

1 AN ACT relating to epinephrine auto-injectors.

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) As used in this section, "epinephrine auto-injector" has the same meaning as in**  
6 **KRS 311.645.**

7 **(2) All health benefit plans issued or renewed on or after the effective date of this Act**  
8 **shall provide coverage for epinephrine auto-injectors for persons eighteen (18)**  
9 **years of age and under.**

10 **(3) Coverage required by this section shall not be subject to copayments,**  
11 **coinsurance, deductibles, or any other cost-sharing requirements.**

12 ➔Section 2. KRS 205.522 (Effective January 1, 2020) is amended to read as  
13 follows:

14 The Department for Medicaid Services and any managed care organization contracted to  
15 provide Medicaid benefits pursuant to this chapter shall comply with the provisions of  
16 KRS 304.17A-167, 304.17A-235, 304.17A-515, 304.17A-580, 304.17A-600, 304.17A-  
17 603, 304.17A-607, **Section 1 of this Act,** and 304.17A-740 to 304.17A-743, as  
18 applicable.

19 ➔Section 3. KRS 205.6485 is amended to read as follows:

20 (1) The Cabinet for Health and Family Services shall prepare a state child health plan  
21 meeting the requirements of Title XXI of the Federal Social Security Act, for  
22 submission to the Secretary of the United States Department of Health and Human  
23 Services within such time as will permit the state to receive the maximum amounts  
24 of federal matching funds available under Title XXI. The cabinet shall, by  
25 administrative regulation promulgated in accordance with KRS Chapter 13A,  
26 establish the following:

27 (a) The eligibility criteria for children covered by the Kentucky Children's Health

1 Insurance Program. However, no person eligible for services under Title XIX  
2 of the Social Security Act 42 U.S.C. 1396 to 1396v, as amended, shall be  
3 eligible for services under the Kentucky Children's Health Insurance Program  
4 except to the extent that Title XIX coverage is expanded by KRS 205.6481 to  
5 205.6495 and KRS 304.17A-340;

6 (b) The schedule of benefits to be covered by the Kentucky Children's Health  
7 Insurance Program, which shall include preventive services, vision services  
8 including glasses, and dental services including at least sealants, extractions,  
9 and fillings, and which shall be at least equivalent to one (1) of the following:

10 1. The standard Blue Cross/Blue Shield preferred provider option under the  
11 Federal Employees Health Benefit Plan established by U.S.C. sec.  
12 8903(1);

13 2. A mid-range health benefit coverage plan that is offered and generally  
14 available to state employees; or

15 3. Health insurance coverage offered by a health maintenance organization  
16 that has the largest insured commercial, non-Medicaid enrollment of  
17 covered lives in the state;

18 (c) The premium contribution per family of health insurance coverage available  
19 under the Kentucky Children's Health Insurance Program with provisions for  
20 the payment of premium contributions by families of children eligible for  
21 coverage by the program based upon a sliding scale relating to family income.  
22 Premium contributions shall be based on a six (6) month period not to exceed:

23 1. Ten dollars (\$10), to be paid by a family with income between one  
24 hundred percent (100%) to one hundred thirty-three percent (133%) of  
25 the federal poverty level;

26 2. Twenty dollars (\$20), to be paid by a family with income between one  
27 hundred thirty-four percent (134%) to one hundred forty-nine percent

- 1 (149%) of the federal poverty level; and
- 2 3. One hundred twenty dollars (\$120), to be paid by a family with income
- 3 between one hundred fifty percent (150%) to two hundred percent
- 4 (200%) of the federal poverty level, and which may be made on a partial
- 5 payment plan of twenty dollars (\$20) per month or sixty dollars (\$60)
- 6 per quarter;
- 7 (d) The level of copayments for services provided under the Kentucky Children's
- 8 Health Insurance Program that shall not exceed those allowed by federal law;
- 9 and
- 10 (e) The criteria for health services providers and insurers wishing to contract with
- 11 the Commonwealth to provide the children's health insurance coverage.
- 12 However, the cabinet shall provide, in any contracting process for the
- 13 preventive health insurance program, the opportunity for a public health
- 14 department to bid on preventive health services to eligible children within the
- 15 public health department's service area. A public health department shall not
- 16 be disqualified from bidding because the department does not currently offer
- 17 all the services required by paragraph (b) of this subsection. The criteria shall
- 18 be set forth in administrative regulations under KRS Chapter 13A and shall
- 19 maximize competition among the providers and insurers. The Cabinet for
- 20 Finance and Administration shall provide oversight over contracting policies
- 21 and procedures to assure that the number of applicants for contracts is
- 22 maximized.
- 23 (2) Within twelve (12) months of federal approval of the state's Title XXI child health
- 24 plan, the Cabinet for Health and Family Services shall assure that a KCHIP program
- 25 is available to all eligible children in all regions of the state. If necessary, in order to
- 26 meet this assurance, the cabinet shall institute its own program.
- 27 (3) KCHIP recipients shall have direct access without a referral from any gatekeeper

1 primary care provider to dentists for covered primary dental services and to  
2 optometrists and ophthalmologists for covered primary eye and vision services.

3 **(4) The Kentucky Children's Health Insurance Program shall comply with Section 1**  
4 **of this Act.**

5 ➔Section 4. KRS 18A.225 is amended to read as 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, Kentucky Teachers' Retirement System, the  
16 Legislators' Retirement Plan, or the Judicial Retirement Plan; or is  
17 receiving a contractual contribution from the state toward a retirement  
18 plan; or, in the case of a public postsecondary education institution, is an  
19 individual participating in an optional retirement plan authorized by  
20 KRS 161.567; or is eligible to participate in a retirement plan  
21 established by an employer who ceases participating in the Kentucky  
22 Employees Retirement System pursuant to KRS 61.522 whose  
23 employees participated in the health insurance plans administered by the  
24 Personnel Cabinet prior to the employer's effective cessation date in the  
25 Kentucky Employees Retirement System;
- 26 2. Any certified or classified employee of a local board of education;
- 27 3. Any elected member of a local board of education;

- 1           4. Any person who is a present or future recipient of a retirement  
2 allowance from the Kentucky Retirement Systems, Kentucky Teachers'  
3 Retirement System, the Legislators' Retirement Plan, the Judicial  
4 Retirement Plan, or the Kentucky Community and Technical College  
5 System's optional retirement plan authorized by KRS 161.567, except  
6 that a person who is receiving a retirement allowance and who is age  
7 sixty-five (65) or older shall not be included, with the exception of  
8 persons covered under KRS 61.702(4)(c), unless he or she is actively  
9 employed pursuant to subparagraph 1. of this paragraph; and
- 10           5. Any eligible dependents and beneficiaries of participating employees  
11 and retirees who are entitled to participate in the state-sponsored health  
12 insurance program;
- 13           (b) The term "health benefit plan" for the purposes of this section means a health  
14 benefit plan as defined in KRS 304.17A-005;
- 15           (c) The term "insurer" for the purposes of this section means an insurer as defined  
16 in KRS 304.17A-005; and
- 17           (d) The term "managed care plan" for the purposes of this section means a  
18 managed care plan as defined in KRS 304.17A-500.
- 19 (2) (a) The secretary of the Finance and Administration Cabinet, upon the  
20 recommendation of the secretary of the Personnel Cabinet, shall procure, in  
21 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,  
22 from one (1) or more insurers authorized to do business in this state, a group  
23 health benefit plan that may include but not be limited to health maintenance  
24 organization (HMO), preferred provider organization (PPO), point of service  
25 (POS), and exclusive provider organization (EPO) benefit plans encompassing  
26 all or any class or classes of employees. With the exception of employers  
27 governed by the provisions of KRS Chapters 16, 18A, and 151B, all

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

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

22 (c) Any carrier bidding to offer health care coverage to employees shall agree to  
23 provide coverage to all members of the state group, including active  
24 employees and retirees and their eligible covered dependents and  
25 beneficiaries, within the county or counties specified in its bid. Except as  
26 provided in subsection (20) of this section, any carrier bidding to offer health  
27 care coverage to employees shall also agree to rate all employees as a single

1           entity, except for those retirees whose former employers insure their active  
2           employees outside the state-sponsored health insurance program.

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

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

- 1 (f) If any agency participating in the state-sponsored employee health insurance  
2 program for its active employees terminates participation and there is a state  
3 appropriation for the employer's contribution for active employees' health  
4 insurance coverage, then neither the agency nor the employees shall receive  
5 the state-funded contribution after termination from the state-sponsored  
6 employee health insurance program.
- 7 (g) Any funds in flexible spending accounts that remain after all reimbursements  
8 have been processed shall be transferred to the credit of the state-sponsored  
9 health insurance plan's appropriation account.
- 10 (h) Each entity participating in the state-sponsored health insurance program shall  
11 provide an amount at least equal to the state contribution rate for the employer  
12 portion of the health insurance premium. For any participating entity that used  
13 the state payroll system, the employer contribution amount shall be equal to  
14 but not greater than the state contribution rate.
- 15 (3) The premiums may be paid by the policyholder:
- 16 (a) Wholly from funds contributed by the employee, by payroll deduction or  
17 otherwise;
- 18 (b) Wholly from funds contributed by any department, board, agency, public  
19 postsecondary education institution, or branch of state, city, urban-county,  
20 charter county, county, or consolidated local government; or
- 21 (c) Partly from each, except that any premium due for health care coverage or  
22 dental coverage, if any, in excess of the premium amount contributed by any  
23 department, board, agency, postsecondary education institution, or branch of  
24 state, city, urban-county, charter county, county, or consolidated local  
25 government for any other health care coverage shall be paid by the employee.
- 26 (4) If an employee moves his place of residence or employment out of the service area  
27 of an insurer offering a managed health care plan, under which he has elected

1 coverage, into either the service area of another managed health care plan or into an  
2 area of the Commonwealth not within a managed health care plan service area, the  
3 employee shall be given an option, at the time of the move or transfer, to change his  
4 or her coverage to another health benefit plan.

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

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

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

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

23 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of  
24 State Health Insurance Subscribers to advise the secretary or his designee regarding  
25 the state-sponsored health insurance program for employees. The secretary shall  
26 appoint, from a list of names submitted by appointing authorities, members  
27 representing school districts from each of the seven (7) Supreme Court districts,

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

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

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

24 (12) Any employee who is eligible for and elects to participate in the state health  
25 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any  
26 one (1) of the state-sponsored retirement systems shall not be eligible to receive the  
27 state health insurance contribution toward health care coverage as a result of any

1 other employment for which there is a public employer contribution. This does not  
2 preclude a retiree and an active employee spouse from using both contributions to  
3 the extent needed for purchase of one (1) state sponsored health insurance policy for  
4 that plan year.

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

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

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

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

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

24 (16) Any policy provided to state employees or their dependents pursuant to this section  
25 shall provide coverage for obtaining amino acid-based elemental formula pursuant  
26 to KRS 304.17A-258.

27 (17) If a state employee's residence and place of employment are in the same county, and

1 if the hospital located within that county does not offer surgical services, intensive  
2 care services, obstetrical services, level II neonatal services, diagnostic cardiac  
3 catheterization services, and magnetic resonance imaging services, the employee  
4 may select a plan available in a contiguous county that does provide those services,  
5 and the state contribution for the plan shall be the amount available in the county  
6 where the plan selected is located.

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

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

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

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

25 (b) The Personnel Cabinet shall divide the state into geographical regions which  
26 shall be the same as the partnership regions designated by the Department for  
27 Medicaid Services for purposes of the Kentucky Health Care Partnership

- 1 Program established pursuant to 907 KAR 1:705;
- 2 (c) The request for proposal shall require a carrier's bid to include every county  
3 within the region or regions for which the bid is submitted and include but not  
4 be restricted to a preferred provider organization (PPO) option;
- 5 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the  
6 carrier all of the counties included in its bid within the region. If the Personnel  
7 Cabinet deems the bids submitted in accordance with this subsection to be in  
8 the best interests of state employees in a region, the cabinet may award the  
9 contract for that region to no more than two (2) carriers; and
- 10 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including  
11 other requirements or criteria in the request for proposal.
- 12 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or  
13 after July 12, 2006, to public employees pursuant to this section which provides  
14 coverage for services rendered by a physician or osteopath duly licensed under KRS  
15 Chapter 311 that are within the scope of practice of an optometrist duly licensed  
16 under the provisions of KRS Chapter 320 shall provide the same payment of  
17 coverage to optometrists as allowed for those services rendered by physicians or  
18 osteopaths.
- 19 (22) Any fully insured health benefit plan or self-insured plan issued or renewed on or  
20 after *the effective date of this Act*~~[July 12, 2006]~~, to public employees pursuant to  
21 this section shall comply with:
- 22 *(a) Section 1 of this Act;*
- 23 *(b) KRS 304.17A-270 and 304.17A-525;*
- 24 *(c) KRS 304.17A-600 to 304.17A-633;*
- 25 *(d) KRS 205.593;*
- 26 *(e) KRS 304.17A-700 to 304.17A-730;*
- 27 *(f) KRS 304.14-135;*

1        (g) KRS 304.17A-580 and 304.17A-641;

2        (h) KRS 304.99-123

3        (i) KRS 304.17A-138; and

4        (j) Administrative regulations promulgated pursuant to statutes listed in this  
5                subsection. ~~[the provisions of KRS 304.17A-270 and 304.17A-525.~~

6        ~~(23) Any fully insured health benefit plan or self-insured plan issued or renewed on or~~  
7                ~~after July 12, 2006, to public employees shall comply with KRS 304.17A-600 to~~  
8                ~~304.17A-633 pertaining to utilization review, KRS 205.593 and 304.17A-700 to~~  
9                ~~304.17A-730 pertaining to payment of claims, KRS 304.14-135 pertaining to~~  
10              ~~uniform health insurance claim forms, KRS 304.17A-580 and 304.17A-641~~  
11              ~~pertaining to emergency medical care, KRS 304.99-123, and any administrative~~  
12              ~~regulations promulgated thereunder.~~

13        ~~(24) Any fully insured health benefit plan or self-insured plan issued or renewed on or~~  
14              ~~after July 1, 2019, to public employees pursuant to this section shall comply with~~  
15              ~~KRS 304.17A-138.]~~

16        ➔Section 5. This Act takes effect on January 1, 2021.