 benefit plan as defined in KRS 304.17A-005;
- 24 (c) The term "insurer" for the purposes of this section means an insurer as defined
 25 in KRS 304.17A-005; and
- 26 (d) The term "managed care plan" for the purposes of this section means a
 27 managed care plan as defined in KRS 304.17A-500.

1 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
2 recommendation of the secretary of the Personnel Cabinet, shall procure, in
3 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,
4 from one (1) or more insurers authorized to do business in this state, a group
5 health benefit plan that may include but not be limited to health maintenance
6 organization (HMO), preferred provider organization (PPO), point of service
7 (POS), and exclusive provider organization (EPO) benefit plans
8 encompassing all or any class or classes of employees. With the exception of
9 employers governed by the provisions of KRS Chapters 16, 18A, and 151B,
10 all employers of any class of employees or former employees shall enter into
11 a contract with the Personnel Cabinet prior to including that group in the state
12 health insurance group. The contracts shall include but not be limited to
13 designating the entity responsible for filing any federal forms, adoption of
14 policies required for proper plan administration, acceptance of the contractual
15 provisions with health insurance carriers or third-party administrators, and
16 adoption of the payment and reimbursement methods necessary for efficient
17 administration of the health insurance program. Health insurance coverage
18 provided to state employees under this section shall, at a minimum, contain
19 the same benefits as provided under Kentucky Kare Standard as of January 1,
20 1994, and shall include a mail-order drug option as provided in subsection
21 (13) of this section. All employees and other persons for whom the health care
22 coverage is provided or made available shall annually be given an option to
23 elect health care coverage through a self-funded plan offered by the
24 Commonwealth or, if a self-funded plan is not available, from a list of
25 coverage options determined by the competitive bid process under the
26 provisions of KRS 45A.080, 45A.085, and 45A.090 and made available
27 during annual open enrollment.

- 1 (b) The policy or policies shall be approved by the commissioner of insurance
2 and may contain the provisions the commissioner of insurance approves,
3 whether or not otherwise permitted by the insurance laws.
- 4 (c) Any carrier bidding to offer health care coverage to employees shall agree to
5 provide coverage to all members of the state group, including active
6 employees and retirees and their eligible covered dependents and
7 beneficiaries, within the county or counties specified in its bid. Except as
8 provided in subsection (20) of this section, any carrier bidding to offer health
9 care coverage to employees shall also agree to rate all employees as a single
10 entity, except for those retirees whose former employers insure their active
11 employees outside the state-sponsored health insurance program and as
12 otherwise provided in KRS 61.702(2)(b)3.b. and 78.5536(2)(b)3.b.
- 13 (d) Any carrier bidding to offer health care coverage to employees shall agree to
14 provide enrollment, claims, and utilization data to the Commonwealth in a
15 format specified by the Personnel Cabinet with the understanding that the data
16 shall be owned by the Commonwealth; to provide data in an electronic form
17 and within a time frame specified by the Personnel Cabinet; and to be subject
18 to penalties for noncompliance with data reporting requirements as specified
19 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions
20 to protect the confidentiality of each individual employee; however,
21 confidentiality assertions shall not relieve a carrier from the requirement of
22 providing stipulated data to the Commonwealth.
- 23 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities
24 for timely analysis of data received from carriers and, to the extent possible,
25 provide in the request-for-proposal specifics relating to data requirements,
26 electronic reporting, and penalties for noncompliance. The Commonwealth
27 shall own the enrollment, claims, and utilization data provided by each carrier

1 and shall develop methods to protect the confidentiality of the individual. The
2 Personnel Cabinet shall include in the October annual report submitted
3 pursuant to the provisions of KRS 18A.226 to the Governor, the General
4 Assembly, and the Chief Justice of the Supreme Court, an analysis of the
5 financial stability of the program, which shall include but not be limited to
6 loss ratios, methods of risk adjustment, measurements of carrier quality of
7 service, prescription coverage and cost management, and statutorily required
8 mandates. If state self-insurance was available as a carrier option, the report
9 also shall provide a detailed financial analysis of the self-insurance fund
10 including but not limited to loss ratios, reserves, and reinsurance agreements.

11 (f) If any agency participating in the state-sponsored employee health insurance
12 program for its active employees terminates participation and there is a state
13 appropriation for the employer's contribution for active employees' health
14 insurance coverage, then neither the agency nor the employees shall receive
15 the state-funded contribution after termination from the state-sponsored
16 employee health insurance program.

17 (g) Any funds in flexible spending accounts that remain after all reimbursements
18 have been processed shall be transferred to the credit of the state-sponsored
19 health insurance plan's appropriation account.

20 (h) Each entity participating in the state-sponsored health insurance program shall
21 provide an amount at least equal to the state contribution rate for the employer
22 portion of the health insurance premium. For any participating entity that used
23 the state payroll system, the employer contribution amount shall be equal to
24 but not greater than the state contribution rate.

25 (3) The premiums may be paid by the policyholder:

26 (a) Wholly from funds contributed by the employee, by payroll deduction or
27 otherwise;

- 1 (b) Wholly from funds contributed by any department, board, agency, public
2 postsecondary education institution, or branch of state, city, urban-county,
3 charter county, county, or consolidated local government; or
- 4 (c) Partly from each, except that any premium due for health care coverage or
5 dental coverage, if any, in excess of the premium amount contributed by any
6 department, board, agency, postsecondary education institution, or branch of
7 state, city, urban-county, charter county, county, or consolidated local
8 government for any other health care coverage shall be paid by the employee.
- 9 (4) If an employee moves his or her place of residence or employment out of the
10 service area of an insurer offering a managed health care plan, under which he or
11 she has elected coverage, into either the service area of another managed health care
12 plan or into an area of the Commonwealth not within a managed health care plan
13 service area, the employee shall be given an option, at the time of the move or
14 transfer, to change his or her coverage to another health benefit plan.
- 15 (5) No payment of premium by any department, board, agency, public postsecondary
16 educational institution, or branch of state, city, urban-county, charter county,
17 county, or consolidated local government shall constitute compensation to an
18 insured employee for the purposes of any statute fixing or limiting the
19 compensation of such an employee. Any premium or other expense incurred by any
20 department, board, agency, public postsecondary educational institution, or branch
21 of state, city, urban-county, charter county, county, or consolidated local
22 government shall be considered a proper cost of administration.
- 23 (6) The policy or policies may contain the provisions with respect to the class or classes
24 of employees covered, amounts of insurance or coverage for designated classes or
25 groups of employees, policy options, terms of eligibility, and continuation of
26 insurance or coverage after retirement.
- 27 (7) Group rates under this section shall be made available to the disabled child of an

1 employee regardless of the child's age if the entire premium for the disabled child's
2 coverage is paid by the state employee. A child shall be considered disabled if he or
3 she has been determined to be eligible for federal Social Security disability benefits.

4 (8) The health care contract or contracts for employees shall be entered into for a
5 period of not less than one (1) year.

6 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of
7 State Health Insurance Subscribers to advise the secretary or the secretary's
8 designee regarding the state-sponsored health insurance program for employees.
9 The secretary shall appoint, from a list of names submitted by appointing
10 authorities, members representing school districts from each of the seven (7)
11 Supreme Court districts, members representing state government from each of the
12 seven (7) Supreme Court districts, two (2) members representing retirees under age
13 sixty-five (65), one (1) member representing local health departments, two (2)
14 members representing the Kentucky Teachers' Retirement System, and three (3)
15 members at large. The secretary shall also appoint two (2) members from a list of
16 five (5) names submitted by the Kentucky Education Association, two (2) members
17 from a list of five (5) names submitted by the largest state employee organization of
18 nonschool state employees, two (2) members from a list of five (5) names submitted
19 by the Kentucky Association of Counties, two (2) members from a list of five (5)
20 names submitted by the Kentucky League of Cities, and two (2) members from a
21 list of names consisting of five (5) names submitted by each state employee
22 organization that has two thousand (2,000) or more members on state payroll
23 deduction. The advisory committee shall be appointed in January of each year and
24 shall meet quarterly.

25 (10) Notwithstanding any other provision of law to the contrary, the policy or policies
26 provided to employees pursuant to this section shall not provide coverage for
27 obtaining or performing an abortion, nor shall any state funds be used for the

1 purpose of obtaining or performing an abortion on behalf of employees or their
2 dependents.

3 (11) Interruption of an established treatment regime with maintenance drugs shall be
4 grounds for an insured to appeal a formulary change through the established appeal
5 procedures approved by the Department of Insurance, if the physician supervising
6 the treatment certifies that the change is not in the best interests of the patient.

7 (12) Any employee who is eligible for and elects to participate in the state health
8 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any
9 one (1) of the state-sponsored retirement systems shall not be eligible to receive the
10 state health insurance contribution toward health care coverage as a result of any
11 other employment for which there is a public employer contribution. This does not
12 preclude a retiree and an active employee spouse from using both contributions to
13 the extent needed for purchase of one (1) state sponsored health insurance policy
14 for that plan year.

15 (13) (a) The policies of health insurance coverage procured under subsection (2) of
16 this section shall include a mail-order drug option for maintenance drugs for
17 state employees. Maintenance drugs may be dispensed by mail order in
18 accordance with Kentucky law.

19 (b) A health insurer shall not discriminate against any retail pharmacy located
20 within the geographic coverage area of the health benefit plan and that meets
21 the terms and conditions for participation established by the insurer, including
22 price, dispensing fee, and copay requirements of a mail-order option. The
23 retail pharmacy shall not be required to dispense by mail.

24 (c) The mail-order option shall not permit the dispensing of a controlled
25 substance classified in Schedule II.

26 (14) The policy or policies provided to state employees or their dependents pursuant to
27 this section shall provide coverage for obtaining a hearing aid and acquiring hearing

- 1 aid-related services for insured individuals under eighteen (18) years of age, subject
2 to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months
3 pursuant to KRS 304.17A-132.
- 4 (15) Any policy provided to state employees or their dependents pursuant to this section
5 shall provide coverage for the diagnosis and treatment of autism spectrum disorders
6 consistent with KRS 304.17A-142.
- 7 (16) Any policy provided to state employees or their dependents pursuant to this section
8 shall provide coverage for obtaining amino acid-based elemental formula pursuant
9 to KRS 304.17A-258.
- 10 (17) If a state employee's residence and place of employment are in the same county,
11 and if the hospital located within that county does not offer surgical services,
12 intensive care services, obstetrical services, level II neonatal services, diagnostic
13 cardiac catheterization services, and magnetic resonance imaging services, the
14 employee may select a plan available in a contiguous county that does provide
15 those services, and the state contribution for the plan shall be the amount available
16 in the county where the plan selected is located.
- 17 (18) If a state employee's residence and place of employment are each located in
18 counties in which the hospitals do not offer surgical services, intensive care
19 services, obstetrical services, level II neonatal services, diagnostic cardiac
20 catheterization services, and magnetic resonance imaging services, the employee
21 may select a plan available in a county contiguous to the county of residence that
22 does provide those services, and the state contribution for the plan shall be the
23 amount available in the county where the plan selected is located.
- 24 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and
25 in the best interests of the state group to allow any carrier bidding to offer health
26 care coverage under this section to submit bids that may vary county by county or
27 by larger geographic areas.

- 1 (20) Notwithstanding any other provision of this section, the bid for proposals for health
 2 insurance coverage for calendar year 2004 shall include a bid scenario that reflects
 3 the statewide rating structure provided in calendar year 2003 and a bid scenario that
 4 allows for a regional rating structure that allows carriers to submit bids that may
 5 vary by region for a given product offering as described in this subsection:
- 6 (a) The regional rating bid scenario shall not include a request for bid on a
 7 statewide option;
 - 8 (b) The Personnel Cabinet shall divide the state into geographical regions which
 9 shall be the same as the partnership regions designated by the Department for
 10 Medicaid Services for purposes of the Kentucky Health Care Partnership
 11 Program established pursuant to 907 KAR 1:705;
 - 12 (c) The request for proposal shall require a carrier's bid to include every county
 13 within the region or regions for which the bid is submitted and include but not
 14 be restricted to a preferred provider organization (PPO) option;
 - 15 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the
 16 carrier all of the counties included in its bid within the region. If the Personnel
 17 Cabinet deems the bids submitted in accordance with this subsection to be in
 18 the best interests of state employees in a region, the cabinet may award the
 19 contract for that region to no more than two (2) carriers; and
 - 20 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including
 21 other requirements or criteria in the request for proposal.
- 22 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or
 23 after July 12, 2006, to public employees pursuant to this section which provides
 24 coverage for services rendered by a physician or osteopath duly licensed under KRS
 25 Chapter 311 that are within the scope of practice of an optometrist duly licensed
 26 under the provisions of KRS Chapter 320 shall provide the same payment of
 27 coverage to optometrists as allowed for those services rendered by physicians or

1 osteopaths.

2 (22) Any fully insured health benefit plan or self-insured plan issued or renewed to
3 public employees pursuant to this section shall comply with:

- 4 (a) KRS 304.12-237;
- 5 (b) KRS 304.17A-270 and 304.17A-525;
- 6 (c) KRS 304.17A-600 to 304.17A-633;
- 7 (d) KRS 205.593;
- 8 (e) KRS 304.17A-700 to 304.17A-730;
- 9 (f) KRS 304.14-135;
- 10 (g) KRS 304.17A-580 and 304.17A-641;
- 11 (h) KRS 304.99-123;
- 12 (i) KRS 304.17A-138;
- 13 (j) KRS 304.17A-148;
- 14 (k) KRS 304.17A-163 and 304.17A-1631;
- 15 (l) KRS 304.17A-265;
- 16 (m) KRS 304.17A-261;
- 17 (n) KRS 304.17A-262;~~and~~
- 18 (o) **Section 1 of this Act; and**

19 **(p)** Administrative regulations promulgated pursuant to statutes listed in this
20 subsection.

21 ➔Section 7. Sections 1, 3, 5, and 6 of this Act apply to policies, certificates,
22 plans, or contracts issued or renewed on or after January 1, 2025.

23 ➔Section 8. If the Cabinet for Health and Family Services determines that a
24 waiver or other authorization from a federal agency is necessary to implement Section 4
25 of this Act for any reason, including the loss of federal funds, the cabinet shall, within 90
26 days of the effective date of this section, request the waiver or authorization, and may
27 only delay implementation of those provisions for which a waiver or authorization was

- 1 deemed necessary until the waiver or authorization is granted.
- 2 ➔Section 9. Sections 1 to 7 of this Act take effect January 1, 2025.