

Insurance Code Amendments—Legal Services and Prepaid Service Plans; Nonprofit Dental Service Corporations; Fraudulent Insurance Acts; External Review; Accident and Sickness Policies; and HCPIAA Amendments; HB 2064

HB 2064 amends the Insurance Code to:

- Add insurance against the cost of legal services to the classes of insurance that could be provided by authorized insurance companies and exempt companies meeting certain criteria from the definition of prepaid service plan and related requirements;
- Expand the types of payments received by nonprofit dental service corporations that could be used in a calculation of certain expenses;
- Modify the definitions of a “fraudulent insurance act” and an “external review organization” and require insurers to submit an anti-fraud plan to the Insurance Commissioner;
- Modify uniform accident and sickness insurance policies provisions to create exclusions relating to individual insurance policies; and
- Modify the Health Care Provider Insurance Availability Act (HCPIAA) to clarify exemptions from the defined term “health care provider,” add a definition for “health care facility,” and allow certain health care systems to aggregate insurance premiums for the purpose of obtaining a certificate of self-insurance.

Classes of Insurance; Definition of “Prepaid Service Plan”

The bill adds insurance against the cost of legal services to the classes of insurance that could be provided by any insurance company organized under state law or authorized to transact business in the state, other than a life insurance company. The bill exempts these property and casualty insurance companies from the definition of prepaid service plans. The bill also creates an exemption for companies providing products and services for a fee where customers receive consultations with a licensed attorney connected to the customer by the company, so long as the company does not directly provide legal service, pay for legal services beyond a minimal administrative fee per customer, or indemnify or reimburse the customer for any legal expenses incurred.

Nonprofit Dental Service Corporations

The bill expands the types of payments received by nonprofit dental service corporations that could be used in calculating the percentage of allowable disbursements as expenditures for solicitation or as administrative expenses. Under the bill, nonprofit dental service corporations are not limited to the use of a percentage of the aggregate amount of payments received from subscribers in calculating the overhead limit, but are permitted to include all payments allowed under the nonprofit dental service corporations’ enabling statute.

Fraudulent Insurance Acts

The bill amends the definition of a “fraudulent insurance act” to add electronic, electronic impulse, facsimile, magnetic, oral, or telephonic communication to the means by which fraudulent insurance acts may be committed. The bill also amends law that had made optional the submission of an anti-fraud plan by an insurer to the Commissioner as part of the required anti-fraud initiatives, and instead requires the anti-fraud plan to be submitted.

External Review Organizations—Accreditation

The bill amends the definition of an “external review organization,” which is an entity that conducts independent external reviews of adverse health care decisions in utilization reviews, to remove the option such an entity have experience serving in that capacity in health programs administered by the state. The bill leaves as the only option the requirement the external review organization be nationally accredited and utilize health care providers actively engaged in the practice of their profession in the state who are qualified and credentialed with respect to the health care service review.

Accident and Sickness Insurance—Individual Policies

The bill creates an exclusion for individual policies in two provisions within the uniform policy requirements in KSA 40-2203 governing insurance with other insurers. Group insurance and other coverages have been excepted from the definition of “other valid coverage.” The bill excludes individual accident and sickness policies from these two provisions. (This exclusion appears to prevent a “stacking” of insurance coverages or policies per occurrence or loss.)

“Accident and sickness insurance” is defined by law as “any policy or contract insuring against loss resulting from sickness or bodily injury or death by accident, or both, issued by a stock, or mutual company or association or any other insurer.”

HCPIAA—Amendments

The bill clarifies exemptions from the term “health care provider” under the HCPIAA to designate certain health care providers who will not be subject to a requirement to purchase basic professional liability insurance coverage or pay surcharges as required with such coverage. The bill specifies “health care provider” does not include any person holding an exempt license from the State Board of Nursing and clarifies language in the exclusion provision for advanced practice registered nurses and physician assistants who are employed in or on active duty in the federal government or who provide professional services as a charitable health care provider and extends this exclusion from the definition to nurse anesthetists.

The bill also amends the HCPIAA to allow a health care system that owns or operates more than one medical care facility or more than one health care facility to aggregate insurance premiums for the purpose of obtaining a certificate of self-insurance from the Health Care Stabilization Fund Board of Governors. The bill defines the term “health care facility” to mean a nursing facility, an assisted living facility, or a residential health care facility as such terms are defined in the Adult Care Home Licensure Act.

Under the prior law, the self-insurance provisions of the HCPIAA applied to a health care provider or system owning or operating two or more medical care facilities, the Kansas Soldiers' Home, the Kansas Veterans' Home, persons engaged in certain post-graduate training, and persons engaged in residency training.