

CHAPTER 99

(HB 179)

AN ACT relating to insurance for loss of income and declaring an emergency.

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

➔ Section 1. KRS 304.3-110 is amended to read as follows:

An insurer which otherwise qualifies therefor may be authorized to transact any one (1) kind or any combination of kinds of insurance as defined in Subtitle 5 *of this chapter*, except:

- (1) A life insurer may **transact life insurance and** grant annuities, **but shall not be authorized to transact any other kind of insurance except:**~~and may be authorized to transact in addition only~~
 - (a) Health insurance, **including disability income insurance and paid family leave insurance; and**~~except, that~~
 - (b) The commissioner may, if the insurer otherwise qualifies therefor, continue **any authorization**~~so to authorize any life insurer which immediately prior to June 18, 1970, was lawfully authorized~~ to transact in this state a kind or kinds of insurance **not authorized under this subsection if the life insurer was, immediately prior to June 18, 1970, lawfully authorized to transact the insurance and has continuously transacted the insurance since that date;**~~in addition to life and health and annuities.~~
- (2) Only an insurer with a certificate of authority~~authorized~~ to sell life insurance may grant and issue annuity contracts;~~;~~
- ~~(3)(2)~~ A reciprocal or Lloyd's insurer shall not transact life insurance;~~;~~
- ~~(4)(3)~~ A title insurer:
 - (a) Shall be a stock insurer;~~;~~ and
 - (b) **May transact title insurance, but shall not be authorized to transact any other kind of insurance;**~~;~~
- ~~(5)(4)~~ A mortgage guaranty insurer:
 - (a) Shall be a stock insurer;~~;~~ and
 - (b) **May transact mortgage guaranty insurance, but shall not transact any other kind of insurance; and**~~;~~
- (6) **Only an insurer with a certificate of authority to sell life insurance or health insurance may transact disability income insurance or paid family leave insurance.**

➔ SECTION 2. A NEW SECTION OF SUBTITLE 5 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) **As used in this chapter, "disability income insurance" means insurance that provides for periodic payments, weekly, monthly, or otherwise, for a specified period during the continuance of disability resulting from sickness, injury, or a combination of sickness and injury.**
- (2) **Disability income insurance shall be classified and filed as:**
 - (a) **Except as provided in paragraph (b) of this subsection, health insurance; or**
 - (b) **Life insurance, if offered as an additional incidental benefit under a life insurance policy or contract.**

➔ SECTION 3. A NEW SECTION OF SUBTITLE 5 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) **As used in this chapter, "paid family leave insurance" means insurance issued to an employer related to a benefit program provided to an employee to pay for a percentage or portion of the employee's income loss caused by absences that are not based on the employee's disability.**
- (2) **Paid family leave insurance shall be classified and filed as health insurance.**

➔ Section 4. KRS 304.9-030 is amended to read as follows:

- (1) Unless denied a license according to KRS 304.9-440, applicants who have met the requirements for the license in accordance with this subtitle, shall be issued the applicable license.
- (2) An insurance agent may receive qualification for a license in one (1) or more of the following applicable lines of authority:
 - (a) Life -- insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident,~~[-and]~~ **and benefits for paid family leave;**
 - (b) Health -- insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income **and benefits for paid family leave;**
 - (c) Property -- insurance coverage for the direct or consequential loss or damage to property of every kind;
 - (d) Casualty -- insurance coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property;
 - (e) Variable life and variable annuity products -- insurance coverage provided under variable life insurance contracts and variable annuities;
 - (f) Limited line insurance as identified in KRS 304.9-230;
 - (g) Personal lines -- property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes; and
 - (h) Any other line of insurance authorized by Kentucky law and deemed by the commissioner appropriate to be issued as a separate line of authority.
- (3) A resident applicant for a variable life and variable annuities line of authority shall hold an active life line of authority.

➔SECTION 5. SUBTITLE 53 OF KRS CHAPTER 304 IS ESTABLISHED, AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

Paid family leave insurance:

- (1) ***May be:***
 - (a) ***Included in a group disability income insurance policy or contract purchased by an employer;***
 - (b) ***Offered as a rider, amendment, or supplemental policy provision to a group disability income insurance policy or contract purchased by an employer; or***
 - (c) ***Offered as a stand-alone group paid family leave insurance policy or contract purchased by an employer; and***
- (2) ***Shall be subject to KRS 304.14-120 and any other requirements for group health insurance under this chapter unless:***
 - (a) ***Paid family leave insurance is expressly exempted from the requirements; or***
 - (b) ***The requirements are in conflict with this subtitle.***

➔SECTION 6. A NEW SECTION OF SUBTITLE 53 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) ***As used in this section, unless the context requires otherwise:***
 - (a) ***"Armed Forces of the United States" includes members of the:***
 1. ***National Guard; and***
 2. ***The United States Armed Forces Reserves;***
 - (b) ***"Child" includes a person who is:***
 1. ***Either:***
 - a. ***Under eighteen (18) years of age; or***
 - b. ***Eighteen (18) years of age or older and incapable of self-care because of a mental or physical disability; and***

2. *One (1) of the following:*
 - a. *The employee's biological, adopted, or foster son or daughter;*
 - b. *The employee's stepson or stepdaughter;*
 - c. *The employee's legal ward;*
 - d. *A son or daughter of the employee's domestic partner; or*
 - e. *A person to whom the employee stands in loco parentis;*
- (c) *"Family member" includes:*
 1. *An employee's child, spouse, or parent; and*
 2. *Any other person defined as a "family member" in a paid family leave insurance policy or contract;*
- (d) *"First responder" includes:*
 1. *A peace officer;*
 2. *A paid or volunteer emergency medical services or rescue personnel;*
 3. *A paid or volunteer member of an organized fire department; and*
 4. *Personnel of a private not-for-profit organization providing fire, rescue, or emergency medical services; and*
- (e) *"Parent" includes:*
 1. *The employee's biological, foster, or adoptive parent;*
 2. *The employee's stepparent;*
 3. *The employee's legal guardian; and*
 4. *A person who stood in loco parentis to the employee when the employee was a child.*
- (2) *Paid family leave insurance may provide benefits for any leave taken from work by an employee:*
 - (a) *To participate in providing care, including physical or psychological care, for a family member because of:*
 1. *A serious health condition of the family member; or*
 2. *Any other reason specified in the policy or contract;*
 - (b) *To bond with a child during the first twelve (12) months after the child's birth, adoption, or placement with the employee for foster care;*
 - (c) *To address a qualifying exigency recognized under the federal Family and Medical Leave Act, 29 U.S.C. sec. 2612(a)(1)(E) and 29 C.F.R. sec. 825.126 as amended, relating to a family member who is on covered active duty, or has been notified of an impending call or order to covered active duty, in the Armed Forces of the United States;*
 - (d) *To care for a family member that is:*
 1. *Either:*
 - a. *In the Armed Forces of the United States; or*
 - b. *A first responder; and*
 2. *Injured in the line of duty; and*
 - (e) *For any other reason not based on the employee's disability specified in the policy or contract.*

➔SECTION 7. A NEW SECTION OF SUBTITLE 53 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A paid family leave insurance policy or contract shall set forth:

- (1) *The details and requirements for each of the covered family leave reasons specified in the policy or contract;*
- (2) *(a) The length of family leave benefits that are available for each covered family leave reason specified in the policy or contract, which shall not be less than two (2) weeks during a period of fifty-two (52) consecutive calendar weeks.*
(b) For purposes of paragraph (a) of this subsection, fifty-two (52) consecutive calendar weeks may be calculated by:
 1. *A calendar year;*
 2. *Any fixed period starting on a particular date, including an:*
 - a. *Effective date; or*
 - b. *Anniversary date;*
 3. *The period measured forward from the employee's first day of family leave;*
 4. *A rolling period measured by looking back from the employee's first day of family leave; or*
 5. *Any other method that is specified in the policy or contract;*
- (3) *Whether there is an unpaid waiting period;*
- (4) *If there is an unpaid waiting period, the terms and conditions of the unpaid waiting period, including but not limited to whether:*
 - (a) *The waiting period runs over a consecutive calendar day period;*
 - (b) *The waiting period is:*
 1. *Counted toward the annual allotment of family leave benefits; or*
 2. *In addition to the annual allotment of family leave benefits;*
 - (c) *The waiting period must be met:*
 1. *Only once per benefit year; or*
 2. *For each separate claim for benefits; and*
 - (d) *The employee may work or receive paid time off or other compensation by the employer during the waiting period;*
- (5) *The amount of benefits that will be paid for each covered family leave reason specified in the policy or contract;*
- (6) *The definition of, and method of calculating, the wages or other income upon which the amount of benefits for each covered family leave reason specified in the policy or contract will be based;*
- (7) *If the benefits available under the policy or contract are subject to offsets for wages or other income received by the employee or to which the employee may be eligible:*
 - (a) *All wages or other income that may be offset; and*
 - (b) *The circumstances under which the wages or other income may be offset; and*
- (8) *Any limitation, exclusion, or reduction of eligibility for benefits available under the policy or contract.*

➔SECTION 8. A NEW SECTION OF SUBTITLE 53 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *An insurer shall not limit, exclude, or reduce an employee's eligibility for benefits provided under a paid family leave insurance policy or contract unless the limitation, exclusion, or reduction is set forth in the policy or contract as required under Section 7 of this Act.*
- (2) *A paid family leave insurance policy or contract may include but shall not be limited to limitations on, or exclusions or reductions of, an employee's eligibility for benefits for any or all of the following reasons:*
 - (a) *For any period of family leave during which:*

1. *The notice and medical certification required under the policy or contract has not been provided;*
2. *The employee performed work for remuneration or profit;*
3. *The employee is eligible to receive remuneration or maintenance from:*
 - a. *His or her employer; or*
 - b. *A fund to which his or her employer has contributed;*
4. *The employee is eligible to receive benefits from any other statutory program or employer-sponsored program, including but not limited to:*
 - a. *Unemployment insurance benefits;*
 - b. *Workers' compensation benefits;*
 - c. *Statutory disability benefits;*
 - d. *Statutory paid leave benefits; and*
 - e. *Paid time off or leave from the employer; or*
5. *More than one (1) person seeks leave for the same family member;*
- (b) *For any leave related to a serious health condition or other harm to a family member brought about by the willful intention of the employee; or*
- (c) *For any leave commencing before the employee becomes eligible for benefits under the policy.*

➔SECTION 9. A NEW SECTION OF SUBTITLE 53 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) *Benefits due and payable under a paid family leave insurance policy or contract issued under the authority of this chapter shall be paid periodically and promptly as required under KRS 304.12-235 unless the family leave period is contested.*
- (2) *Benefits shall not be considered due and payable under a paid family leave insurance policy or contract if they are subject to a coverage limitation, exclusion, or reduction specified in the policy or contract.*

➔SECTION 10. A NEW SECTION OF SUBTITLE 53 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The commissioner may promulgate administrative regulations in accordance with KRS Chapter 13A to effectuate, or as an aid to effectuation of, the provisions of this subtitle.

➔SECTION 11. A NEW SECTION OF SUBTITLE 53 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

This subtitle may be cited as the Paid Family Leave Insurance Act.

➔Section 12. KRS 304.17A-005 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

- (1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;
- (2) "At the time of enrollment" means:
 - (a) At the time of application for an individual, an association that actively markets to individual members, and an employer-organized association that actively markets to individual members; and
 - (b) During the time of open enrollment or during an insured's initial or special enrollment periods for group health insurance;
- (3) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the

individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;

- (4) "Basic health benefit plan" means any plan offered to an individual, a small group, or employer-organized association that limits coverage to physician, pharmacy, home health, preventive, emergency, and inpatient and outpatient hospital services in accordance with the requirements of this subtitle. If vision or eye services are offered, these services may be provided by an ophthalmologist or optometrist. Chiropractic benefits may be offered by providers licensed pursuant to KRS Chapter 312;
- (5) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);
- (6) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);
- (7) "COBRA" means any of the following:
 - (a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;
 - (b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or
 - (c) 42 U.S.C. sec. 300bb;
- (8) "Creditable coverage":
 - (a) Means, with respect to an individual, coverage of the individual under any of the following:
 - 1. A group health plan;
 - 2. Health insurance coverage;
 - 3. Part A or Part B of Title XVIII of the Social Security Act;
 - 4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
 - 5. Chapter 55 of Title 10, United States Code, including medical and dental care for members and certain former members of the uniformed services, and for their dependents; for purposes of Chapter 55 of Title 10, United States Code, "uniformed services" means the Armed Forces and the Commissioned Corps of the National Oceanic and Atmospheric Administration and of the Public Health Service;
 - 6. A medical care program of the Indian Health Service or of a tribal organization;
 - 7. A state health benefits risk pool;
 - 8. A health plan offered under Chapter 89 of Title 5, United States Code, such as the Federal Employees Health Benefit Program;
 - 9. A public health plan as established or maintained by a state, the United States government, a foreign country, or any political subdivision of a state, the United States government, or a foreign country that provides health coverage to individuals who are enrolled in the plan;
 - 10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)); or
 - 11. Title XXI of the Social Security Act, such as the State Children's Health Insurance Program; and
 - (b) Does not include coverage consisting solely of coverage of excepted benefits as defined in this section;
- (9) "Dependent" means any individual who is or may become eligible for coverage under the terms of an individual or group health benefit plan because of a relationship to a participant;
- (10) "Employee benefit plan" means an employee welfare benefit plan or an employee pension benefit plan or a plan which is both an employee welfare benefit plan and an employee pension benefit plan as defined by ERISA;
- (11) "Eligible individual" means an individual:
 - (a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of

time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

- (b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;
 - (c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);
 - (d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and
 - (e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;
- (12) "Employer-organized association" means any of the following:
- (a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;
 - (b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled;
 - (c) Any entity or association of employers, which has been actively in existence for at least two (2) years, formed under the Employee Retirement Income Security Act, 29 U.S.C. secs. 1001 et seq., to provide an employee welfare benefit plan under guidance issued by the United States Department of Labor prior to the issuance of 29 C.F.R. sec. 2510.3-5, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation; and
 - (d) Any entity or association of employers, which has been actively in existence for at least two (2) years, formed under the Employee Retirement Income Security Act, 29 U.S.C. secs. 1001 et seq., to provide an employee welfare benefit plan, whose members consist of employers or a group of employers that satisfy the requirements of 29 C.F.R. sec. 2510.3-5.

Except as provided in KRS 304.17A-0954, 304.17A-200, and 304.17A-220, and except as otherwise provided by the definition of "large group" contained in this section, an employer-organized association shall not be treated as an association, small group, or large group under this subtitle, except that an employer-organized association as defined under paragraph (c) or (d) of this subsection shall be treated as a large group under this subtitle;

- (13) "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;
- (14) "Excepted benefits" means benefits under one (1) or more, or any combination of the following:
- (a) Coverage only for accident, including accidental death and dismemberment, or disability income insurance, or any combination thereof;
 - (b) Coverage issued as a supplement to liability insurance;
 - (c) Liability insurance, including general liability insurance and automobile liability insurance;
 - (d) Workers' compensation or similar insurance;
 - (e) Automobile medical payment insurance;
 - (f) Credit-only insurance;
 - (g) Coverage for on-site medical clinics;

- (h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;
 - (i) Limited scope dental or vision benefits;
 - (j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;
 - (k) Such other similar, limited benefits as are specified in administrative regulations;
 - (l) Coverage only for a specified disease or illness;
 - (m) Hospital indemnity or other fixed indemnity insurance;
 - (n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;
 - (o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;
 - (p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan; and
 - (q) Health flexible spending arrangements;
- (15) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);
- (16) "Group health plan" means a plan, including a self-insured plan, of or contributed to by an employer, including a self-employed person, or employee organization, to provide health care directly or otherwise to the employees, former employees, the employer, or others associated or formerly associated with the employer in a business relationship, or their families;
- (17) "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals under KRS 304.17A-400 to 304.17A-480;
- (18) "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program under KRS 304.17A-400 to 304.17A-480;
- (19) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;
- (20) "Guaranteed acceptance program qualified individual" means an individual who, on or before December 31, 2000:
- (a) Is not an eligible individual;
 - (b) Is not eligible for or covered by other health benefit plan coverage or who is a spouse or a dependent of an individual who:
 - 1. Waived coverage under KRS 304.17A-210(2); or
 - 2. Did not elect family coverage that was available through the association or group market;
 - (c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);
 - (d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and
 - (e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:
 - 1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;
 - 2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or

3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;
- (21) "Guaranteed acceptance plan supporting insurer" means either an insurer, on or before December 31, 2000, that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, on or before December 31, 2000, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;
- (22) "Health benefit plan":
 - (a) Shall include any:
 1. Hospital or medical expense policy or certificate;
 2. Nonprofit hospital, medical-surgical, and health service corporation contract or certificate;
 3. Provider sponsored integrated health delivery network;
 4. Self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA;
 5. Self-insured governmental plan or church plan;
 6. Health maintenance organization contract, except contracts to provide Medicaid benefits under KRS Chapter 205; or
 7. Health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky; and
 - (b) Does not include:
 1. Policies covering only accident, credit, dental, disability income, ***paid family leave***, fixed indemnity medical expense reimbursement, long-term care, Medicare supplement, specified disease, or vision care;
 2. Coverage issued as a supplement to liability insurance;
 3. Insurance arising out of a workers' compensation or similar law;
 4. Automobile medical-payment insurance;
 5. Insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance;
 6. Short-term limited-duration coverage;
 7. Student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure;
 8. Medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract;
 9. Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;
 10. Limited health service benefit plans;
 11. Direct primary care agreements established under KRS 311.6201, 311.6202, 314.198, and 314.199; or
 12. Coverage provided under KRS Chapter 205;
- (23) "Health care provider" or "provider" means any:
 - (a) Advanced practice registered nurse licensed under KRS Chapter 314;
 - (b) Chiropractor licensed under KRS Chapter 312;
 - (c) Dentist licensed under KRS Chapter 313;
 - (d) Facility or service required to be licensed under KRS Chapter 216B;

- (e) Home medical equipment and services provider licensed under KRS Chapter 309;
 - (f) Optometrist licensed under KRS Chapter 320;
 - (g) Pharmacist licensed under KRS Chapter 315;
 - (h) Physician, osteopath, or podiatrist licensed under KRS Chapter 311;
 - (i) Physician assistant regulated under KRS Chapter 311; and
 - (j) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;
- (24) (a) "Health care service" means health care procedures, treatments, or services rendered by a provider within the scope of practice for which the provider is licensed.
- (b) Health care service includes the provision of prescription drugs, as defined in KRS 315.010, and home medical equipment, as defined in KRS 309.402;
- (25) "Health facility" or "facility" has the same meaning as in KRS 216B.015;
- (26) (a) "High-cost condition," pursuant to the Kentucky Guaranteed Acceptance Program, means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.
- (b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:
- 1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and
 - 2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.
- (c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, Wilson's disease, and amyotrophic lateral sclerosis;
- (27) "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;
- (28) "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan. The individual market includes an association plan that is not employer-related, issued to individuals on an individually underwritten basis, other than an employer-organized association or a bona fide association;
- (29) "Insurer" means any insurance company; health maintenance organization; self-insurer, including a governmental plan, church plan, or multiple employer welfare arrangement, not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;
- (30) "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;
- (31) "Kentucky Access" has the meaning provided in KRS 304.17B-001;

- (32) "Large group" means:
- (a) An employer with fifty-one (51) or more employees;
 - (b) An affiliated group with fifty-one (51) or more eligible members; or
 - (c) A fully insured employer-organized association as defined in subsection (12)(c) or (d) of this section that:
 - 1. Covers at least fifty-one (51) employee members; and
 - 2. Is registered with the department pursuant to administrative regulations promulgated by the commissioner;
- (33) "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;
- (34) "Market segment" means the portion of the market covering one (1) of the following:
- (a) Individual;
 - (b) Small group;
 - (c) Large group; or
 - (d) Association;
- (35) "Medically necessary health care services" means health care services that a provider would render to a patient for the purpose of preventing, diagnosing, or treating an illness, injury, disease, or its symptoms in a manner that is:
- (a) In accordance with generally accepted standards of medical practice; and
 - (b) Clinically appropriate in terms of type, frequency, extent, and duration;
- (36) "Participant" means any employee or former employee of an employer, or any member or former member of an employee organization, who is or may become eligible to receive a benefit of any type from an employee benefit plan which covers employees of the employer or members of the organization, or whose beneficiaries may be eligible to receive any benefit as established in Section 3(7) of ERISA;
- (37) "Preventive services" means medical services for the early detection of disease that are associated with substantial reduction in morbidity and mortality;
- (38) "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;
- (39) "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;
- (40) "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;
- (41) "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;
- (42) "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;
- (43) "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;
- (44) "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on

business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;

(45) "Small group" means:

- (a) A small employer with two (2) to fifty (50) employees; or
- (b) An affiliated group or association with two (2) to fifty (50) eligible members; and

(46) "Standard benefit plan" means the plan identified in KRS 304.17A-250.

➔Section 13. KRS 304.18-010 is amended to read as follows:

(1) This subtitle may be cited as the Group or Blanket Health Insurance Law.

(2) This subtitle applies only to group health insurance contracts and to blanket health insurance contracts, **except:**

(a) Disability income insurance; and

(b) Paid family leave insurance.

➔Section 14. KRS 304.36-030 is amended to read as follows:

(1) As used in this section, "ocean marine insurance" includes:

(a) Any form of insurance, regardless of name, label, or marketing designation of the insurance policy, that insures against maritime perils or risks and other related perils or risks that are usually insured against by traditional marine insurance, such as hull and machinery, marine builders risk, and marine protection and indemnity. These perils and risks insured against include without limitation loss, damage, or expense or legal liability of the insured for loss, damage, or expense arising out of or incident to ownership, operation, chartering, maintenance, use, repair, or construction of any vessel, craft, or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, or death or for loss or damage to the property of the insured or another person; and

(b) That coverage written in accordance with the following:

- 1. The Jones Act, 46 U.S.C. sec. 30104;
- 2. The Longshore and Harbor Workers' Compensation Act, 33 U.S.C. sec. 901 et seq.; and
- 3. Any other similar federal statutory enactment or endorsement or policy affording protection and indemnity coverage.

(2) This subtitle shall apply to all kinds of direct insurance, except:

(a) Life, annuity, **or** health, ~~including~~ **and paid family leave;**

(b) Mortgage guaranty, financial guaranty, or other forms of insurance offering protection against investment risks;

(c) Credit insurance, vendors' single interest insurance, or collateral protection insurance or any similar insurance protecting the interests of a creditor arising out of a creditor-debtor transaction;

(d) Insurance of warranties or service contracts, including insurance that provides for the repair, replacement, or service of goods or property, indemnification for repair, replacement, or service for the operational or structural failure of the goods or property due to a defect in materials, workmanship, or normal wear and tear, or reimbursement for the liability incurred by the issuer of agreements or service contracts that provide these benefits;

(e) Title insurance;

(f) Ocean marine insurance;

(g) Any transaction or combination of transactions between a person, including affiliates of the person, and an insurer, including affiliates of the insurer, that involves the transfer of investment or credit risk and that is unaccompanied by transfer of insurance risk; or

(h) Any insurance provided, written, reinsured, or guaranteed by any government or governmental agencies.

- (3) Notwithstanding subsection (2) of this section, this subtitle shall apply to health insurance written by an insolvent insurer if the insurer was not a member of the Kentucky Life and Health Insurance Guaranty Association created under KRS 304.42-060 or a successor association on the date of the order of liquidation.

➔Section 15. Whereas, it is in the best interests of Kentucky workers and employers to permit insurers to provide fully insured benefits in this state for income replacement, an emergency is declared to exist, and this Act takes effect upon passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 5, 2024.