

**40-2258. Group policies; mental illness, alcoholism, drug abuse or substance use disorder; limitations; exceptions; definitions. (a)**

An accident and sickness insurer which offers coverage through a group policy or certificate of coverage providing hospital, medical or surgical expense benefits pursuant to K.S.A. 40-2209, and amendments thereto, which includes mental illness or alcoholism, drug abuse or other substance use disorder benefits shall be subject to the following requirements:

(1) If the policy does not include an aggregate lifetime limit on substantially all hospital, medical and surgical expense benefits, the policy may not impose any aggregate lifetime limit on mental illness or alcoholism, drug abuse or other substance use disorder benefits;

(2) if the policy includes an aggregate lifetime limit on substantially all hospital, medical and surgical expense benefits the plan shall either: (A) Apply the applicable lifetime limit both to the hospital, medical and surgical expense benefits to which it otherwise would apply and to mental illness or alcoholism, drug abuse or other substance use disorder benefits and not distinguished in the application of such limit between such hospital, medical and surgical expense benefits and mental illness or alcoholism, drug abuse or other substance use disorder benefits; or (B) not include any aggregate lifetime limit on mental illness or alcoholism, drug abuse or other substance use disorder benefits that is less than the applicable lifetime limit on hospital, medical and surgical expense benefits;

(3) if the policy does not include an annual limit on substantially all hospital, medical and surgical expense benefits, the plan or coverage may not impose any annual limit on mental illness or alcoholism, drug abuse or other substance use disorder benefits; and

(4) if the policy includes an annual limit on substantially all hospital, medical and surgical expense benefits the policy shall either: (A) Apply the applicable annual limit both to hospital, medical and surgical expense benefits to which it otherwise would apply and to mental illness or alcoholism, drug abuse or other substance use disorder benefits and not distinguish in the application of such limit between such hospital, medical and surgical expense benefits and mental illness or alcoholism, drug abuse or other substance use disorder benefits; or (B) not include any annual limit on mental illness or alcoholism, drug abuse or other substance use disorder benefits that is less than the applicable annual limit.

(b) If the group policy providing hospital, medical or surgical expense benefits is not otherwise covered by subsection (a) and either does not apply a lifetime or annual benefit or applies different lifetime or annual benefits to different categories of hospital, medical and surgical expense benefits, the commissioner may adopt rules and regulations under which subsections (a)(2) and (a)(4) are applied to such policies with respect to mental illness or alcoholism, drug abuse or other substance use disorder benefits by substituting for the applicable lifetime or annual limits an average limit that is computed taking into account the weighted average of the lifetime or annual limits applicable to such categories.

(c) Nothing in this section shall be construed as either:

(1) Requiring an accident and sickness policy to offer mental illness or alcoholism, drug abuse or other substance use disorder benefits except as otherwise required by K.S.A. 40-2,105a, and amendments thereto; or

(2) affecting any terms and conditions of a policy which does include mental illness or alcoholism, drug abuse or other substance use disorder benefits including provisions regarding cost sharing, limits on the number of visits or days of coverage, requirements relating to medical necessity, requirements relating to the amount, duration or scope of mental illness or alcoholism, drug abuse or other substance use disorder benefits under the plan or coverage, except as specifically provided in subsection (a).

(d) This section shall not apply to any group accident and health insurance policy which is sold to a small employer as defined in K.S.A. 40-2209, and amendments thereto.

(e) This section shall not apply with respect to a group policy providing hospital, medical or surgical expense benefits if the application of this section will result in an increase in the cost under the plan of at least 2% in the case of the first plan year in which this section is applied and 1% in the case of each subsequent plan year. Determinations as to increases in actual costs under a plan shall be made and certified by a qualified and licensed actuary who is a member in good standing of the American academy of actuaries. All such determinations shall be in a written report prepared by the actuary.

(f) In the case of a group policy providing hospital, medical or surgical expense benefits that offers an eligible employee, member or dependent two or more benefit package options under the policy, subsections (a) and (b) shall be applied separately with respect to each such option.

(g) As used in this section:

(1) "Aggregate lifetime limit" means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount that may be paid with respect to such benefits under the policy with respect to an eligible employee, member or dependent;

(2) "annual limit" means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the policy with respect to an eligible employee, member or dependent;

(3) "hospital, medical or surgical expense benefits" means benefits with respect to hospital, medical or surgical services, as defined under the terms of the policy;

(4) "mental illness benefits" means benefits with respect to mental health services, as defined under the terms of the policy;

(5) "alcoholism, drug abuse or substance use disorder benefits" means benefits with respect to services for the treatment of alcoholism, drug abuse or other substance use disorders, as defined under the terms of the policy;

(6) "mental illness, alcoholism, drug abuse or substance use" means disorders specified in the diagnostic and statistical manual of mental disorders, fourth edition, (DSM-IV, 1994) of the American psychiatric association.

(h) This section shall be effective for group policies providing hospital, medical or surgical expense benefits which are entered into or renewed after January 1, 1998.

(i) The commissioner is hereby authorized to adopt such rules and regulations as may be necessary to carry out the provisions of this section.

**History:** L. 1997, ch. 190, § 13; L. 2002, ch. 158, § 19; L. 2003, ch. 88, § 1; L. 2004, ch. 157, § 1; L. 2005, ch. 163, § 11; L. 2006, ch. 123, § 1; L. 2007, ch. 25, § 1; L. 2008, ch. 13, § 1; L. 2009, ch. 136, § 9; Nov. 1.