HOUSE BILL No. 2243

By Representatives Hawkins, Crum, Dove, Goico, Osterman, Peck and Siegfried

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AN ACT concerning health insurance; pertaining to mandated health insurance coverages.

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

Section 1. (a) This section shall apply to all insurers transacting business in the state offering individual or group sickness and accident insurance. Such insurers also may offer a mandate lite health benefit plan. A group or individual carrier may also offer a mandate lite health benefit plan.

(b) As used in this section, "mandate lite health benefit plan" means an individual or group sickness and accident insurance plan that does not contain one or more of the Kansas-mandated benefits other than K.S.A. 40-2,100 and 40-2,166, and amendments thereto.

(c) The mandate lite health benefit plan shall contain the definitions of group or individual sickness and accident insurance with respect to major medical benefits and standard provisions or rights of coverage.

(d) The mandate lite health benefit plan may be issued on a group or individual basis.

(e) The insured shall be provided with a written notice that one or more of the state-mandated benefits are not included in the mandate lite health benefit plan.

(1) The mandate lite health benefit plan shall specify the health services that are included and shall specifically list the health services that will be limited or not covered from the list of state-mandated coverage other than K.S.A. 40-2,100 and 40-2,166, and amendments thereto.

(2) The insurer is required to retain a signed copy of this notice on file as a part of the original application as evidence that the insured has acknowledged such notice.

(3) Such signed copy may be in original form, electronic file form or in any other reproducible file form as may be consistent with the insurer's method of retaining application copies.

(f) The definition of preexisting conditions may not be more restrictive than the definition of preexisting conditions normally used for the corresponding regular individual or group insurance contracts.

(g) (1) A mandate lite health benefit plan shall not be required to include coverage for drugs.
(2) The mandate lite health benefit plan may offer:
   (A) Various optional combinations of coverage for generic, formulary and non-formulary drugs; and
   (B) the mandate lite health benefit plan may offer drug discount plans.
   (h) A mandate lite health benefit plan may charge additional premiums for each optional benefit offered. Optional benefits may include mandated benefits that are not included in the mandate lite health benefit plan.

Sec. 2. (a) The commissioner of insurance is hereby prohibited from issuing any order or adopting any rule and regulation which limits, restricts or otherwise requires that an insurer that sells accident and sickness insurance policies in either the individual insurance market or the group insurance market to sell, issue or renew only those policies of accident and sickness insurance which provide coverages which are identical to the accident and sickness coverages provided by accident and sickness policies sold through an insurance exchange authorized by or created under the provisions of the patient protection and affordable care act (public law 111-148), as amended by the federal health care and education reconciliation act of 2010.

(b) (1) Any insurer who sells accident and sickness insurance policies in the state of Kansas, may issue any policy of accident and sickness insurance in either the individual insurance market or the group insurance market which had been available within this state prior to the enactment of the patient protection and affordable care act (public law 111-148), as amended by the federal health care and education reconciliation act of 2010. Such policies may be sold outside of any insurance exchange authorized by or created under the provisions of the patient protection and affordable care act (public law 111-148), as amended by the federal health care and education reconciliation act of 2010.

(2) In addition, any insurer who sells accident and sickness insurance policies in the state of Kansas, may issue any policy of accident and sickness in either the individual insurance market or the group insurance market that are currently designed to meet the requirements of sections 1, 3 and 4, and amendments thereto, developed after the enactment of the patient protection and affordable care act (public law 111-148), as amended by the federal health care and education reconciliation act of 2010.

(c) Any insurer who sells accident and sickness insurance policies in the state of Kansas, may issue any policy of accident and sickness insurance in either the individual insurance market or the group insurance market which are designed to meet the requirements of sections 2 through 4, and amendments thereto. Such policies may be sold outside of any
insurance exchange authorized by or created under the provisions of the
patient protection and affordable care act (public law 111-148), as
amended by the federal health care and education reconciliation act of
2010.

(d) Any insurer who sells accident and sickness insurance policies in
the state of Kansas, may issue any policy of accident and sickness
insurance which allows a consumer to choose the benefits which such
consumer wishes to include or exclude from coverage under the policy of
accident and sickness insurance to be purchased. Such policies may be
sold outside of any insurance exchange authorized by or created under the
provisions of the patient protection and affordable care act (public law
111-148), as amended by the federal health care and education
reconciliation act of 2010.

(1) Prior to selling or offering for sale in this state any accident and
sickness insurance policy under this subsection, the insurer shall:
(A) File with and receive approval from the commissioner of
insurance the list of benefits that will be made available for purchase by
consumers.
(i) No provision shall prevent:
(a) An individual from choosing the benefits such individual wants to
include or exclude under such individual's policy of accident and sickness
insurance; or
(b) a group from choosing the benefits such group wants to include or
exclude under such group's policy of accident and sickness insurance.
(ii) Each insurer:
(a) Shall require a written acknowledgment from the purchaser of
either an individual policy of accident and sickness insurance or group
policy of accident and sickness insurance, the list of benefits selected to be
contained in such policy of accident and sickness insurance and the list of
benefits selected to be excluded from such policy of accident and sickness
insurance; and
(b) shall retain a copy of this acknowledgment on file as a part of the
original application as evidence that the insured has selected the benefits to
be included and benefits which have been declined;
(B) include at a minimum the standard and basic coverage required
under the laws of the state of Kansas statutes as in existence on the day
preceding the effective date of this act for a major medical plan which
does not include any mandated coverages.
(2) Any policy of accident and sickness insurance issued by an
insurer pursuant to this subsection may exclude any or all mandated
benefits included in of the standard and basic coverage contained in the
uniform policy provisions contained in article 22 of chapter 40 of the
Kansas Statutes Annotated, and amendments thereto.
(3) Each accident and sickness policy or health benefit plan issued outside of any insurance exchange authorized by or created under the provisions of the patient protection and affordable care act (public law 111-148), as amended by the federal health care and education reconciliation act of 2010, shall retain permanent grandfather status from any requirements of such insurance exchange.

(4) Each accident and sickness policy or health benefit plan issued outside of any insurance exchange authorized by or created under the provisions of the patient protection and affordable care act (public law 111-148), as amended by the federal health care and education reconciliation act of 2010, shall be renewable at the option of the policy holder.

(5) Each accident and sickness policy or health benefit plan issued outside of any insurance exchange authorized by or created under the provisions of the patient protection and affordable care act (public law 111-148), as amended by the federal health care and education reconciliation act of 2010, shall allow the policy holder the option of adding or deleting available benefits offered by the insurer at the anniversary of the health benefit plan.

(A) Addition of benefits offered by the insurer may be subject to the standard underwriting practices of the insurer and may be cause for rate adjustment for the health benefit plan changes.

(B) Deletion of benefits offered by the insurer may be completed without additional underwriting by the insurer and will result in rate reduction for the health benefit plan calculated by the actuarial value of the reduced benefit.

(C) Anniversary renewal rates shall be calculated to reflect adjustments for the additions or deletions of benefits selected for the renewal year.

Sec. 3. (a) Any portion of the health insurance premiums paid by consumers that are in fact passed through as commissions shall not be considered a part of administrative expenses and shall be excluded from all determinations of the medical loss ratio calculations when totaling the ratio of premiums paid by a consumer used for claims versus administrative expenses for a policy. Any portion of premiums identified as commissions must be paid to a nonemployee in order to be excluded. Any portion of the premiums retained by the insurance company or its employees must be considered as a part of the calculation of the medical loss ratio as administrative related income.

(b) For the purposes of this section, "commission" means commissions to agents, consultation fees, counseling fees, consultant fees, and similar advising or sales compensation to a nonemployee licensed agent.
Sec. 4. (a) Specially designed policies shall include policies designed
to provide sickness and accident insurance for specific coverage of
benefits or services that may be excluded as benefits or services cited
under section 1, and amendments thereto. Specially designed policies may
include the following stand-alone policies and coverages:

(1) Chiropractic plans;
(2) acupuncture coverage plans;
(3) holistic medical treatment plans;
(4) podiatrist plans;
(5) pharmacy plans;
(6) psychiatric plans;
(7) allergy plans; and
(8) such other stand-alone plans or combinations of plans of accepted
traditional and nontraditional medical practices as shall be allowable for
exclusion from group or individual plans under section 1, and amendments
thereto.

(b) No specially designed policy shall be deemed to be included
under the definition of group sickness and accident insurance, including
short-term, limited-duration health insurance, issued or renewed inside or
outside of this state and covering persons residing in this state.

(c) For the purposes of this section:

(1) "Specially designed policy" means an insurance policy that by
design may not meet all or part of the definitions of a group or individual
sickness and accident insurance policy and includes temporary sickness
and accident insurance on a short-term basis.

(2) "Short-term" means an insurance policy period of six months or
12 months, based upon policy design, which offers not more than one
renewal period with or without a requirement of medical re-underwriting
or medical requalification.

(A) Because a short-term policy addresses the special needs for
temporary coverage, a short-term policy is not subject to continuation
provisions of the health insurance portability and accountability act of
1996 (public law 104-191).

(B) Because a short-term policy addresses the special needs for
temporary coverage, a short-term policy shall be exempt from medical loss
calculations associated with individual sickness and accident
insurance issued within the state unless such calculation excludes any
monthly administration fee associated with the sale of such policy.

Sec. 5. Sections 1 through 5, and amendments thereto, shall be known
and cited as the free market health benefit plan act.

Sec. 6. This act shall take effect and be in force from and after its
publication in the statute book.