

**40-2256. Health benefit plan.** (a) The provisions of this section and the income withholding act shall apply to all health benefit plans, as defined in this section, which are administered in this state, including, but not limited to, all health benefit plans governed by the federal employee retirement income security act, 29 U.S.C. § 1161 et seq., except to the extent specifically preempted by federal law, and to all employers, sponsors and other administrators of health benefit plans doing business in this state.

(b) As used in this section:

(1) "Health benefit plan" means any benefit plan, other than public assistance, which is able to provide hospital, surgical, medical, dental or any other health care or benefits for a child, whether through insurance or otherwise, and which is available through a parent's employment or other group plan.

(2) "Participating parent" means a parent who is eligible for single coverage under a health benefit plan as defined in this section, regardless of the type of coverage actually in effect, if any.

(3) "Nonparticipating parent" means, if one parent is a participating parent as defined in this section, the other parent.

(c) No employer, sponsor or other administrator of a health benefit plan shall deny enrollment of a child under the health coverage of the child's parent on the basis that: (1) The child was born out of wedlock; (2) the child is not claimed as a dependent on the parent's federal income tax return; (3) the child does not reside with the parent or in the plan's service area; or (4) the child is receiving, is eligible for or may become eligible for medical assistance.

(d) (1) A health benefit plan, in determining or making any payment for benefits of a child who is a participant or beneficiary under the plan, shall not take into account the fact that the child is receiving, is eligible for or may become eligible for medical assistance pursuant to Title XIX of the federal social security act.

(2) A health benefit plan shall pay for benefits with respect to a child who is a participant or beneficiary under the plan in accordance with any assignment of rights made by or on behalf of the child as required by K.S.A. 39-709, and amendments thereto, or by another state's plan for medical assistance pursuant to Title XIX of the federal social security act.

(3) A health benefit plan shall not impose requirements on an agency or official, assigned the rights of a child eligible for medical assistance under Title XIX of the federal social security act and covered by the health benefit plan, that are different from requirements applicable to an agent or assignee of any other individual covered by the health benefit plan.

(4) If payment has been made by the secretary for aging and disability services for medical assistance and a health benefit plan is liable to pay for any item or service constituting any part of the medical assistance, the health benefit plan shall make payment for benefits under the plan to the secretary for aging and disability services to the extent of the secretary's rights pursuant to K.S.A. 39-719a, and amendments thereto.

(e) In addition to other duties specified in a health benefit plan, when a child is covered by the health benefit plan of a participating parent the employer, sponsor or other administrator of the health benefit plan: (1) Shall provide information necessary for the child to obtain benefits to the nonparticipating parent or, upon request, to the nonparticipating parent's assignee or to a representative designated in a medical withholding order; (2) shall permit the nonparticipating parent, the nonparticipating parent's assignee, or a provider properly authorized by the nonparticipating parent or assignee to submit claims for covered services without the approval of the participating parent; and (3) shall make payment on claims submitted in accordance with subsection (e)(2) directly to the nonparticipating parent, assignee or provider.

(f) Nothing in this section or the income withholding act and amendments thereto shall limit alteration of a health benefit plan's coverage or terms, so long as the resulting plan meets the requirements of this section or the income withholding act and amendments thereto.

(g) Any amendment to a health benefit plan required to conform to the requirements of this section or the income withholding act and amendments thereto shall not be required to be effective before the first plan year beginning on or after July 1, 1994, if: (1) During the period from July 1, 1994, until the beginning of the first plan year, the plan is operated in accordance with the requirements of this section or the income withholding act and amendments thereto; and (2) the plan amendment applies retroactively to July 1, 1994, as well as prospectively. A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this subsection.

(h) This section shall be part of and supplemental to chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

**History:** L. 1994, ch. 301, § 13; L. 2014, ch. 115, § 188; July 1.