

1 AN ACT relating to coverage for substance use disorder.

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) (a) As used in this section, "comprehensive supervised substance use disorder*
6 *treatment" includes but is not limited to treatment for substance use*
7 *disorder through:*

8 *1. An inpatient facility;*

9 *2. A partial hospitalization program; and*

10 *3. An in-home program.*

11 *(b) As used in this subsection, "in-home program" means a program offered by*
12 *a health care facility or health care professional for the treatment of*
13 *substance use disorder which the insured accesses through telehealth as*
14 *defined in KRS 211.332.*

15 *(2) Any health insurance policy, plan, certificate, or contract, including but not*
16 *limited to a health benefit plan, that provides coverage for substance use disorder*
17 *shall provide coverage for comprehensive supervised substance use disorder*
18 *treatment.*

19 *(3) (a) The coverage required under subsection (2) of this section shall not be*
20 *limited to a duration of less than six (6) months.*

21 *(b) Any prior authorization granted for coverage required under subsection (2)*
22 *of this section shall not be limited to a specific provider, except that, if the*
23 *underlying coverage is limited to in-network providers, a prior authorization*
24 *may also be limited to in-network providers.*

25 *(4) Nothing in this section shall be construed to limit the coverage required by KRS*
26 *304.17A-138 or any other law.*

27 ➔SECTION 2. A NEW SECTION OF SUBTITLE 17C OF KRS CHAPTER 304

1 IS CREATED TO READ AS FOLLOWS:

2 **Section 1 of this Act shall apply to limited health service benefit plans, including any**
3 **limited health service contract as defined in KRS 304.38A-010.**

4 →Section 3. KRS 18A.225 (Effective January 1, 2025) is amended to read as
5 follows:

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

- 7 1. Any person, including an elected public official, who is regularly
8 employed by any department, office, board, agency, or branch of state
9 government; or by a public postsecondary educational institution; or by
10 any city, urban-county, charter county, county, or consolidated local
11 government, whose legislative body has opted to participate in the state-
12 sponsored health insurance program pursuant to KRS 79.080; and who
13 is either a contributing member to any one (1) of the retirement systems
14 administered by the state, including but not limited to the Kentucky
15 Retirement Systems, County Employees Retirement System, Kentucky
16 Teachers' Retirement System, the Legislators' Retirement Plan, or the
17 Judicial Retirement Plan; or is receiving a contractual contribution from
18 the state toward a retirement plan; or, in the case of a public
19 postsecondary education institution, is an individual participating in an
20 optional retirement plan authorized by KRS 161.567; or is eligible to
21 participate in a retirement plan established by an employer who ceases
22 participating in the Kentucky Employees Retirement System pursuant to
23 KRS 61.522 whose employees participated in the health insurance plans
24 administered by the Personnel Cabinet prior to the employer's effective
25 cessation date in the Kentucky Employees Retirement System;
- 26 2. Any certified or classified employee of a local board of education or a
27 public charter school as defined in KRS 160.1590;

- 1 3. Any elected member of a local board of education;
- 2 4. Any person who is a present or future recipient of a retirement
3 allowance from the Kentucky Retirement Systems, County Employees
4 Retirement System, Kentucky Teachers' Retirement System, the
5 Legislators' Retirement Plan, the Judicial Retirement Plan, or the
6 Kentucky Community and Technical College System's optional
7 retirement plan authorized by KRS 161.567, except that a person who is
8 receiving a retirement allowance and who is age sixty-five (65) or older
9 shall not be included, with the exception of persons covered under KRS
10 61.702(2)(b)3. and 78.5536(2)(b)3., unless he or she is actively
11 employed pursuant to subparagraph 1. of this paragraph; and
- 12 5. Any eligible dependents and beneficiaries of participating employees
13 and retirees who are entitled to participate in the state-sponsored health
14 insurance program;
- 15 (b) The term "health benefit plan" for the purposes of this section means a health
16 benefit plan as defined in KRS 304.17A-005;
- 17 (c) The term "insurer" for the purposes of this section means an insurer as defined
18 in KRS 304.17A-005; and
- 19 (d) The term "managed care plan" for the purposes of this section means a
20 managed care plan as defined in KRS 304.17A-500.
- 21 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
22 recommendation of the secretary of the Personnel Cabinet, shall procure, in
23 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,
24 from one (1) or more insurers authorized to do business in this state, a group
25 health benefit plan that may include but not be limited to health maintenance
26 organization (HMO), preferred provider organization (PPO), point of service
27 (POS), and exclusive provider organization (EPO) benefit plans

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

21 (b) The policy or policies shall be approved by the commissioner of insurance
22 and may contain the provisions the commissioner of insurance approves,
23 whether or not otherwise permitted by the insurance laws.

24 (c) Any carrier bidding to offer health care coverage to employees shall agree to
25 provide coverage to all members of the state group, including active
26 employees and retirees and their eligible covered dependents and
27 beneficiaries, within the county or counties specified in its bid. Except as

1 provided in subsection (20) of this section, any carrier bidding to offer health
2 care coverage to employees shall also agree to rate all employees as a single
3 entity, except for those retirees whose former employers insure their active
4 employees outside the state-sponsored health insurance program and as
5 otherwise provided in KRS 61.702(2)(b)3.b. and 78.5536(2)(b)3.b.

6 (d) Any carrier bidding to offer health care coverage to employees shall agree to
7 provide enrollment, claims, and utilization data to the Commonwealth in a
8 format specified by the Personnel Cabinet with the understanding that the data
9 shall be owned by the Commonwealth; to provide data in an electronic form
10 and within a time frame specified by the Personnel Cabinet; and to be subject
11 to penalties for noncompliance with data reporting requirements as specified
12 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions
13 to protect the confidentiality of each individual employee; however,
14 confidentiality assertions shall not relieve a carrier from the requirement of
15 providing stipulated data to the Commonwealth.

16 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities
17 for timely analysis of data received from carriers and, to the extent possible,
18 provide in the request-for-proposal specifics relating to data requirements,
19 electronic reporting, and penalties for noncompliance. The Commonwealth
20 shall own the enrollment, claims, and utilization data provided by each carrier
21 and shall develop methods to protect the confidentiality of the individual. The
22 Personnel Cabinet shall include in the October annual report submitted
23 pursuant to the provisions of KRS 18A.226 to the Governor, the General
24 Assembly, and the Chief Justice of the Supreme Court, an analysis of the
25 financial stability of the program, which shall include but not be limited to
26 loss ratios, methods of risk adjustment, measurements of carrier quality of
27 service, prescription coverage and cost management, and statutorily required

1 mandates. If state self-insurance was available as a carrier option, the report
2 also shall provide a detailed financial analysis of the self-insurance fund
3 including but not limited to loss ratios, reserves, and reinsurance agreements.

4 (f) If any agency participating in the state-sponsored employee health insurance
5 program for its active employees terminates participation and there is a state
6 appropriation for the employer's contribution for active employees' health
7 insurance coverage, then neither the agency nor the employees shall receive
8 the state-funded contribution after termination from the state-sponsored
9 employee health insurance program.

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

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

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

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

21 (b) Wholly from funds contributed by any department, board, agency, public
22 postsecondary education institution, or branch of state, city, urban-county,
23 charter county, county, or consolidated local government; or

24 (c) Partly from each, except that any premium due for health care coverage or
25 dental coverage, if any, in excess of the premium amount contributed by any
26 department, board, agency, postsecondary education institution, or branch of
27 state, city, urban-county, charter county, county, or consolidated local

1 government for any other health care coverage shall be paid by the employee.

2 (4) If an employee moves his or her place of residence or employment out of the
3 service area of an insurer offering a managed health care plan, under which he or
4 she has elected coverage, into either the service area of another managed health care
5 plan or into an area of the Commonwealth not within a managed health care plan
6 service area, the employee shall be given an option, at the time of the move or
7 transfer, to change his or her coverage to another health benefit plan.

8 (5) No payment of premium by any department, board, agency, public postsecondary
9 educational institution, or branch of state, city, urban-county, charter county,
10 county, or consolidated local government shall constitute compensation to an
11 insured employee for the purposes of any statute fixing or limiting the
12 compensation of such an employee. Any premium or other expense incurred by any
13 department, board, agency, public postsecondary educational institution, or branch
14 of state, city, urban-county, charter county, county, or consolidated local
15 government shall be considered a proper cost of administration.

16 (6) The policy or policies may contain the provisions with respect to the class or classes
17 of employees covered, amounts of insurance or coverage for designated classes or
18 groups of employees, policy options, terms of eligibility, and continuation of
19 insurance or coverage after retirement.

20 (7) Group rates under this section shall be made available to the disabled child of an
21 employee regardless of the child's age if the entire premium for the disabled child's
22 coverage is paid by the state employee. A child shall be considered disabled if he or
23 she has been determined to be eligible for federal Social Security disability benefits.

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

26 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of
27 State Health Insurance Subscribers to advise the secretary or the secretary's

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

18 (10) Notwithstanding any other provision of law to the contrary, the policy or policies
19 provided to employees pursuant to this section shall not provide coverage for
20 obtaining or performing an abortion, nor shall any state funds be used for the
21 purpose of obtaining or performing an abortion on behalf of employees or their
22 dependents.

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

27 (12) Any employee who is eligible for and elects to participate in the state health

1 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any
2 one (1) of the state-sponsored retirement systems shall not be eligible to receive the
3 state health insurance contribution toward health care coverage as a result of any
4 other employment for which there is a public employer contribution. This does not
5 preclude a retiree and an active employee spouse from using both contributions to
6 the extent needed for purchase of one (1) state sponsored health insurance policy
7 for that plan year.

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

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

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

19 (14) The policy or policies provided to state employees or their dependents pursuant to
20 this section shall provide coverage for obtaining a hearing aid and acquiring hearing
21 aid-related services for insured individuals under eighteen (18) years of age, subject
22 to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months
23 pursuant to KRS 304.17A-132.

24 (15) Any policy provided to state employees or their dependents pursuant to this section
25 shall provide coverage for the diagnosis and treatment of autism spectrum disorders
26 consistent with KRS 304.17A-142.

27 (16) Any policy provided to state employees or their dependents pursuant to this section

1 shall provide coverage for obtaining amino acid-based elemental formula pursuant
2 to KRS 304.17A-258.

3 (17) If a state employee's residence and place of employment are in the same county,
4 and if the hospital located within that county does not offer surgical services,
5 intensive care services, obstetrical services, level II neonatal services, diagnostic
6 cardiac catheterization services, and magnetic resonance imaging services, the
7 employee may select a plan available in a contiguous county that does provide
8 those services, and the state contribution for the plan shall be the amount available
9 in the county where the plan selected is located.

10 (18) If a state employee's residence and place of employment are each located in
11 counties in which the hospitals do not offer surgical services, intensive care
12 services, obstetrical services, level II neonatal services, diagnostic cardiac
13 catheterization services, and magnetic resonance imaging services, the employee
14 may select a plan available in a county contiguous to the county of residence that
15 does provide those services, and the state contribution for the plan shall be the
16 amount available in the county where the plan selected is located.

17 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and
18 in the best interests of the state group to allow any carrier bidding to offer health
19 care coverage under this section to submit bids that may vary county by county or
20 by larger geographic areas.

21 (20) Notwithstanding any other provision of this section, the bid for proposals for health
22 insurance coverage for calendar year 2004 shall include a bid scenario that reflects
23 the statewide rating structure provided in calendar year 2003 and a bid scenario that
24 allows for a regional rating structure that allows carriers to submit bids that may
25 vary by region for a given product offering as described in this subsection:

26 (a) The regional rating bid scenario shall not include a request for bid on a
27 statewide option;

- 1 (b) The Personnel Cabinet shall divide the state into geographical regions which
2 shall be the same as the partnership regions designated by the Department for
3 Medicaid Services for purposes of the Kentucky Health Care Partnership
4 Program established pursuant to 907 KAR 1:705;
- 5 (c) The request for proposal shall require a carrier's bid to include every county
6 within the region or regions for which the bid is submitted and include but not
7 be restricted to a preferred provider organization (PPO) option;
- 8 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the
9 carrier all of the counties included in its bid within the region. If the Personnel
10 Cabinet deems the bids submitted in accordance with this subsection to be in
11 the best interests of state employees in a region, the cabinet may award the
12 contract for that region to no more than two (2) carriers; and
- 13 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including
14 other requirements or criteria in the request for proposal.
- 15 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or
16 after July 12, 2006, to public employees pursuant to this section which provides
17 coverage for services rendered by a physician or osteopath duly licensed under KRS
18 Chapter 311 that are within the scope of practice of an optometrist duly licensed
19 under the provisions of KRS Chapter 320 shall provide the same payment of
20 coverage to optometrists as allowed for those services rendered by physicians or
21 osteopaths.
- 22 (22) Any fully insured health benefit plan or self-insured plan issued or renewed to
23 public employees pursuant to this section shall comply with:
- 24 (a) KRS 304.12-237;
- 25 (b) KRS 304.17A-270 and 304.17A-525;
- 26 (c) KRS 304.17A-600 to 304.17A-633;
- 27 (d) KRS 205.593;

- 1 (e) KRS 304.17A-700 to 304.17A-730;
- 2 (f) KRS 304.14-135;
- 3 (g) KRS 304.17A-580 and 304.17A-641;
- 4 (h) KRS 304.99-123;
- 5 (i) KRS 304.17A-138;
- 6 (j) KRS 304.17A-148;
- 7 (k) KRS 304.17A-163 and 304.17A-1631;
- 8 (l) KRS 304.17A-265;
- 9 (m) KRS 304.17A-261;
- 10 (n) KRS 304.17A-262;~~[and]~~
- 11 (o) **Section 1 of this Act; and**
- 12 **(p)** Administrative regulations promulgated pursuant to statutes listed in this
- 13 subsection.

14 ➔Section 4. KRS 164.2871 (Effective January 1, 2025) is amended to read as
 15 follows:

- 16 (1) The governing board of each state postsecondary educational institution is
- 17 authorized to purchase liability insurance for the protection of the individual
- 18 members of the governing board, faculty, and staff of such institutions from liability
- 19 for acts and omissions committed in the course and scope of the individual's
- 20 employment or service. Each institution may purchase the type and amount of
- 21 liability coverage deemed to best serve the interest of such institution.
- 22 (2) All retirement annuity allowances accrued or accruing to any employee of a state
- 23 postsecondary educational institution through a retirement program sponsored by
- 24 the state postsecondary educational institution are hereby exempt from any state,
- 25 county, or municipal tax, and shall not be subject to execution, attachment,
- 26 garnishment, or any other process whatsoever, nor shall any assignment thereof be
- 27 enforceable in any court. Except retirement benefits accrued or accruing to any

1 employee of a state postsecondary educational institution through a retirement
2 program sponsored by the state postsecondary educational institution on or after
3 January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent
4 provided in KRS 141.010 and 141.0215.

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

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

12 (a) Conform to the requirements of Subtitle 32 of KRS Chapter 304; and

13 (b) Except as provided in subsection (5) of this section, be exempt from
14 conformity with Subtitle 17A of KRS Chapter 304.

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

17 (a) KRS 304.17A-163 and 304.17A-1631;

18 (b) KRS 304.17A-265;

19 (c) KRS 304.17A-261;~~and~~

20 (d) KRS 304.17A-262; **and**

21 **(e) Section 1 of this Act.**

22 ➔Section 5. Sections 1 to 4 of this Act apply to policies, plans, certificates, and
23 contracts issued or renewed on or after January 1, 2025.

24 ➔Section 6. This Act may be cited as Braxton's Law.

25 ➔Section 7. This Act takes effect January 1, 2025.