



**Kansas Legislative Research Department**

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## **LEGISLATIVE HISTORY FOR HEALTHCARE BENEFITS' LAW, 2010-2019**

This memorandum provides a summary for each bill related to health insurance contracts and coverage for healthcare benefits enacted during the previous ten legislative sessions (2010-2019). These summaries are adapted from the Kansas Legislative Research Department's *Highlights* and *Summary of Legislation* publications for those years. [Note: This memorandum does not consider health care compacts, changes to scope of practice for health care providers, hospital assessment rates, the Kansas Public Employees Retirement System, life insurance, Medicaid reimbursement rates, health maintenance organization privilege fees, or workers compensation. Information on additional topics can be provided upon request.]

### **Terms and Abbreviations**

The following terms and abbreviations are used throughout this memorandum:

- Association health plan (AHP);
- Autism spectrum disorder (ASD);
- Consolidated Omnibus Budget Reconciliation Act (COBRA);
- Commissioner of Insurance (Commissioner);
- Kansas Department of Health and Environment (KDHE);
- Kansas State Employees Health Care Commission (HCC);
- Health Care Stabilization Fund (HCSF);
- Multiple employer welfare arrangement (MEWA);
- Pharmacy benefit manager (PBM); and
- State Employee Health Plan (SEHP).

## SUMMARY TABLE OF LEGISLATION, 2010-2019

The following summary table provides the legislative year, bill number, specific subject, general subject, and page number for all legislation related to health insurance contracts and coverage for healthcare benefits enacted during the previous ten legislative sessions described in this memorandum.

<b>Legislative Year</b>	<b>Bill Number</b>	<b>Specific Subject</b>	<b>General Subject</b>	<b>Page Number</b>
2010	SB 389	Fees for Services, Prohibition	Contractual Requirements	4
2010	SB 489	Dispensing Contact Lenses Using Delivery Services	Other	4
2010	SB 508	Sellers of Health Care Discount Cards	Other	4
2010	Senate Sub. for HB 2160	Coverage Requirements —ASD, Orally-administered Anticancer Medications	Mandate	5
2010	HB 2501	Kansas Uninsurable Health Insurance Plan Act	State High Risk Pool	6
2011	SB 179	Amendments to the Kansas Life and Health Insurance Guaranty Association Act	Health Benefit Plan Design	6
2011	HB 2075	External Review; Kansas Uninsurable Health Insurance Plan; Abortion Rider	State High Risk Pool; Health Benefit Plan Design	7
2011	HB 2182	Pharmacy Audit Integrity Act; Health Care Freedom Act; Kansas Health Information Technology and Exchange Act	Pharmacy Benefits; Health Information	7
2012	SB 250	Continuation of COBRA for Firefighters	Mandate	8
2012	Senate Sub. for Senate Sub. for HB 2249	Amendments to Kansas Health Information and Technology Exchange Act	Health Information	8
2013	SB 51	MEWA Exemption	Health Benefit Plan Design	9
2013	HB 2107	Electronic Notice and Document Act; State High Risk Pool; Mandate Life Plans	Health Information; State High Risk Pool; Health Benefit Plan Design	9
2013	Sub. for HB 2183	Amendments to the Kansas Health Information Technology Act	Health Information	9

<b>Legislative Year</b>	<b>Bill Number</b>	<b>Specific Subject</b>	<b>General Subject</b>	<b>Page Number</b>
2013	HB 2339	Health Insurance Products; Continuation of Health Coverage	Health Benefit Plan Design; Mandate	9
2014	SB 285	Vision Care Services Act	Contractual Requirements	10
2014	SB 309	MEWA Exemption	Health Benefit Plan Design	10
2014	HB 2516	Health Care Professional Liability Insurance	Professional Liability Insurance	11
2014	HB 2537	COBRA for Certain Personnel	Mandate	11
2014	HB 2552	Prompt Payment of Claims by Managed Care Organizations	Medicaid	11
2014	HB 2668	Predetermination of Health Care Benefits	Health Information; Contractual Requirements	12
2014	HB 2774	Insurance Coverage for ASD	Mandate	12
2015	SB 206	Amendments to the Vision Care Services Act	Other	12
2015	HB 2064	Professional Liability Insurance	Professional Liability Insurance	13
2015	Senate Sub. for HB 2225	Medical Retainer Agreement	Contractual Requirements	13
2015	HB 2352	ASD Coverage; Amendments to the Kansas Uninsurable Health Insurance Plan Act	Mandate; State High Risk Pool	13
2016	Sub. for SB 103	PBMs and Maximum Allowable Cost Pricing	Pharmacy Benefits	13
2016	SB 449	Step Therapy in Medicaid	Medicaid	13
2016	HB 2454	Exclusive Provider Organization Insurance Product	Health Benefit Plan Design	14
2017	SB 110	Supplemental Health Insurance Provided by Kansas Board of Regents	Health Benefit Plan Design	14
2017	Senate Sub. for HB 2002	On-site Health Clinic for State Employees	Other	14
2017	Senate Sub. for HB 2027	Anatomic Pathology Billing	Contractual Requirements	14
2017	HB 2118	HCSF and Liability	Professional Liability Insurance	15
2017	HB 2219	Diabetes Information Reporting	Health Information	15

<b>Legislative Year</b>	<b>Bill Number</b>	<b>Specific Subject</b>	<b>General Subject</b>	<b>Page Number</b>
2018	SB 348	Electronic Delivery of Health Documents; Elemental Formula Coverage	Mandate; Health Information	16
2018	SB 351	Kansas Pharmacy Patients Fair Practices Act	Pharmacy Benefits	16
2018	Senate Sub. for HB 2028	Kansas Telemedicine Act	Health Benefit Plan Design	16
2019	HB 2119	Authorization of Business Entities to Hire Physicians and Chiropractors	Contractual Requirements	17
2019	HB 2209	AHPs; Certain Healthcare Benefits Coverage	Health Benefit Plan Design	17

## **LEGISLATIVE SUMMARIES, 2010-2019 (BY YEAR)**

### **2010**

#### **SB 389 (Fees for Services, Prohibition)**

SB 389 prohibits health insurers from setting fees for services provided by dentists that are not covered by a contract, issued or renewed after July 1, 2010, between the insurer and the dentist. A covered service includes services under a health benefit plan subject to any deductible, coinsurance, waiting period, frequency limitation, or other contractual limitation, such as an annual or lifetime benefit maximum.

#### **SB 489 (Dispensing Contact Lenses Using Delivery Services)**

SB 489 amends law concerning the dispensing of contact lenses to Kansas residents by a person or entity not licensed to practice optometry, medicine, or surgery in the state. The bill broadens the manner in which contact lenses are dispensed, beyond delivery through the mail, to also include mailing or delivery using a commercial courier or overnight or other delivery services.

#### **SB 508 (Sellers of Health Care Discount Cards)**

SB 508 amends law by creating distinct requirements for suppliers who sell health care discount cards and suppliers who market, promote, advertise, or otherwise distribute the discount cards. The bill amends the filing requirements for sellers of health care discount cards by requiring them to file an annual notice with the Secretary of State of the intention to sell the discount card, to be signed under penalty of perjury; submit the surety bond currently required by statute with the annual notice to the Secretary of State; obtain approval of the surety bond by the Attorney General prior to filing the annual notice with the Secretary of State; and file a copy of the bond and proof of annual renewal with the Secretary of State with the annual notice.

## **Senate Sub. for HB 2160 (Coverage Requirements—ASD, Orally-administered Anticancer Medications)**

Senate Sub. for HB 2160 specifies certain requirements for the coverage of services for the diagnosis and treatment of ASD under the SEHP and for the coverage for orally-administered anticancer medications, on a basis no less favorable than that for intravenous or injected cancer medications that are covered as medical benefits under the SEHP, with later application to all individual or group health insurance policies.

**Coverage requirements—ASD.** The bill requires the HCC to provide for the coverage of services for the diagnosis and treatment of ASD in any covered individual less than 19 years old. The bill limits the coverage available under the SEHP to the following terms and limitations:

- Coverage must be provided in a manner determined in consultation with the autism services provider and the patient. The services provided by the autism services provider must include applied behavioral analysis when required by a licensed physician, licensed psychologist, or licensed specialist clinical social worker, but otherwise are required to be limited to those services prescribed or ordered by the licensed physician, licensed psychologist or licensed specialist clinical social worker. The services provided are to be those services which are or have been recognized by peer-reviewed literature as providing medical benefit to the patient;
- Coverage may be subject to appropriate annual deductibles and coinsurance provisions as are consistent with those established for other physical illness benefits under the SEHP;
- Coverage for benefits for any covered person diagnosed with one or more ASDs and whose age is between birth and less than age seven cannot exceed \$36,000 per year;
- Coverage for benefits for any covered person diagnosed with one or more ASDs and whose age is at least 7 and less than 19 cannot exceed \$27,000 per year;
  - Coverage for those younger than 19 is subject to the same co-pays, deductibles, and dollar limits as benefits for physical illness, and other utilization or benefit limits as the HCC may determine;
- Reimbursement would be allowed only for services provided by a provider licensed, trained, and qualified to provide such services or by an autism specialist or an intensive individual service provider, as those terms are defined for the Kansas Autism Waiver as the waiver exists on July 1, 2010; and
- Any insurer or other entity that administers claims for services provided for the treatment of ASD must review utilization of such services and deny any claim for services based upon medical necessity or a determination that a covered individual has reached the maximum medical improvement for his or her ASD.

**Definitions.** The bill establishes three definitions for the coverage terms and limitations associated with ASD, including “applied behavior analysis,” “autism spectrum disorder,” and “diagnosis of autism spectrum disorder.”

**Legislative review.** The HCC must submit a report to the Legislature by March 1, 2012, pertaining to the mandated ASD benefit coverage provided during the 2011 Plan Year. The Legislature is permitted to consider (in the next session following the receipt of the report) whether to require the coverage for ASD to be included in any individual or group health insurance policy, medical service plan, HMO, or other contract that provides for accident and health services and that is delivered, issued for delivery, amended, or renewed on or after July 1, 2013.

**Amendments to SEHP.** The bill requires the HCC program to provide the benefits and services for ASD specified in the bill.

**Coverage requirements—orally administered anticancer medications.** The bill also requires all individual or group health insurance policies or contracts (including the municipal group-funded pool and the SEHP) that provide coverage for prescription drugs, on and after July 1, 2011, to provide coverage for prescribed, orally administered anticancer medications on a basis no less favorable than intravenously administered or injected cancer medications that are covered as medical benefits. Insurance policies, contracts, or other agreements will be permitted to apply the same deductibles, coinsurance, and other limitations as apply to other covered services.

Beginning July 1, 2010, the provisions for coverage of orally administered anticancer medications apply to the SEHP. The HCC is required to submit a report to the President of the Senate and the Speaker of the House of Representatives by March 1, 2011, that indicates the impact the provisions for orally-administered anticancer medications have on the SEHP. The report also must include a recommendation on whether such coverage should continue.

### **HB 2501 (Kansas Uninsurable Health Insurance Plan Act)**

HB 2501, among other things, amends the Kansas Uninsurable Health Insurance Plan Act (the act governing administration of the state high risk pool) to add coverage of an individual under the State Children’s Health Insurance Program, authorized by Title XXI of the Social Security Act, to the list of recognized creditable health insurance coverages.

## **2011**

### **SB 179 (Amendments to the Kansas Life and Health Insurance Guaranty Association Act)**

SB 179 amends certain coverage, definitions, liability, and assessment provisions in the Kansas Life and Health Insurance Guaranty Association Act. This act enables the Guaranty Association to provide certain protections to Kansas residents who are holders of life and health insurance policies and individual annuities with an insolvent insurer. The bill also increases limits for certain health insurance benefits. The state limit will be \$100,000 for coverages not defined as disability insurance or basic hospital, medical, and surgical insurance or major medical insurance or long-term care insurance; \$300,000 for disability insurance; \$300,000 for long-term care insurance; and \$500,000 for basic hospital, medical, and surgical insurance or major medical insurance.

## **HB 2075 (External Review; Kansas Uninsurable Health Insurance Plan; Abortion Rider)**

HB 2075, among other things, amends certain provisions associated with the external review of an adverse decision (a denial of coverage for a proposed or delivered health care service), provides coverage under the state high risk pool for children in certain instances and increases the maximum lifetime benefit for the pool, and provides for the exclusion of insurance coverage for and requires an optional rider of coverage for certain abortions.

**External and internal review, health insurance.** The bill amends certain external review of an adverse decision (denial of coverage for a health care service) provisions by increasing the time, from 90 days to 120 days, an insured person has to request an external review. The bill reduces that time frame to 72 hours for an expedited external review or as expeditiously as the insured's medical condition or circumstances require. The bill provides that when an insurer or plan has failed to adhere to all appeal procedure requirements, the claimant (insured) is deemed to have exhausted the internal claims and appeal process.

**External review organizations.** The bill also provides that an external review organization's fees for the performance of external reviews may be paid by the Commissioner, the insurer, or the health plan, and further states in no event would the insured be responsible for any portion of the fees. The bill also amends the law governing external review organizations to clarify the frequency allowed for an external review; deletes language allowing an insured the option of designating which external review process will be utilized (state or federal); and requires, with exception for decisions of these organizations reviewed directly by the district court, the decision is binding.

**Amendments to Kansas Uninsurable Health Insurance Plan Act.** The bill amends the Kansas Uninsurable Health Insurance Plan Act to allow the Kansas Health Insurance Association (the pool's administrator) to accept children under the age of 19 who are otherwise eligible for the pool, if no coverage is available for purchase in the county in which the child lives, and increases the statutory lifetime limit from \$2.0 million to \$3.0 million.

**Exclusion of coverage for certain abortions; optional rider for coverage.** The bill requires all individual or group health insurance policies or contracts (including the municipal group-funded pool and the SEHP) issued or renewed on and after July 1, 2011, to exclude coverage for abortions unless the abortion will preserve the life of the mother. Coverage may be obtained through an optional rider. Health insurance exchanges, established by either the state or the federal government, are prohibited from offering health insurance that provides coverage for elective abortions. An exchange will be prohibited from offering coverage for "elective" abortions through the purchase of an optional rider.

## **HB 2182 (Pharmacy Audit Integrity Act; Health Care Freedom Act; Kansas Health Information Technology and Exchange Act)**

HB 2182, among other things, creates the Pharmacy Audit Integrity Act, the Health Care Freedom Act, and the Kansas Health Information Technology and Exchange Act.

**Pharmacy Audit Integrity Act.** The bill creates the Pharmacy Audit Integrity Act, which defines a PBM under the Act as "a person, business or other entity that performs pharmacy benefits management and includes a person or other entity acting for a PBM in a contractual or employment relationship in the performance of pharmacy benefits management for a managed

care company, not-for-profit hospital or medical service organization, insurance company, third-party payor, or health program administered by the State Board of Pharmacy.” The bill outlines the procedures for conducting an audit and provides for an appeal process.

**Health Care Freedom Act.** The bill enacts the Health Care Freedom Act, which codifies the individual right of Kansas residents to choose to purchase or refuse to purchase health insurance. The bill states the government is prohibited from interfering with a resident’s right to purchase or refuse to purchase the insurance.

**Kansas Health Information Technology and Exchange Act.** The bill creates the Kansas Health Information Technology and Exchange Act. The stated purpose of this Act is to harmonize state law with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy rules with respect to individual access to protected health information, safeguarding protected health information, and the use and disclosure of protected health information to facilitate the development and use of health information technology and health information exchange.

## 2012

### **SB 250 (Continuation of COBRA for Firefighters)**

SB 250 requires municipalities to pay premiums for continuation of coverage under the federal COBRA for the surviving spouse and dependent children of a firefighter who dies in the line of duty. The payment of premiums for continuation coverage will be paid for 18 months and will be required only if the deceased firefighter was enrolled in a health benefit plan for which the municipality was paying premiums. A dependent child of a deceased firefighter will no longer be considered dependent upon reaching the age of 18, for the purposes of coverage, unless the child is a full-time student in an accredited high school or is a full-time student in a postsecondary educational institution.

### **Senate Sub. for Senate Sub. for HB 2249 (Amendments to Kansas Health Information and Technology Exchange Act)**

Senate Sub. for Senate Sub. for HB 2249 amends a provision of the Kansas Health Information Technology and Exchange Act. Under continuing law, the Act supersedes any state law that is contrary to, inconsistent with, or more restrictive than the provisions of the HIPAA. Two of the existing exceptions to this provision are peer reviews and risk management statutes. The bill deletes the third exception: any statutory health care provider-patient privilege. The bill includes a provision stating the Act will not limit or restrict the state agency’s authority to require the disclosure of health information pursuant to law.

**SB 51 (MEWA Exemption)**

SB 51 adds a trade organization of banks to the list of associations providing health insurance coverage exempted from the jurisdiction of the Commissioner. Enactment of the bill will allow this designated banking organization the ability to self-insure, offering health coverage through a self-funded group plan.

**HB 2107 (Electronic Notice and Document Act; State High Risk Pool; Mandate Lite Plans)**

HB 2107, among other things, establishes the Electronic Notice and Document Act, increases maximum lifetime benefits in the state high risk pool, and enacts the Mandate Lite Health Benefit Plan Act.

**Electronic Notice and Document Act.** The bill establishes the Electronic Notice and Document Act. In order to send electronic notices and documents to another party, an insurer must obtain the consent of the other party.

**State high risk pool.** The bill increases the maximum lifetime benefit per covered individual in the state high risk pool from \$3.0 million to \$4.0 million.

**Mandate Lite Health Benefit Plan Act.** The bill also enacts the Act to exclude agent commissions from the calculation of administrative costs associated with medical loss ratio, and defines specially designed policies and excludes such policies from the definition of group sickness and accident insurance. “Mandate lite health benefit plan” is an individual or group sickness and accident insurance plan that does not contain one or more of the Kansas-mandated benefits other than coverages for optometrist, dentist, or podiatrist services and for reconstructive breast surgery. The plan may be issued on either a group or individual basis. The bill specifies a plan could offer drug coverages.

**Sub. for HB 2183 (Amendments to the Kansas Health Information Technology Act)**

Sub. for HB 2183, among other things, amends provisions of and renames the Kansas Health Information Technology and Exchange Act as the Kansas Health Information Technology Act, updates the stated purpose of the Act, transfers the oversight of and the authorization to create and establish standards for the approval and operation of statewide and regional health information organizations from the Kansas Health Information Exchange, Inc. to the KDHE, and establishes the Advisory Council on Health Information Technology. The bill also generally replaces references to “health information exchange” with “the sharing of health information electronically.” The bill also makes several technical amendments to the Act.

**HB 2339 (Health Insurance Products; Continuation of Health Coverage)**

HB 2339, among other things, permits the combination sale of life insurance coverage with certain health insurance products, updates the law applying to continuation coverage for firefighters’ surviving spouses and dependent children, and enacts law requiring state agencies

and municipalities to pay premiums for continuation of coverage under COBRA for the surviving spouse and eligible dependent children of a law enforcement officer who dies in the line of duty.

**Combination sale of life insurance coverage with certain health riders.** The bill amends a provision in the Insurance Code governing life insurance policies to permit the combination sale of life insurance coverage with certain health insurance products. Specified disease or critical illness riders, or both, would be allowed to be incorporated into life insurance policies, provided the policies show the premiums charged for the life insurance and health insurance riders. In addition, the insured could discontinue the riders and continue the life insurance policy, at the option of the insured.

**COBRA for law enforcement officers; firefighters.** The bill requires state agencies and municipalities to pay premiums for continuation of health coverage under COBRA for the surviving spouse and eligible dependent children of a law enforcement officer who dies in the line of duty. Premiums will be paid for 18 months if the deceased officer was enrolled in a health benefit plan for which the state agency or municipality was paying premiums. Continuation coverage provisions for firefighters' surviving spouses and dependent children are updated to include eligible dependent children under the age of 26.

## 2014

### **SB 285 (Vision Care Services Act)**

SB 285 creates the Vision Care Services Act, an act to prohibit certain limitations in contracts between insurers and vision care providers. The bill applies to contracts between an insurer, health insurer, or another entity writing vision care insurance or a vision care discount plan and a vision care provider. Contracts issued or renewed on or after the effective date of the Act could not contain any provision that would require a vision care provider to:

- Provide services or materials to an insured under vision care insurance or a health benefit plan or to a subscriber of a vision care discount plan at a fee limited or set by the plan unless the services or materials are reimbursed as covered services under the contract; or
- Participate in a vision care insurance or vision care discount plan as a condition to participate in any other health benefit plan or vision care plan, regardless of whether such plan is a plan of insurance or a vision care discount program that is not an insurance plan.

The bill also outlines prohibitions on the vision care provider and plan.

### **SB 309 (MEWA Exemption)**

SB 309 adds any other qualified trade, merchant, retail or professional association or business league, and farmers' cooperatives to the list of associations providing health insurance coverage exempted from the jurisdiction of the Commissioner. A "qualified trade, merchant, retail or professional association or business league" is any *bona fide* trade, merchant, retail, or professional association or business league that has been in existence for at least five calendar

years and is composed of five or more employers. The bill further specifies the exemption for farmers' cooperatives applies to an entity that is organized as a farmers' cooperative under the Kansas Cooperative Marketing Act and is an association of farmers' cooperatives and other like associations operated on a cooperative basis and their affiliated companies that provide benefits.

Associations and other qualifying entities will be required to comply with related written notification requirements to specify, among other things, the coverage is not provided by an insurance company and the plan is not under the jurisdiction of the Commissioner.

### **HB 2516 (Health Care Professional Liability Insurance)**

HB 2516, among other things, adds physician assistants, nursing facilities, assisted living facilities, residential health care facilities, and certain advanced practice registered nurses (certified in the role of nurse midwife), as of January 1, 2015, to the definition of a health care provider for whom professional liability insurance and HCSF coverage is a condition of licensure to practice in the state. The bill also continues HCSF coverage for inactive health care providers for prior acts (commonly referred to as "tail coverage") immediately upon cancellation or inactivation of a Kansas license and professional liability insurance, removing a five-year compliance period requirement prior to eligibility.

### **HB 2537 (COBRA for Certain Personnel)**

HB 2537, among other things, requires municipalities to pay for continuation of health coverage under COBRA for the surviving spouse and eligible dependent children of emergency personnel or law enforcement officers employed by the Kansas Department of Corrections who die in the line of duty.

### **HB 2552 (Prompt Payment of Claims by Managed Care Organizations)**

HB 2552, among other things, enacts new law relating to a requirement on contracts between the Kansas Medical Assistance Program (KMAP) and any managed care organization (MCO). The bill requires any contract between the KMAP and any MCO to require the allowed amount on all clean claims be fully paid or denied within 30 days after receipt and the allowed amount on all other claims be fully paid or denied within 90 days after receipt. The bill also requires the contract to include a late payment provision, which requires the MCOs to pay the provider at the rate of 12.0 percent per annum for each month the MCO does not fully pay the allowed amount or deny the claims within the assigned time limits.

The bill also requires the KMAP to require MCOs' contracts with providers to include a provider's rights provision. A provider with a claim that remains unpaid by an MCO after the applicable time limits may bring a direct cause of action against the MCO for the amount of the unpaid claim and interest.

The terms "claim" and "clean" are assigned the same meanings as provided in 42 CFR § 447.45(b). The bill requires the Secretary of Health and Environment to adopt rules and regulations to carry out the claim payment requirements and penalties.

## **HB 2668 (Predetermination of Health Care Benefits)**

HB 2668 creates the Predetermination of Health Care Benefits Act and establishes a request and information transaction process termed as the “health care predetermination request and response.” Health plans that receive an electronic health predetermination request will be required to provide to the requesting health care provider the amounts of expected benefits coverage on the procedures specified. The amount of expected benefits must include the amount the patient would be expected to pay, the amount the health care provider and institution will be paid, and whether any payments will be reduced from the agreed fee schedule amounts. The health plan’s response must be accurate at the time of the response but would be deemed to be an estimate only and would not be binding upon the plan with regard to the final amount of benefits actually provided. The effective date of the bill is July 1, 2017.

## **HB 2774 (Insurance Coverage for ASD)**

HB 2744 requires health insurance coverage for the diagnosis and treatment of ASD in children under age 12. Large health insurance plans must provide ASD coverage effective January 1, 2015, and the requirement extends to grandfathered individual or small group plans effective July 1, 2016. Applied behavioral analysis (ABA) coverage is limited to 1,300 hours per calendar year for the first 4 years beginning with the later of the date of diagnosis or January 1, 2015, for children diagnosed with ASD between birth and age 5. The limits are then reduced to 520 hours per calendar year for children younger than 12. Except for ABA coverage, ASD services are not subject to the age and hour limitations imposed by the bill. No insurer is allowed to terminate coverage, or refuse to deliver or renew coverage, to an individual solely because the individual is diagnosed with or has received treatment for ASD. Behavioral Sciences Regulatory Board licensure of ABA service providers begins July 1, 2016.

## **2015**

## **SB 206 (Amendments to the Vision Care Services Act)**

SB 206 amends provisions of the Vision Care Services Act. The bill authorizes the Commissioner to administer the provisions of the Act; allows the Commissioner to adopt rules and regulations necessary to carry out the provisions of the Act as applicable to any insurer, health insurer, health benefit plan, or vision care insurance provider; requires the Attorney General to administer the provisions of the Act as it applies to discount cards and vision care discount plans; allows the Attorney General to adopt rules and regulations necessary to carry out the provisions of the Act; and amends the definition of a “vision care discount plan” to mean any entity specifically authorized by the vision care providers to provide discounts to patients. The vision care discount plan is not insurance nor a discount card, as defined in statute.

### **HB 2064 (Professional Liability Insurance)**

HB 2064, among other things, modifies uniform accident and sickness insurance policy provisions to create exclusions relating to individual insurance policies and modifies the Health Care Provider Insurance Availability Act to clarify exemptions from the term “health care provider,” adds a definition for “health care facility,” and allows certain health care systems (includes nursing facilities and adult care homes) to aggregate insurance premiums for the purpose of obtaining a certificate of self-insurance.

### **Senate Sub. for HB 2225 (Medical Retainer Agreement)**

Senate Sub. for HB 2225, among other things, specifies a medical retainer agreement is not insurance and is not subject to specific insurance provisions.

### **HB 2352 (ASD Coverage; Amendments to the Kansas Uninsurable Health Insurance Plan Act)**

HB 2352, among other things, makes changes to the definitions of “large employer” and “small employer” in the law requiring insurance coverage for ASD. The bill amends “large employer” to increase the number of employees from at least 51 to at least 101 employees. The limit on the number of employees of a “small employer” changes from a limit of 50 to a limit of 100 employees. The bill also amends the Kansas Uninsurable Health Insurance Plan Act to decrease the frequency of the required examination period of the financial status of the Plan, from at least once every three years to at least once every five years.

## **2016**

### **Sub. for SB 103 (PBMs and MAC Pricing)**

Sub. for SB 103 adds requirements on contracts between pharmacies and PBMs by establishing definitions and criteria for the placement of certain drugs on a maximum allowable cost (MAC) list; MAC is the maximum amount a PBM will reimburse a pharmacy for the cost of a generic drug. Among the criteria, a PBM must provide the sources utilized to determine the MAC price, review and update its list every seven business days to ensure dispensing fees are not included in the calculation of MAC, and establish an appeals process for network pharmacies.

### **SB 449 (Step Therapy in Medicaid)**

SB 449, among other things, removes the prohibition from requiring a Medicaid recipient to use or fail with a drug usage or drug therapy prior to allowing the recipient to receive the product or therapy recommended by the recipient’s physician (a practice commonly referred to as “step therapy”); provides for patient protections for individuals on a drug therapy commenced prior to the effective date of the bill, including a 30-day trial limit on drug usage or drug therapy used for the treatment of multiple sclerosis; provides for a 72-hour expedited appeal process on a physician request for an override; requires KDHE to study, review, and report to the

Legislature on the use of step therapy in Medicaid and the savings under the program; provides for a step therapy exemption; and requires any policy or rule and regulation related to the implementation of the program be reviewed and approved by the Medicaid Drug Utilization Review Board prior to implementation by KDHE, with the additional requirement any policy or rule and regulation regarding any medication used to treat mental illness also is reviewed and approved by the Mental Health Medication Advisory Committee.

### **HB 2454 (EPO Insurance Product)**

HB 2454 permits a health carrier licensed to offer accident and sickness insurance in Kansas to offer an insurance product that requires some or all of the health care services to be rendered by participating providers, but requires emergency services to be covered even if not delivered by a participating provider (commonly referred to as an exclusive provider organization [EPO] product). The bill also allows an EPO policy to include a gatekeeper requirement and outlines cost-sharing requirements.

## **2017**

### **SB 110 (Supplemental Health Insurance Provided by Kansas Board of Regents)**

SB 110 authorizes the Kansas Board of Regents to independently provide, through self-insurance or the purchase of insurance contracts, health care benefits for employees of a state educational institution as defined in KSA 76-711 (the University of Kansas, Kansas State University of Agriculture and Applied Science, Wichita State University, Emporia State University, Pittsburg State University, and Fort Hays State University) when the SEHP is insufficient to satisfy the requirements of the federal Mutual Educational and Cultural Exchange Act of 1961. These health care benefits are limited to those in the SEHP not meeting federal requirements.

### **Senate Sub. for HB 2002 (On-site Health Clinic for State Employees)**

Senate Sub. for HB 2002, the state budget and omnibus appropriations bill, adds \$2.7 million, all from special revenue funds, to establish an on-site health clinic for state employees provided that no more than \$500,000 shall be expended to construct and renovate the facility for fiscal year 2018.

### **Senate Sub. for HB 2027 (Anatomic Pathology Billing)**

Senate Sub. for HB 2027, among other things, allows a physician providing services to a patient pursuant to a medical retainer agreement to bill for anatomic pathology services when the patient's bill meets certain specifications. The patient's bill for such services must identify the laboratory or physician that performed the services, disclose in writing to the patient the actual amount charged by the physician or laboratory that performed the service, and be consistent with rules and regulations adopted by the State Board of Healing Arts for appropriate billing standards applicable to such services when furnished under the agreement.

## **HB 2118 (HCSF and Liability)**

HB 2118, among other things, amends and creates law supplemental to the Health Care Provider Insurance Availability Act and amends the Nurse Practice Act to address requirements and exclusions from coverage pertaining to the liability of the HCSF and charitable health care providers.

The bill states the HCSF would not be liable for any claim against a health care provider if the health care provider's liability for the incident giving rise to the claim is the result of professional services rendered as a charitable health care provider, or covered under the Federal Tort Claims Act (FTCA). This new law is made part of and supplemental to the Health Care Provider Insurance Availability Act. The bill permits insurance carriers providing professional liability insurance coverage to exclude liabilities incurred by such providers as a result of professional services rendered as a charitable health care provider or in the event the provider is covered under the FTCA.

The bill establishes an annual maximum amount of \$3.0 million for the aggregate fund liability for judgments and settlements arising from claims made in a fiscal year against a resident or nonresident inactive health care provider. The bill also permits an advanced practice registered nurse who has been granted such license to be exempt from the requirements to carry professional liability insurance and participate in HCSF coverage under the Health Care Provider Insurance Availability Act.

## **HB 2219 (Diabetes Information Reporting)**

HB 2219 requires the Secretary of Health and Environment (Secretary) to identify goals and benchmarks and develop plans to reduce the incidence of diabetes in Kansas, improve diabetes care, and control complications associated with diabetes.

The bill requires the Secretary to submit a report to the Legislative Coordinating Council, by January 10 of each even-numbered year, on the following information:

- The financial impact and reach diabetes is having on KDHE, the state, and localities. This information will include the number of individuals with diabetes impacted or covered by programs administered by the Secretary, the number of individuals with diabetes and family members impacted by the prevention and diabetes control programs implemented by KDHE, and the financial toll or impact diabetes and its complications place on KDHE and how that compares to the impact of other chronic diseases and conditions;
- An assessment of the benefits of implemented programs and activities aimed at controlling and preventing diabetes, including documenting the amount and source of any funding directed to KDHE from the Kansas Legislature;
- A description of coordination of diabetes management, treatment, or prevention activities and programs within KDHE;
- The development or revision of action plans to address reducing the impact of diabetes, pre-diabetes, and diabetes complications and the identification of expected benchmarks for diabetes control and prevention; and

- The development of a budget identifying the needs, costs, and resources required to implement the action plans.

Unless there are unobligated funds available within KDHE to use for the requirements of the bill, the requirements are limited to diabetes data existing within KDHE prior to the effective date of the bill.

## 2018

### **SB 348 (Electronic Delivery of Health Documents; Elemental Formula Coverage)**

SB 348 allows a health benefit plan to use electronic delivery as the standard method of delivery for explanation of benefits and policy to a party, including those required by federal law, when paper documents are readily available and notice has been provided explaining the party's option to receive paper documents *via* U.S. mail.

Beginning January 1, 2019, the bill requires the HCC to provide coverage for amino acid-based elemental formula for the diagnosis or treatment of food protein-induced enterocolitis syndrome, eosinophilic disorders, or short bowel syndrome. The HCC must submit a report to the Legislature by March 1, 2020, detailing the impact this mandated coverage had on the SEHP, data on utilization of and cost for such coverage, and a recommendation of whether such mandated coverage should continue for the SEHP or whether additional utilization and cost data are required. During the 2020 Session, the Legislature may consider whether to mandate coverage for amino acid-based elemental formula in other health insurance plans, policies, and contracts issued, amended, or renewed on or after July 1, 2021.

### **SB 351 (Kansas Pharmacy Patients Fair Practices Act)**

SB 351 creates the Kansas Pharmacy Patients Fair Practices Act, which specifies co-payments applied by a health carrier for a prescription drug may not exceed the total submitted charges by the network pharmacy; a pharmacy or pharmacist may provide information regarding the amount of a covered person's cost share for a prescription drug; and a PBM cannot prohibit a pharmacy or pharmacist from discussing any such information or selling a more affordable available alternative to a covered person. The bill applies to contracts between a PBM and a pharmacy, pharmacy services administration organization, or group purchasing organization entered or renewed on or after January 1, 2019.

### **Senate Sub. for HB 2028 (Kansas Telemedicine Act)**

Senate Sub. for HB 2028 establishes the Kansas Telemedicine Act. Among other things, the bill addresses patient privacy, standards of practice, and follow-up care guidance. The bill also provides for coverage of speech-language pathologist and audiologist services *via* telehealth under the Kansas Medical Assistance Program (KMAP), if KMAP covers such services when delivered in person. The Act applies to all insurance policies, subscriber contracts, or certificates of insurance issued for delivery within or outside of Kansas, or used within the state by an individual who resides or is employed in the state. Corporations organized under the Nonprofit Medical and Hospital Service Corporation Act are also subject to the Act.

Coverage for a healthcare service delivered *via* telemedicine is not mandated if such service is not already covered when delivered by a healthcare provider and subject to the terms and conditions of the covered individual's health benefits plan. Further, a covered individual cannot be required to use telemedicine or use it in lieu of in-person healthcare services or consultations from an in-network provider.

## 2019

### **HB 2119 (Authorization of Business Entities to Hire Physicians and Chiropractors)**

HB 2119, among other things, makes provision for business entities to hire physicians and chiropractors. Effective March 1, 2020, the bill allows a business entity issued a certificate of authorization by the Board of Healing Arts (BOHA) to employ or contract with one or more physicians and chiropractors licensed by BOHA, for the purpose of providing professional services for which such licensees hold a valid license.

Medical care facilities in compliance with KDHE licensure requirements and defined as a hospital, ambulatory surgical center, or recuperation center are exempt from the bill's provisions.

The bill addresses the liability of business entities and BOHA licensees, places certain restrictions on interactions between a business entity and its employed licensees, establishes the standards of professional conduct for business entities, requires BOHA to adopt rules and regulations, and requires the HCSF to conduct actuarial and operational studies to determine the impact on the Fund of requiring business entities to comply with the provisions of the Health Care Provider Insurance Availability Act and report the finding to the Legislature on or before January 1, 2020.

### **HB 2209 (AHPs; Certain Healthcare Benefits Coverage)**

HB 2209, among other things, expands AHPs and exempts the Kansas Farm Bureau (KFB) from the jurisdiction of the Commissioner.

**Expansion of AHPs.** The bill amends several health insurance provisions related to the regulation of AHPs and small employer plans and designates certain statutes as the Small Employer Health Insurance Availability Act. The bill, among other things, removes a membership limitation placed on AHPs to offer group accident and health insurance coverage.

**Non-insurance healthcare benefits coverage—KFB.** The bill exempts the KFB, or its affiliate that provides healthcare benefit coverage for the payment of expenses to or for the members of the organization and their dependents, from the jurisdiction of the Commissioner. The bill specifies the healthcare benefit coverage is not considered insurance, permits the risk under such coverage to be reinsured by a company authorized to conduct reinsurance in Kansas, and requires providers of this coverage to file a signed, certified actuarial statement of plan reserves annually with the Commissioner.

[*Note:* The 1991 Legislature exempted five MEWA association groups from the jurisdiction of the Commissioner. Those five associations exempted were a professional association of architects (American Institute of Architects—Kansas), a professional association of dentists (Kansas Dental Association), a trade association of banks (Community Bankers

Association of Kansas), a trade association of truckers (National Association of Independent Truckers), and an association of physicians practicing in the Kansas City metropolitan area that provides certain health benefits to the members of the association. The 2013 Legislature authorized exemption for an additional association, a trade association of banks (the Kansas Bankers Association). The 2014 Legislature exempted any other qualified trade, merchant, retail or professional association or business league, and farmers' cooperatives.]