

**STATE OF KANSAS**  
**KANSAS STATE EMPLOYEES HEALTH CARE COMMISSION**  
**NOTICE OF HEARING ON PROPOSED ADMINISTRATIVE REGULATIONS**

A public hearing will be conducted at **9:00 a.m. on Monday, Dec. 8, 2014, in Conference Room 9E located in Suite 900-N on the 9<sup>th</sup> floor the Landon State Office Building, 900 SW Jackson St., Topeka, Kansas**, to consider the adoption of proposed changes to existing regulations of the Kansas State Employees Health Care Commission (HCC) on a permanent basis.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed amendments. All interested parties may submit written comments prior to the hearing to the State Employee Health Plan, KDHE-DHCF, 900 SW Jackson, Rm. 900-N, Topeka, Kansas 66612, or by e-mail to LSelleck@kdheks.gov. All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed amendments during the public hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Lea Selleck at (785) 368-6361 or through the Kansas Relay Center (1-800-766-3777) or by e-mail at LSelleck@kdheks.gov. Handicapped parking is located directly across the street from the building's northwest entrance and on Ninth Street, just around the corner from the northwest entrance to the building. The building's northwest entrance is accessible to individuals with disabilities.

A copy of the proposed regulations and the economic impact statements may be obtained at [http://www.kdheks.gov/hcf/sehp/healthcare\\_commission.html](http://www.kdheks.gov/hcf/sehp/healthcare_commission.html) or by contacting Lea Selleck: LSelleck@kdheks.gov; State Employee Health Plan, 900 SW Jackson St., Rm. 900-N, Topeka, KS 66612; (785) 368-6361.

Summaries of the proposed regulations and their economic impact follow.

**K.A.R. 108-1-1, Eligibility.** K.A.R. 108-1-1 establishes the eligibility requirements for participants in the state health care benefits program established by the HCC. Effective with plan year 2015 (January 1, 2015), the proposed amendments to subsection (b) alter the definition of eligible "primary participant" and add a definition of the term "variable hour employee" to reflect recent changes in federal law. This revised definition of a primary participant or variable hour employee would extend eligibility for coverage under the state health care benefits program to previously excluded state employees, students who are employed, and adjunct staff of the State's universities if they work the required number of hours. The proposed changes will also allow for married couples that are both employed by the State or a Non State Group covered under the state health care benefits program to choose whether to enroll in individual plans or to elect a family membership. Employees and their dependents are still prohibited from having double coverage under the state health care benefits program.

The proposed changes in the definition of a primary participant are mandated by federal law. The law defines full-time status for the purposes of providing employer sponsored group health insurance as 30 hours per week and added a definition and procedure for measuring the number of hours worked for variable hour employees to determine if they meet the full-time employment status requirements. As a result of these changes, the state health care benefits program must modify the definitions and eligibility language to comply. Failure to comply with the requirements could result in monetary penalties to the employing state agencies whose employees are not offered the opportunity to enroll in the health plan.

The proposed change to allow a primary participant to be covered under another primary participant's plan as a dependent is not mandated by law but is a change requested by a small number of employees. Under this provision the employee and their spouse must both be eligible for coverage under the state health care benefits program. This change will allow them to purchase a family contract instead of one electing single coverage and the other selecting member and children coverage.

The proposed amendment to K.A.R. 108-1-1 adds the new federal definition of a full-time employee which is incorporated into primary participant and variable hour employee as eligibility criteria for coverage under the state health care benefits program. Current eligibility guidelines allow employees other than students and some adjunct professors who work 1,000 hours a year to enroll in the state health care benefits program at the part-time rates. The impact to the plan therefore is the change from part-time to full-time rates for these employees. Based upon the estimated number of current part-time eligible employees approximately eighty-four (84) percent of them will now qualify as full-time employees and would receive the higher employer contribution rate. The plan actuaries estimate the economic impact to all state agencies combined as \$1.5 million annually. Affected employees should see a reduction in their share of the plan cost as a result of the increased employer contribution.

The required changes in the definition of eligibility for State Employee Health Plan (SEHP) coverage will result in students and adjunct professors that work at least 1,560 hours per year becoming eligible for health plan coverage. This population is not currently eligible for coverage under the SEHP. It is estimated that this could add an additional 500 eligible employees for coverage under the plan. The plan actuaries estimated the cost to all of the agencies combined or the employer contribution as \$3.5 million annually based on current employer contribution levels.

Allowing a primary participant to be enrolled under another primary participant's health plan will impact only a very small number of employees since both would have to be employed by the State or a covered Non State entity. Based upon the employee contribution requirements, plan out of pocket requirements and the employer health savings account contributions, most married employees will likely continue to elect separate policies. Therefore, the health plan actuaries estimate that this part of the regulation change will have no financial impact on state agencies.

There is no economic impact on the general public.

**K.A.R. 108-1-3, School district employee health care benefits plan.** K.A.R. 108-1-3 establishes the eligibility requirements for school district and education entities to participate in the state health care benefits program established by the HCC. Effective with plan year 2015 (January 1, 2015), proposed amendments to subsection (b) alter the definition of eligible

“primary participant” and add a definition of the term “variable hour employee” to reflect recent changes in federal law. This newly revised definition of a primary participant or variable hour employee would extend eligibility for coverage under the state health care benefits program to employees not currently covered by the plan if they work the required number of hours. The proposed changes will also allow for married couples that are both employed by the State or a Non State Group covered under the state health care benefits program to choose whether to enroll in individual plans or to elect a family membership. Employees and their dependents are still prohibited from having double coverage under the state health care benefits program.

The proposed changes in the definition of a primary participant within this regulation are mandated by federal law. The law defines full-time status for the purposes of providing employer sponsored group health insurance as 30 hours per week and added a definition and procedure for measuring the number of hours worked for variable hour employees to determine if they meet the full-time employment status requirements. As a result of these changes, the state health care benefits program must modify the definitions and eligibility language to comply. Failure to comply with the requirements could result in monetary penalties to the employing educational entity whose employees are not offered the opportunity to enroll in the health plan.

The proposed change to allow a primary participant to be covered under another primary participant’s plan as a dependent is not mandated by law but is a change requested by a small number of employees. Under this provision the employee and their spouse must both be eligible for coverage under the state health care benefits program. This change will allow them to purchase a family contract instead of one electing single coverage and the other selecting member and children coverage.

The proposed amendment to K.A.R. 108-1-3 adds the new federal definition of a full-time employee which is incorporated into primary participant and variable hour employee as eligibility criteria for coverage under the state health care benefits program. Current eligibility guidelines allow employees other than students and some adjunct professors that work 1,000 hours a year to enroll in the state health care benefits program at the part-time rates. The impact to the plan therefore is the change from part-time to full-time rates for these employees. The plan actuaries estimate the economic impact to all school districts and educational entities combined as \$130,000 annually. Affected employees should see a reduction in their share of the plan cost as a result of the increased employer contribution.

Allowing a primary participant to be enrolled under another primary participant’s health plan will impact only a very small number of employees since both would have to be employed by the State or a covered Non State entity. Based upon the employee contribution requirements, plan out of pocket requirements, and the employer health savings account contributions, most married employees will likely continue to elect separate policies. Therefore, the health plan actuaries estimate that this part of the regulation change will have no financial impact on the employing school districts and educational entities.

There is no economic impact on the general public.

**K.A.R. 108-1-4, Local unit of government employee health care benefits plan.** K.A.R. 108-1-4 establishes the eligibility requirements for public entities participants in the state health care benefits program established by the HCC. Effective with plan year 2015 (January 1, 2015), proposed amendments to subsection (b) alter the definition of eligible “primary

participant” and add a definition of the term “variable hour employee” to reflect recent changes in federal law. This newly revised definition of a primary participant or variable hour employee would extend eligibility for coverage under the state health care benefits program to employees not currently covered by the plan if they work the required number of hours. The proposed changes will also allow for married couples that are both employed by the State or a Non State Group covered under the state health care benefits program to choose whether to enroll in individual plans or to elect a family membership. Employees and their dependents are still prohibited from having double coverage under the state health care benefits program.

The proposed changes in the definition of a primary participant within this regulation are mandated by federal law. The law defines full-time status for the purposes of providing employer sponsored group health insurance as 30 hours per week and added a definition and procedure for measuring the number of hours worked for variable hour employee to determine if they meet the full-time employment status requirements. As a result of these changes, the state health care benefits program must modify the definitions and eligibility language to comply. Failure to comply with the requirements could result in monetary penalties to the employing educational entity whose employees are not offered the opportunity to enroll in the health plan.

The proposed change to allow a primary participant to be covered under another primary participant’s plan as a dependent is not mandated by law but is a change requested by a small number of employees. Under this provision the employee and their spouse must both be eligible for coverage under the state health care benefits program. This change will allow them to purchase a family contract instead of one electing single coverage and the other selecting member and children coverage.

The proposed amendment to K.A.R. 108-1-4 adds the new federal definition of a full-time employee which is incorporated into primary participant and variable hour employee as eligibility criteria for coverage under the state health care benefits program. Current eligibility guidelines allow employees other than students and some adjunct professors that work 1,000 hours a year to enroll in the state health care benefits program at the part-time rates. The impact to the plan therefore is the change from part-time to full-time rates for these employees. The plan actuaries estimate the economic impact to all public entities covered under the health plan as \$170,000 annually. Affected employees should see a reduction in their share of the plan cost as a result of the increased employer contribution.

Allowing a primary participant to be enrolled under another primary participant’s health plan will impact only a very small number of employees since both would have to be employed by the State or a covered Non State entity. Based upon the employee contribution requirements, plan out of pocket requirements and the employer health savings account contributions, most married employees will likely continue to elect separate policies. Therefore, the health plan actuaries estimate that this part of the regulation change will have no financial impact on the employing Non State entities.

There is no economic impact on the general public.

**108-1-1. Eligibility.** (a) General definitions.

(1) "Active participant" means any person enrolled in the health care benefits program ~~who falls within one of the classes specified in subsection (b).~~

(2) "Child" means any of the following:

(A) A natural son or daughter of a primary participant;

(B) a lawfully adopted son or daughter of a primary participant. The term "lawfully adopted" shall include those instances in which a primary participant has filed the petition for adoption with the court, has a placement agreement for adoption, or has been granted legal custody;

(C) a stepchild of a primary participant. However, if the natural or adoptive parent of the stepchild is divorced from the primary participant, the stepchild shall no longer qualify;

(D) a child of whom the primary participant has legal custody; or

(E) a grandchild, if at least one of the following conditions is met:

(i) The primary participant has legal custody of the grandchild or has lawfully adopted the grandchild;

(ii) the grandchild lives in the home of the primary participant and is the child of a covered eligible dependent child, and the primary participant provides more than 50 percent of the support for the grandchild; or

(iii) the grandchild is the child of a covered eligible dependent child and is considered to reside with the primary participant even when the grandchild or eligible dependent child is temporarily absent due to special circumstances including education of the covered eligible

dependent child, and the primary participant provides more than 50 percent of the support for the grandchild.

(3) "COBRA" means the consolidated omnibus budget reconciliation act, public law 99-272, as amended.

(4) "Commission" means the Kansas state employees health care commission.

(5) "Direct bill participant" means any person enrolled in the health care benefits program pursuant to subsections (d), (e), and (h).

(6) "Eligible dependent child" means any dependent child who meets one of the following criteria:

(A) The child is under 26 years of age.

(B) The child is aged 26 or older, has a permanent and total disability, and has continuously maintained group coverage as an eligible dependent child of the primary participant before attaining the age of 26. The child shall be chiefly dependent on the primary participant for support.

(7) "Health care benefits program" means the state of Kansas health care benefits program established by the commission.

(8) "Permanent and total disability" means that an individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for a continuous period of at least 12 months. An individual shall not be considered to have a

permanent and total disability unless that person furnishes proof of the permanent and total disability in the form and manner, and at the times, that the health care benefits program may require.

(9) "Primary participant" means any person enrolled in the health care benefits program ~~as an active participant~~ under subsection (b), a direct bill participant under subsection (d), or a COBRA participant.

(10) "Variable-hour employee" means any officer or employee of a state agency for whom, at the date of hire, it cannot be determined that the employee is reasonably expected to work at least 1,000 hours per year.

(b) ~~Active~~ Primary participants. Subject to the provisions of subsection (c), the classes of persons eligible to participate as ~~active~~ primary participants in the health care benefits program shall be the following classes of persons:

(1) Any elected official of the state;

(2) any other officer or employee of a state agency who meets both of the following conditions:

(A) Is working in one or more positions that together require at least 1,000 hours of work per year; and

(B) ~~is in a position that is not temporary. An employee who works under employment customs at any regents institution requiring less than a full calendar year of service shall not be considered temporary~~ a variable-hour employee;

(3) any person engaged in a postgraduate residency training program in medicine at the university of Kansas medical center or in a postgraduate residency or internship training program in veterinary medicine at Kansas state university, ~~but not including student employees of a state institution of higher learning;~~

(4) ~~any person elected to a board position that requires less than 1,000 hours of work per year;~~

~~(5) any person serving with the foster grandparent program;~~

~~(6) (5) any person participating under a phased retirement agreement outlined in K.S.A. 76-746, and amendments thereto; and~~

(6) any student employee and any adjunct professor at a state institution of higher learning if the individual works in one or more positions that together require at least 1,560 hours of work per year; and

(7) any other class of individuals approved by the Kansas state employees health care commission, within the limitations ~~set out~~ specified in K.S.A. 75-6501 et seq., and amendments thereto.

(c) Waiting period.

(1) Each person who is within a class listed in paragraph (b)(1), (b)(2), (b)(3), (b)(4), ~~(b)(5)~~ (b)(6), or (b)(7) shall become eligible for enrollment in the health care benefits program following completion of a 30-day waiting period beginning with the first day of work for the state of Kansas. Each person shall have 31 days after becoming eligible to elect coverage.

(2) The waiting period established in paragraph (c)(1) shall not apply if all of the following conditions are met:

(A) The person is returning to work for the state of Kansas or is transferring from a position that was eligible for coverage under K.A.R. 108-1-3 or K.A.R. 108-1-4.

(B) Immediately before leaving the prior position, the person was enrolled in the health care benefits program.

(C) The break in service between the prior position and the new position does not exceed the following time periods:

(i) 30 ~~or fewer~~ calendar days; or

(ii) 365 ~~or fewer~~ calendar days, if the person was laid off, as defined in K.S.A. 75-2948 and amendments thereto.

(3) The waiting period established in paragraph (c)(1) shall not apply to any person who, on that person's first day of work for the state, is enrolled in the health care benefits program on any of the following bases:

(A) As a direct bill participant;

(B) under the continuation of benefits coverage provided under COBRA; or

(C) as a dependent of a participant in the health care benefits program.

(4) The waiting period established in paragraph (c)(1) may be waived by the commission or its designee if, within 30 days of the date of hire, the agency head or the agency head's

designee certifies in writing to the commission, or its designee, that the waiver is being sought ~~for either of the following reasons:~~

~~(A) The potential new employee is not entitled to continuation of health benefits under either COBRA or state continuation of coverage laws, K.S.A. 40-2209 and K.S.A. 40-3209 and amendments thereto, and is not covered by or eligible to be covered by another health insurance plan.~~

~~(B) because the potential new employee is required to have health insurance as a condition of obtaining a work visa for employment in the United States.~~

(d) Classes of direct bill participants. Subject to the provisions of subsection (e), the classes of persons eligible to participate as members of the health care benefits program on a direct bill basis shall be the following:

(1) Any former elected state official;

(2) any retired state officer or employee who is eligible to receive retirement benefits under K.S.A. 74-4925, and amendments thereto, or retirement benefits administered by the Kansas public employees retirement system;

(3) any totally disabled former state officer or employee who is receiving disability benefits administered by the Kansas public employees retirement system;

(4) any surviving spouse or dependent of a qualifying participant in the health care benefits program;

(5) any person who is in a class listed in paragraph (b)(1), (b)(2), (b)(3), (b)(4), or ~~(b)(5)~~ (b)(6) and who is lawfully on leave without pay;

(6) any blind person licensed to operate a vending facility as defined in K.S.A. 75-3338, and amendments thereto;

(7) any former "state officer," as that term is defined in K.S.A. 74-4911f and amendments thereto, who elected not to be a member of the Kansas public employees retirement system as provided in K.S.A. 74-4911f and amendments thereto; and

(8) any former state officer or employee who separated from state service when eligible to receive a retirement benefit but, in lieu of that, withdrew that individual's employee contributions from the retirement system.

(e) Conditions for direct bill participants. Each person who is within a class listed in paragraph (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (d)(7), or (d)(8) shall be eligible to participate on a direct bill basis only if the conditions of both paragraphs (e)(1) and (e)(2) are met:

(1) The person was covered by the health care benefits program on one of the following bases:

(A) The person was covered as an active participant, as a COBRA participant, or as a spouse under paragraph (g)(1) immediately before the date that person ceased to be eligible for that type of coverage or the date the individual became newly eligible for a class listed in subsection (d).

(B) The person is the surviving spouse or eligible dependent child of a person who was enrolled as ~~an active~~ a primary participant or a direct bill participant when the ~~plan~~ primary participant died, and the surviving spouse or eligible dependent child was covered by the health care benefits program as a dependent pursuant to subsection (g) when the ~~plan~~ primary participant died.

(2) The person completes an enrollment form requesting transfer to the direct bill program and submits the form to the health care benefits program. The form shall be submitted no more than 30 days after the person ceased to be eligible for coverage.

(f) COBRA participants. Any individual with rights to extend coverage under COBRA may continue to participate in the health care benefits program, subject to the provisions of that federal law.

(g) Eligible dependent participants.

(1) Any person enrolled in the health care benefits program as a primary participant may enroll the following dependents, subject to the same conditions and limitations that apply to the primary participant:

(A) The primary participant's lawful wife or husband, as recognized by Kansas law and subject to the documentation requirements of the commission or its designee; and

(B) any of the primary participant's eligible dependent children, subject to the documentation requirements of the commission or its designee.

(2) An eligible dependent child who is enrolled by one primary participant shall not be eligible to be enrolled by another primary participant.

(3) An individual who is eligible to enroll as a primary participant in the health care benefits program shall ~~not~~ be eligible to be enrolled under this subsection as a dependent in the health care benefits program, subject to the following requirements:

(A) The individual who enrolls as a dependent of a primary participant shall be the lawful spouse, as defined in paragraph (g)(1)(A).

(B) An individual who enrolls as a dependent of a primary participant shall not be eligible to be enrolled as a primary participant during that plan year.

(C) Each individual who enrolls as a dependent of a primary participant shall be subject to the co-pays, deductibles, coinsurance, and employer contribution levels as a dependent and not as a primary participant.

(4) The term “dependent” shall exclude any individual who is not a citizen or national of the United States, unless the individual is a resident of the United States or a country contiguous to the United States, is a member of a primary participant’s household, and resides with the primary participant for more than six months of the calendar year. The dependent shall be considered to reside with the primary participant even when the dependent is temporarily absent due to special circumstances, including illness, education, business, vacation, and military service.

(h) Direct bill participants; continuous coverage provisions.

(1) Except as otherwise provided in this subsection, each direct bill participant enrolled in the state health care benefits program on or after January 21, 2001, shall maintain continuous coverage in the program or shall lose eligibility to be in the state health care benefits program as a direct bill participant.

(2) Any person who discontinued direct bill coverage in the state health care benefits program before January 21, 2001, and who is not a direct bill participant on that date may return one time to the state health care benefits program if the person meets the criteria specified in subsections (d) and (e) and if that person has not previously discontinued and returned to direct bill coverage before January 21, 2001. (Authorized by K.S.A. ~~2010~~ 2014 Supp. 75-6501 and K.S.A. 75-6510; implementing K.S.A. ~~2010~~ 2014 Supp. 75-6501; effective, T-85-22, July 16, 1984; effective May 1, 1985; amended, T-88-64, Dec. 30, 1987; amended, T-89-12, May 1, 1988; amended, T-108-9-12-88, Sept. 12, 1988; amended Oct. 31, 1988; amended May 9, 1997; amended Jan. 21, 2001; amended Aug. 27, 2004; amended June 17, 2005; amended Jan. 6, 2006; amended July 16, 2010; amended, T-108-8-16-10, Aug. 16, 2010; amended March 11, 2011; amended P-\_\_\_\_\_.)

October 2, 2014

## **KANSAS STATE EMPLOYEES HEALTH CARE COMMISSION**

### **ECONOMIC IMPACT STATEMENT FOR PROPOSED AMENDMENT TO K.A.R. 108-1-1**

#### **I. Summary of Proposed Regulation Including Its Purpose.**

K.A.R. 108-1-1 establishes the eligibility requirements for participants in the state health care benefits program established by the Kansas State Employees Health Care Commission (HCC). Effective with plan year 2015 (January 1, 2015), the proposed amendments to subsection (b) alter the definition of eligible “primary participant” and add a definition of the term “variable hour employee” to reflect recent changes in federal law. This newly revised definition of a primary participant or variable hour employee would extend eligibility for coverage under the state health care benefits program to additional state employees, students who are employed at State universities and adjunct staff of the State’s universities if they work the required number of hours. The proposed changes will also allow for married couples that are both employed by the State or both at a Non State Group covered under the state health care benefits program to choose whether to enroll in individual plans or to elect a family membership. Employees and their dependents are still prohibited from having double coverage under the state health care benefits program.

#### **II. Reason or Reasons the Proposed Regulation is Required, Including Whether or Not the Regulation is Mandated by Federal Law.**

The proposed changes in the definition of a primary participant within this regulation are mandated by federal law. The law defines full-time status for the purposes of providing employer sponsored group health insurance as 30 hours per week and added a definition and procedure for measuring the number of hours worked for variable hour employees to determine if they meet the full-time employment status requirements. As a result of these changes, the state health care benefits program must modify the definitions and eligibility language to comply. Failure to comply with the requirements could result in monetary penalties to the employing state agencies whose employees are not offered the opportunity to enroll in the health plan. The proposed amendment to K.A.R. 108-1-1 will bring the regulation in line with the federal requirements.

The proposed change to allow a primary participant to be covered under another primary participant’s plan as a dependent is not mandated by law but is a change requested by a small number of employees. Under this provision the employee and their spouse must both be eligible for coverage under the state health care benefits program. This change will allow them to purchase a family contract instead of one electing single coverage and the other selecting member and children coverage.

### **III. Anticipated Economic Impact.**

The proposed amendment to K.A.R. 108-1-1 adds the new federal definition of a full-time employee which is incorporated into primary participant and variable hour employee as eligibility criteria for coverage under the state health care benefits program. Current eligibility guidelines allow employees other than students and some adjunct professors who work 1,000 hours a year to enroll in the state health care benefits program at the part-time rates. The impact to the plan therefore is the change from part-time to full-time rates for these employees. Based upon the estimated number of current part-time eligible employees approximately eighty-four (84) percent of them will now qualify as full time employees and would receive the higher employer contribution rate. The plan actuaries estimate the economic impact to all state agencies as \$1.5 million annually. Affected employees should see a reduction in their share of the plan cost as a result of the increased employer contribution.

The required changes in the definition of eligibility for State Employee Health Plan (SEHP) coverage will result in students and adjunct professors that work at least 1,560 hours per year becoming eligible for health plan coverage. This population is not currently eligible for coverage under the SEHP. It is estimated that this could add an additional 500 eligible employees for coverage under the plan. The plan actuaries estimated the cost to all of the agencies for the employer contribution as \$3.5 million annually based on current employer contribution levels.

Allowing a primary participant to be enrolled under another primary participant's health plan will impact only a very small number of employees since both would have to be employed by the State or a covered Non State entity. Based upon the employee contribution requirements, plan out of pocket requirements and the employer health savings account contributions, most married employees will likely continue to elect separate policies. Therefore, the health plan actuaries estimate that this part of the regulation change will have no financial impact on state agencies.

There is no economic impact on the general public.

### **IV. Less Costly or Less Intrusive Alternatives.**

No other less costly or less intrusive alternatives to the proposed amendments were identified, as the proposed amendments reflect the least restrictive amendments possible to ensure that the plan complies with all federal requirements.

**108-1-3. School district employee health care benefits plan.** (a) Definitions for K.A.R. 108-1-3.

(1) "Active participant" means any ~~school district employee~~ person who is enrolled in the school district plan ~~under subsection (b)~~.

(2) "Child" means any of the following:

(A) A natural son or daughter of a primary participant;

(B) a lawfully adopted son or daughter of a primary participant. The term "lawfully adopted" shall include those instances in which a primary participant has filed the petition for adoption with the court, has a placement agreement for adoption, or has been granted legal custody;

(C) a stepchild of a primary participant. However, if the natural or adoptive parent of the stepchild is divorced from the primary participant, the stepchild shall no longer qualify;

(D) a child of whom the primary participant has legal custody; or

(E) a grandchild, if at least one of the following conditions is met:

(i) The primary participant has legal custody of the grandchild or has lawfully adopted the grandchild;

(ii) the grandchild lives in the home of the primary participant and is the child of a covered eligible dependent child, and the primary participant provides more than 50 percent of the support for the grandchild; or

(iii) the grandchild is the child of a covered eligible dependent child and is considered to reside with the primary participant even when the grandchild or eligible dependent child is temporarily absent due to special circumstances including education of the covered eligible

dependent child, and the primary participant provides more than 50 percent of the support for the grandchild.

(3) "COBRA" means the consolidated omnibus budget reconciliation act, public law 99-272, as amended.

(4) "Commission" means the Kansas state employees health care commission.

(5) "Direct bill participant" means any person enrolled in the school district plan pursuant to subsections (d), (e), and (h).

(6) "Eligible dependent child" means any dependent child who meets one of the following criteria:

(A) The child is under 26 years of age.

(B) The child is aged 26 or older, has a permanent and total disability, and has continuously maintained group coverage as an eligible dependent child of the primary participant before attaining the age of 26. The child shall be chiefly dependent on the primary participant for support.

(7) "Health care benefits program" means the state of Kansas health care benefits program established by the commission.

(8) "Permanent and total disability" means that an individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for a continuous period of at least 12 months. An individual shall not be considered to have a permanent and total disability unless that person furnishes proof of the permanent and total

disability in the form and manner, and at the times, that the health care benefits program may require.

(9) "Primary participant" means any person enrolled in the school district plan ~~as an active participant~~ under subsection (b), a direct bill participant under subsection (d), or a COBRA participant.

(10) "Qualified school district" means a public school district, community college, area vocational technical school, or technical college that meets the terms, conditions, limitations, exclusions, and other provisions established by the commission for participation in the school district employee health care benefits component of the health care benefits program and has entered into a written agreement with the commission to participate in the program.

(11) "School district employee" means any individual who is employed by a qualified school district and who meets the definition of employee under K.S.A. 74-4932(4), and amendments thereto, except that the following employees shall be employed in a position that requires at least 1,000 hours of work per year:

(A) Employees of community colleges; and

(B) employees of area vocational technical schools and technical colleges that are not governed by a unified school district.

For purposes of this definition, a technical college shall be a participating employer under K.S.A. 74-4931, and amendments thereto, in accordance with K.S.A. 72-4471, and amendments thereto.

(12) "School district plan" means the school district employee health care benefits component of the health care benefits program.

(13) "Variable-hour employee" means any school district employee for whom, at the date of hire, it cannot be determined that the employee is reasonably expected to work at least 1,000 hours per year.

(b) ~~Active~~ Primary participants. Subject to the provisions of subsection (c), each school district employee shall be eligible to participate as ~~an active~~ a primary participant in the school district plan. Eligibility and participation shall be subject to terms, conditions, limitations, exclusions, and other provisions established by the commission, including the amount and method of payment for employee and employer contributions.

(c) Waiting periods.

(1) Each school district employee whose first day of work for a qualified school district is on or after the first day on which the employee's qualified school district participates in the school district plan shall become eligible for coverage following completion of a 30-day waiting period beginning with the first day of work for the qualified school district. Each school district employee shall have 31 days after becoming eligible to elect coverage.

(2) The waiting period established in paragraph (c)(1) shall not apply if all of the following conditions are met:

(A) The person is returning to work for the qualified school district, transferring from another qualified school district, or transferring from a position that is eligible for coverage under K.A.R. 108-1-1 or K.A.R. 108-1-4.

(B) Immediately before leaving the prior position, the person was enrolled in the health care benefits program.

(C) The break in service between the prior position and the new position does not exceed the following time periods:

(i) ~~30 or fewer~~ calendar days; or

(ii) 365 ~~or fewer~~ calendar days, if the person was laid off in accordance with the practices of the qualified school district.

(3) The waiting period established in paragraph (c)(1) shall not apply to any person who, on that person's first day of work for the qualified school district, is enrolled in the health care benefits program on any of the following bases:

(A) As a direct bill participant;

(B) under the continuation of benefits coverage provided under COBRA; or

(C) as a dependent of a participant in the health care benefits program.

(4) The waiting period established in paragraph (c)(1) may be waived by the commission or its designee if, within 30 days of the date of hire, the chief administrative officer of the qualified school district, or the chief administrative officer's designee, certifies in writing to the commission, or its designee, that the waiver is being sought ~~for either of the following reasons:~~

~~(A) The new school district employee is not entitled to continuation of health benefits under COBRA or state continuation of coverage laws, K.S.A. 40-2209 and K.S.A. 40-3209 and amendments thereto, and is not covered by or eligible to be covered by another health insurance plan.~~

~~(B)~~ because the new employee is required to have health insurance as a condition of obtaining a work visa for employment in the United States.

(5) Each school district employee who is employed by the qualified school district immediately before the first day on which the employee's qualified school district participates in the school district plan shall be subject to transitional provisions established by the commission regarding waiting periods and the effective date on which the employee becomes eligible to participate in the school district plan.

(d) Classes of direct bill participants. Subject to the provisions of subsection (e), the classes of persons eligible to participate as members of the school district plan on a direct bill basis shall be the following:

- (1) Any retired school district employee who is eligible to receive retirement benefits;
- (2) any totally disabled former school district employee who is receiving benefits under K.S.A. 74-4927, and amendments thereto;
- (3) any surviving spouse or dependent of a ~~qualifying~~ primary participant in the school district plan;
- (4) any person who is a school district employee and who is on approved leave without pay in accordance with the practices of the qualified school district; and
- (5) any individual who was covered by the health care plan offered by the qualified school district on the day immediately before the first day on which the qualified school district participates in the school district plan, except that no individual who is an employee of the

qualified school district and who does not meet the definition of school district employee in subsection (a) shall be qualified as a direct bill participant under this paragraph.

(e) Conditions for direct bill participants. Each person who is within a class listed in subsection (d) shall be eligible to participate on a direct bill basis only if the person meets both of the following conditions:

(1) The person was covered by the school district plan or the health care insurance plan offered by the qualified school district on one of the following bases:

(A) Immediately before the date the person ceased to be eligible for coverage, or for any person identified in paragraph (d)(5), immediately before the first day on which the qualified a school district participates in the school district plan, the person either was covered as ~~an active~~ a primary participant under subsection (b) or was covered by the health care insurance plan offered by the employee's qualified school district.

(B) The person is a surviving spouse or dependent of a plan participant who was enrolled as ~~an active~~ a primary participant or a direct bill participant when the ~~plan~~ primary participant died, and the ~~person~~ surviving spouse or eligible dependent child was covered by the health care benefits program as a dependent under subsection (g) when the ~~plan~~ primary participant died.

(C) The person is a surviving spouse or dependent of a ~~plan~~ primary participant who was enrolled under the health care insurance plan offered by the participant's qualified school district when the primary participant died, and the person has maintained continuous coverage

under the qualified school district's health care insurance plan before joining the health care benefits program.

(2) The person completes an enrollment form requesting transfer to the direct bill program and submits the form to the health care benefits program. The form shall be submitted no more than 30 days after the person ceased to be eligible for coverage, or in the case of any individual identified in paragraph (d)(5), no more than 30 days after the first day on which the qualified school district participates in the school district plan.

(f) COBRA participants. Any individual with rights to extend coverage under COBRA may participate in the school district plan, subject to the provisions of that federal law.

(g) Eligible dependent participants.

(1) Any person enrolled in the school district plan as a primary participant may enroll the following dependents, subject to the same conditions and limitations that apply to the primary participant:

(A) The primary participant's lawful wife or husband, as recognized by Kansas law and subject to the documentation requirements of the commission or its designee; and

(B) any of the primary participant's eligible dependent children, subject to the documentation requirements of the commission or its designee.

(2) An eligible dependent child who is enrolled by one primary participant shall not be eligible to be enrolled by another primary participant.

(3) An individual who is eligible to enroll as a primary participant in the health care benefits program shall ~~not~~ be eligible to be enrolled under this subsection as a dependent in the health care benefits program, subject to the following requirements:

(A) The individual who enrolls as a dependent of a primary participant shall be the lawful spouse, as defined in paragraph (g)(1)(A).

(B) An individual who enrolls as a dependent of a primary participant shall not be eligible to be enrolled as a primary participant during that plan year.

(C) Each individual who enrolls as a dependent of a primary participant shall be subject to the co-pays, deductibles, coinsurance, and employer contribution levels as a dependent and not as a primary participant.

(4) The term “dependent” shall exclude any individual who is not a citizen or national of the United States, unless the individual is a resident of the United States or a country contiguous to the United States, is a member of a primary participant’s household, and resides with the primary participant for more than six months of the calendar year. The dependent shall be considered to reside with the primary participant even when the dependent is temporarily absent due to special circumstances, including illness, education, business, vacation, and military service.

(h) Direct bill participants; continuous coverage provisions.

(1) Except as otherwise provided in this subsection, each direct bill participant enrolled in the health care benefits program on or after January 21, 2001 shall maintain continuous

coverage in the program or shall lose eligibility to be in the health care benefits program as a direct bill participant.

(2) Any person who discontinued direct bill coverage in the health care benefits program before January 21, 2001 and who was not a direct bill participant on that date may return one time to the health care benefits program if the person meets the criteria specified in subsections (d) and (e) and if that person has not previously discontinued and returned to direct bill coverage before January 21, 2001. (Authorized by K.S.A. ~~2010~~ 2014 Supp. 75-6501 and K.S.A. 75-6510; implementing K.S.A. ~~2010~~ 2014 Supp. 75-6501 and K.S.A. 2014 Supp. 75-6508; effective, T-108-9-13-99, Sept. 13, 1999; effective Feb. 4, 2000; amended July 16, 2010; amended, T-108-8-16-10, Aug. 16, 2010; amended March 11, 2011; amended P-  
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October 2, 2014

## **KANSAS STATE EMPLOYEES HEALTH CARE COMMISSION**

### **ECONOMIC IMPACT STATEMENT FOR PROPOSED AMENDMENT TO K.A.R. 108-1-3**

#### **I. Summary of Proposed Regulation Including Its Purpose.**

K.A.R. 108-1-3 establishes the eligibility requirements for school district and education entities participants in the state health care benefits program established by the Kansas State Employees Health Care Commission (HCC). Effective with plan year 2015 (January 1, 2015), the proposed amendments to subsection (b) alter the definition of eligible “primary participant” and add a definition of the term “variable hour employee” to reflect recent changes in federal law. This newly revised definition of a primary participant or variable hour employee would extend eligibility for coverage under the state health care benefits program to employees not currently covered by the plan if they work the required number of hours. The proposed changes will also allow for married couples that are both employed by the State or a Non State Group covered under the state health care benefits program to choose whether to enroll in individual plans or to elect a family membership. Employees and their dependents are still prohibited from having double coverage under the state health care benefits program.

#### **II. Reason or Reasons the Proposed Regulation is Required, Including Whether or Not the Regulation is Mandated by Federal Law.**

The proposed changes in the definition of a primary participant within this regulation are mandated by federal law. The law defines full-time status for the purposes of providing employer sponsored group health insurance as 30 hours per week and added a definition and procedure for measuring the number of hours worked for variable hour employees to determine if they meet the full-time employment status requirements. As a result of these changes, the state health care benefits program must modify the definitions and eligibility language to comply. Failure to comply with the requirements could result in monetary penalties to the employing educational entity whose employees are not offered the opportunity to enroll in the health plan. The proposed amendment to K.A.R. 108-1-3 will bring the regulation in line with the federal requirements.

The proposed change to allow a primary participant to be covered under another primary participant’s plan as a dependent is not mandated by law but is a change requested by a small number of employees. Under this provision the employee and their spouse must both be eligible for coverage under the state health care benefits program. This change will allow them to purchase a family contract instead of one electing single coverage and the other selecting member and children coverage.

**III. Anticipated Economic Impact.**

The proposed amendment to K.A.R. 108-1-3 adds the new federal definition of a full-time employee which is incorporated into primary participant and variable hour employee as eligibility criteria for coverage under the state health care benefits program. Current eligibility guidelines allow employees other than students and some adjunct professors that work 1,000 hours a year to enroll in the state health care benefits program at the part-time rates. The impact to the plan therefore is the change from part-time to full-time rates for these employees. The plan actuaries estimate the economic impact to all school districts and educational entities as \$130,000 annually. Affected employees should see a reduction in their share of the plan cost as a result of the increased employer contribution.

Allowing a primary participant to be enrolled under another primary participant's health plan will impact only a very small number of employees since both would have to be employed by the State or a covered Non State entity. Based upon the employee contribution requirements, plan out of pocket requirements and the employer health savings account contributions, most married employees will likely continue to elect separate policies. Therefore, the health plan actuaries estimate that this part of the regulation change will have no financial impact on the employing school districts and educational entities.

There is no economic impact on the general public.

**IV. Less Costly or Less Intrusive Alternatives.**

No other less costly or less intrusive alternatives to the proposed amendments were identified, as the proposed amendments reflect the least restrictive amendments possible to ensure that the plan complies with all federal requirements.

**108-1-4. Local unit of government employee health care benefits plan.** (a) Definitions for K.A.R. 108-1-4.

(1) "Active participant" means any ~~local unit employee~~ person who is enrolled in the local unit plan ~~under subsection (b).~~

(2) "Child" means any of the following:

(A) A natural son or daughter of a primary participant;

(B) a lawfully adopted son or daughter of a primary participant. The term "lawfully adopted" shall include those instances in which a primary participant has filed the petition for adoption with the court, has a placement agreement for adoption, or has been granted legal custody;

(C) a stepchild of a primary participant. However, if the natural or adoptive parent of the stepchild is divorced from the primary participant, the stepchild shall no longer qualify;

(D) a child of whom the primary participant has legal custody; or

(E) a grandchild, if at least one of the following conditions is met:

(i) The primary participant has legal custody of the grandchild or has lawfully adopted the grandchild;

(ii) the grandchild lives in the home of the primary participant and is the child of a covered eligible dependent child, and the primary participant provides more than 50 percent of the support for the grandchild; or

(iii) the grandchild is the child of a covered eligible dependent child and is considered to reside with the primary participant even when the grandchild or eligible dependent child is

temporarily absent due to special circumstances including education of the covered eligible dependent child, and the primary participant provides more than 50 percent of the support for the grandchild.

(3) "COBRA" means the consolidated omnibus budget reconciliation act, public law 99-272, as amended.

(4) "Commission" means the Kansas state employees health care commission.

(5) "Direct bill participant" means any person enrolled in the local unit plan pursuant to subsections (d), (e), and (h).

(6) "Eligible dependent child" means any dependent child who meets one of the following criteria:

(A) The child is under 26 years of age.

(B) The child is aged 26 or older, has a permanent and total disability, and has continuously maintained group coverage as an eligible dependent child of the primary participant before attaining the age of 26. The child shall be chiefly dependent on the primary participant for support.

(7) "Health care benefits program" means the state of Kansas health care benefits program established by the commission.

(8) "Local unit" means any of the following:

(A) Any county, township, or city;

(B) any community mental health center;

(C) any groundwater management district, rural water-supply district, or public wholesale water-supply district;

(D) any county extension council or extension district;

(E) any hospital established, maintained, and operated by a city of the first or second class, a county, or a hospital district in accordance with applicable law;

(F)(i) Any city, county, or township public library created under the authority of K.S.A. 12-1215 et seq., and amendments thereto;

(ii) any regional library created under the authority of K.S.A. 12-1231, and amendments thereto;

(iii) any library district created under the authority of K.S.A. 12-1236, and amendments thereto;

(iv) the Topeka and Shawnee county library district established under the authority of K.S.A. 12-1260 et seq., and amendments thereto;

(v) the Leavenworth and Leavenworth county library district established under the authority of K.S.A. 12-1270, and amendments thereto;

(vi) any public library established by a unified school district under the authority of K.S.A. 72-1623, and amendments thereto; or

(vii) any regional system of cooperating libraries established under the authority of K.S.A. 75-2547 et seq., and amendments thereto;

(G) any housing authority created pursuant to K.S.A. 17-2337 et seq., and amendments thereto;

(H) any local environmental protection program obtaining funds from the state water fund in accordance with K.S.A. 75-5657, and amendments thereto;

(I) any city-county, county, or multicounty health board or department established pursuant to K.S.A. 65-204 and 65-205, and amendments thereto;

(J) any nonprofit independent living agency, as defined in K.S.A. 65-5101 and amendments thereto;

(K) the Kansas guardianship program established pursuant to K.S.A. 74-9601 et seq., and amendments thereto; or

(L) any group of persons on the payroll of a county, township, city, special district or other local governmental entity, public school district, licensed child care facility operated by a not-for-profit corporation providing residential group foster care for children and receiving reimbursement for all or part of this care from the department of social and rehabilitation services ~~of social and rehabilitation services~~ for children and families, nonprofit community mental health center pursuant to K.S.A. 19-4001 et seq. and amendments thereto, nonprofit community facility for ~~the mentally retarded~~ people with intellectual disability pursuant to K.S.A. 19-4001 et seq. and amendments thereto, or nonprofit independent living agency as defined in K.S.A. 65-5101 and amendments thereto.

(9) "Local unit employee" means any individual who meets one or more of the following criteria:

(A) The individual is an appointed or elective officer or employee of a qualified local unit whose employment is not seasonal or temporary and whose employment requires at least 1,000 hours of work per year.

(B) The individual is an appointed or elective officer or employee who is employed concurrently by two or more qualified local units in positions that involve similar or related tasks and whose combined employment by the qualified local units is not seasonal or temporary and requires at least 1,000 hours of work per year.

(C) The individual is a member of a board of county commissioners of a county that is a qualified local unit, and the compensation paid for service on the board equals or exceeds \$5,000 per year.

(D) The individual is a council member or commissioner of a city that is a qualified local unit, and the compensation paid for service as a council member or commissioner equals or exceeds \$5,000 per year.

(10) "Local unit plan" means the local unit employee health care benefits component of the health care benefits program.

(11) "Permanent and total disability" means that an individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or has lasted or can be expected to last for a continuous period of at least 12 months. An individual shall not be considered to have a permanent and total disability unless that person furnishes proof of the permanent and total

disability in the form and manner, and at the times, that the health care benefits program may require.

(12) "Primary participant" means any person enrolled in the local unit plan ~~as an active participant~~ under subsection (b), a direct bill participant under subsection (d), or a COBRA participant.

(13) "Qualified local unit" means a local unit that meets the terms, conditions, limitations, exclusions, and other provisions established by the commission for participation in the local unit employee health care benefits component of the health care benefits program and that has entered into a written agreement with the commission to participate in the program.

(14) "Variable-hour employee" means any local unit employee for whom, at the date of hire, it cannot be determined that the employee is reasonably expected to work at least 1,000 hours per year.

(b) ~~Active~~ Primary participants. Subject to the provisions of subsection (c), each local unit employee shall be eligible to participate as ~~an active~~ a primary participant in the local unit plan. Eligibility and participation shall be subject to terms, conditions, limitations, exclusions, and other provisions established by the commission, including the amount and method of payment for employee and employer contributions.

(c) Waiting periods.

(1) Each local unit employee whose first day of work for a qualified local unit is on or after the first day on which the employee's qualified local unit participates in the local unit plan

shall become eligible for coverage following completion of a 30-day waiting period beginning with the first day of work for the qualified local unit. Each local unit employee shall have 31 days after becoming eligible to elect coverage.

(2) The waiting period established in paragraph (c)(1) shall not apply if all of the following conditions are met:

(A) The person is returning to work for the qualified local unit, is transferring from another qualified local unit under this regulation, or is transferring from a position that is eligible for coverage under K.A.R. 108-1-1 or K.A.R. 108-1-3.

(B) Immediately before leaving the prior position, the person was enrolled in the health care benefits program provided by the state of Kansas under K.A.R. 108-1-1, the school district plan under K.A.R. 108-1-3, or the qualified local unit plan under K.A.R. 108-1-4.

(C) The break in service between the prior position and the new position does not exceed the following time periods:

(i) 30 ~~or fewer~~ calendar days; or

(ii) 365 ~~or fewer~~ calendar days, if the person was laid off in accordance with the practices of the prior qualified local unit.

(3) The waiting period established in paragraph (c)(1) shall not apply to any person who, on that person's first day of work for the qualified local unit, is enrolled in the local unit plan, the school district plan under K.A.R. 108-1-3, or the health care benefits plan under K.A.R. 108-1-1 on any of the following bases:

(A) As a direct bill participant;

(B) under the continuation of benefits coverage provided under COBRA; or

(C) as a dependent of a participant in the health care benefits program.

(4) The waiting period established in paragraph (c)(1) may be waived by the commission or its designee if, within 30 days of the date of hire, the chief administrative officer of the qualified local unit, or the chief administrative officer's designee, certifies in writing to the commission, or its designee, that the waiver is being sought ~~for either of the following reasons:~~

~~(A) The new local unit employee is not entitled to continuation of health benefits under either COBRA or state continuation of coverage laws, K.S.A. 40-2209 and K.S.A. 40-3209 and amendments thereto, and is not covered by or eligible to be covered by another health insurance plan.~~

~~(B) because the new employee is required to have health insurance as a condition of obtaining a work visa for employment in the United States.~~

(5) Each local unit employee who is employed by the qualified local unit immediately before the first day on which the qualified local unit participates in the local unit plan shall be subject to transitional provisions established by the commission regarding waiting periods and the effective date on which the employee becomes eligible to participate in the local unit plan.

(d) Classes of direct bill participants. Subject to the provisions of subsection (e), the classes of persons eligible to participate as members of the local unit plan on a direct bill basis shall be the following:

(1) Any retired local unit employee who meets one of the following conditions:

(A) The employee is eligible to receive retirement benefits under the Kansas public employees retirement system or the Kansas police and firemen's retirement system; or

(B) if the qualified local unit is not a participating employer under either the Kansas public employees retirement system or the Kansas police and firemen's retirement system, the employee is eligible to receive retirement benefits under the retirement plan provided by the qualified local unit;

(2) any totally disabled former local unit employee who meets one of the following conditions:

(A) The employee is receiving benefits under the Kansas public employees retirement system or the Kansas police and firemen's retirement system; or

(B) if the qualified local unit is not a participating employer under either the Kansas public employees retirement system or the Kansas police and firemen's retirement system, the employee is receiving disability benefits under the retirement or disability plan provided by the qualified local unit;

(3) any surviving spouse or dependent of a ~~qualifying~~ primary participant in the local unit plan;

(4) any person who is a local unit employee and who is on approved leave without pay in accordance with the practices of the qualified local unit; and

(5) any individual who was covered by the health care plan offered by the qualified local unit on the day immediately before the first day on which the qualified local unit participates in the local unit plan, except that no individual who is an employee of the qualified local unit and

who does not meet the definition of local unit employee in subsection (a) shall be qualified as a direct bill participant under this paragraph.

(e) Conditions for direct bill participants. Each person who is within a class listed in subsection (d) shall be eligible to participate on a direct bill basis only if the person meets both of the following conditions:

(1) The person was covered by the local unit plan or the health care insurance plan offered by the qualified local unit on one of the following bases:

(A) Immediately before the date the person ceased to be eligible for coverage or, for any person identified in paragraph (d)(5), immediately before the first day on which the qualified local unit participates in the local unit plan, the person either was covered as ~~an active a~~ primary participant under subsection (b) or was covered by the health care insurance plan offered by the employee's qualified local unit.

(B) The person is a surviving spouse or dependent of a plan participant who was enrolled as ~~an active a~~ primary participant or a direct bill participant when the ~~plan~~ primary participant died, and the person was covered by the health care benefits program as a dependent under subsection (g) when the ~~plan~~ primary participant died.

(C) The person is a surviving spouse or dependent of a plan participant who was enrolled in the health care insurance plan offered by the participant's qualified local unit when the participant died, and the person has maintained continuous coverage under the local unit's health care insurance plan before joining the health care benefits program.

(2) The person completes an enrollment form requesting transfer to the direct bill program and submits the form to the health care benefits program. The form shall be submitted no more than 30 days after the person ceased to be eligible for coverage or, in the case of any individual identified in paragraph (d)(5), no more than 30 days after the first day on which the qualified local unit participates in the local unit plan.

(f) COBRA participants. Any individual with rights to extend coverage under COBRA may participate in the local unit plan, subject to the provisions of that federal law.

(g) Eligible dependent participants.

(1) Any person enrolled in the local unit plan under subsection (b), (d), or (f) as a primary participant may enroll the following dependents, subject to the same conditions and limitations that apply to the primary participant:

(A) The primary participant's lawful wife or husband, as recognized by Kansas law and subject to the documentation requirements of the commission or its designee; and

(B) any of the primary participant's eligible dependent children, subject to the documentation requirements of the commission or its designee.

(2) An eligible dependent child who is enrolled by one primary participant shall not be eligible to be enrolled by another primary participant in the health care benefits program.

(3) An individual who is eligible to enroll as a primary participant in the health care benefits program shall ~~not~~ be eligible to be enrolled under this subsection as a dependent in the health care benefits program, subject to the following requirements:

(A) The individual who enrolls as a dependent of a primary participant shall be the lawful spouse, as defined in paragraph (g)(1)(A).

(B) An individual who enrolls as a dependent of a primary participant shall not be eligible to be enrolled as a primary participant during that plan year.

(C) Each individual who enrolls as a dependent of a primary participant shall be subject to the co-pays, deductibles, coinsurance, and employer contribution levels as a dependent and not as a primary participant.

(4) The term “dependent” shall exclude any individual who is not a citizen or national of the United States, unless the individual is a resident of the United States or a country contiguous to the United States, is a member of a primary participant’s household, and resides with the primary participant for more than six months of the calendar year. The dependent shall be considered to reside with the primary participant even when the dependent is temporarily absent due to special circumstances, including illness, education, business, vacation, and military service.

(h) Direct bill participants; continuous coverage provisions.

(1) Except as otherwise provided in this subsection, each direct bill participant enrolled in the health care benefits program shall maintain continuous coverage in the program or shall lose eligibility to be in the health care benefits program as a direct bill participant.

(2) Any person who discontinued direct bill coverage in the health care benefits program before January 21, 2001 and was not a direct bill participant on that date may return one time to the health care benefits program if the person meets the criteria specified in subsections (d)

and (e) and if that person has not previously discontinued and returned to direct bill coverage before January 21, 2001. (Authorized by K.S.A. ~~2010~~ 2014 Supp. 75-6501 and K.S.A. 75-6510; implementing K.S.A. ~~2010~~ 2014 Supp. 75-6501 and K.S.A. 2014 Supp. 75-6508; effective Aug. 30, 2002; amended March 28, 2003; amended Jan. 9, 2004; amended June 18, 2004; amended March 10, 2006; amended July 17, 2009; amended July 16, 2010; amended, T-108-8-16-10, Aug. 16, 2010; amended March 11, 2011; amended P-\_\_\_\_\_.)

October 2, 2014

## **KANSAS STATE EMPLOYEES HEALTH CARE COMMISSION**

### **ECONOMIC IMPACT STATEMENT FOR PROPOSED AMENDMENT TO K.A.R. 108-1-4**

#### **I. Summary of Proposed Regulation Including Its Purpose.**

K.A.R. 108-1-4 establishes the eligibility requirements for public entities participants in the state health care benefits program established by the Kansas State Employees Health Care Commission (HCC). Effective with plan year 2015 (January 1, 2015), the proposed amendments to subsection (b) alter the definition of eligible “primary participant” and add a definition of the term “variable hour employee” to reflect recent changes in federal law. This newly revised definition of a primary participant or variable hour employee would extend eligibility for coverage under the state health care benefits program to employees not currently covered by the plan if they work the required number of hours. The proposed changes will also allow for married couples that are both employed by the State or a Non State Group covered under the state health care benefits program to choose whether to enroll in individual plans or to elect a family membership. Employees and their dependents are still prohibited from having double coverage under the state health care benefits program.

#### **II. Reason or Reasons the Proposed Regulation is Required, Including Whether or Not the Regulation is Mandated by Federal Law.**

The proposed changes in the definition of a primary participant within this regulation are mandated by federal law. The law defines full-time status for the purposes of providing employer sponsored group health insurance as 30 hours per week and added a definition and procedure for measuring the number of hours worked for variable hour employee to determine if they meet the full-time employment status requirements. As a result of these changes, the state health care benefits program must modify the definitions and eligibility language to comply. Failure to comply with the requirements could result in monetary penalties to the employing educational entity whose employees are not offered the opportunity to enroll in the health plan. The proposed amendment to K.A.R. 108-1-4 will bring the regulation in line with the federal requirements.

The proposed change to allow a primary participant to be covered under another primary participant’s plan as a dependent is not mandated by law but is a change requested by a small number of employees. Under this provision the employee and their spouse must both be eligible for coverage under the state health care benefits program. This change will allow them to purchase a family contract instead of one electing single coverage and the other selecting member and children coverage.

### **III. Anticipated Economic Impact.**

The proposed amendment to K.A.R. 108-1-4 adds the new federal definition of a full-time employee which is incorporated into primary participant and variable hour employee as eligibility criteria for coverage under the state health care benefits program. Current eligibility guidelines allow employees other than students and some adjunct professors that work 1,000 hours a year to enroll in the state health care benefits program at the part-time rates. The impact to the plan therefore is the change from part-time to full-time rates for these employees. The plan actuaries estimate the economic impact to all public entities covered under the health plan as \$170,000 annually. Affected employees should see a reduction in their share of the plan cost as a result of the increased employer contribution.

Allowing a primary participant to be enrolled under another primary participant's health plan will impact only a very small number of employees since both would have to be employed by the State or a covered Non State entity. Based upon the employee contribution requirements, plan out of pocket requirements and the employer health savings account contributions, most married employees will likely continue to elect separate policies. Therefore, the health plan actuaries estimate that this part of the regulation change will have no financial impact on the employing Non State entities.

There is no economic impact on the general public.

### **IV. Less Costly or Less Intrusive Alternatives.**

No other less costly or less intrusive alternatives to the proposed amendments were identified, as the proposed amendments reflect the least restrictive amendments possible to ensure that the plan complies with all federal requirements.