

## **INSURANCE LEGISLATION ADOPTED BY THE 2003 KENTUCKY GENERAL ASSEMBLY (REGULAR SESSION)**

April 25, 2003

THIS BULLETIN IS FOR INFORMATION PURPOSES ONLY. IT DOES NOT AMEND OR INTERPRET PROVISIONS OF THE KENTUCKY REVISED STATUTES OR THE KENTUCKY ADMINISTRATIVE REGULATIONS. THE COMPLETE AND ACCURATE TEXT OF THE LAW CAN BE SECURED WHEN THE 2003 ACTS OF THE KENTUCKY GENERAL ASSEMBLY ARE PUBLISHED IN THE SUMMER OF 2003. UNLESS OTHERWISE NOTED, THE EFFECTIVE DATE OF THE LEGISLATION IS JUNE 24, 2003. (*Bills as enacted are available on the LRC web site at [www.lrc.state.ky.us/record/03rs/record.htm](http://www.lrc.state.ky.us/record/03rs/record.htm)*)

### **Senate Bill 71 – Administrative Regulations**

This bill streamlines the process to promulgate an administrative regulation. Of note are the following changes:

- The process of filing a notice of intent has been repealed.
- If an emergency regulation is to be replaced by an ordinary regulation, the ordinary regulation must be filed with the compiler at the same time as the emergency regulation.
- A public hearing and public comment period are not required for an emergency regulation.
- A new enumerated tiering method was added to address and alleviate special problems of individuals and small businesses in complying with a regulation.
- The bill requires a 30-day written comment period on a regulation following publication in the Administrative Register.
- An agency must provide a form to be completed by those who want to be notified that the agency has filed regulations. Those completing the form will be placed on the agency's notification list for 4 years or until the individual submits a written request to be removed from the list, whichever occurs first.
- A copy of the administrative regulation as filed and all attachments are to be mailed to all individuals on the notification list within 5 working days after the regulation has been filed. The regulation must be accompanied by a cover letter requesting all affected parties to submit written comments that identify anticipated effects of the proposed regulation.
- An agency must notify the compiler as to whether written notice to attend the public hearing on the regulation was received and whether any written comments on the regulation were received.
- The statement of consideration is to be filed 15 days after the last day of the public comment period. An agency may ask for a 30-day extension if a significant number of comments are received.

The Administrative Regulation Review Subcommittee will meet to review the regulation within 45 days after its publication or 60 days after receipt of the statement of consideration.

*Contact: Legal Division (502) 564-6032*

**Senate Bill 120 – Self-Insured Employer-Organized Associations** - This bill creates new sections in KRS 304 Subtitle 17A to establish minimum standards for self-insured employer-organized associations (EOA) that are operating in Kentucky.

## Licensing

The bill requires a self-insured EOA to hold a certificate of filing from the Commissioner. Section 5 of the bill specifies the information required to be submitted in an application for a certificate of filing and Section 6 specifies the conditions that must be met to be issued a certificate of filing.

## Financial Requirements

The financial standards that must be met to obtain and maintain a certificate of filing as a self-insured EOA are set forth in Section 7. The initial capital and surplus must equal the greater of

- \$500,000;
- two percent of projected annual contribution levels of the first \$150,000,000 and 1% of projected annual contribution levels in excess of \$150,000,000; or
- eight percent of projected annual health care expenditures except those paid on a capitated basis or managed hospital payment basis and four percent of projected annual hospital expenditures paid on a managed hospital payment basis.

The on-going capital and surplus must equal the greater of

- \$500,000;
- two percent of annual contribution levels as reported on the most recent annual financial statement on the first \$150,000,000 and one percent of annual contributions in excess of \$150,000,000; or
- eight percent of annual health care expenditures except those paid on a capitated basis or managed hospital payment basis and four percent of projected annual hospital expenditures paid on a managed hospital payment basis.

Additionally, the bill allows for the commissioner to require additional security if he or she is not satisfied with the financial strength of a self-insured EOA.

Annual audited financial statements must be filed with the Department. Additionally, a self-insured EOA is subject to examination by the Department of Insurance no less frequently than every four years. The examinations are subject to the same statutes governing the examination of insurers.

Section 21 provides for conditions under which the commissioner may take action against a self-insured EOA's certificate of filing.

## Agents

The bill specifies that agents of a self-insured EOA must be licensed as an agent with life and health lines of authority and must be appointed by the self-insured EOA in accordance with KRS 304 Subtitle 9.

## Operation

Sections 14 through 16 require that each self-insured EOA group be operated by a board of trustees and sets forth the requirements of the board.

## Rates and Form Filings

Section 18 requires self-insured EOAs to file their rates, underwriting guidelines and evidence of coverage with the Department.

## Disclosures

All evidences of coverage issued by the self-insured EOA must contain a statement that the coverage has been placed through a self-insured employer-organized association which has received a certificate of filing from the Commonwealth of Kentucky. The disclosure must also state that members are not covered by the guaranty association.

## Applicability of Other Laws

Self-insured EOAs are subject to the same requirements of KRS 304 Subtitles 12, 14, 17A, 18, etc., to which insurers are subject (that are not expressly in conflict with other provisions of SB 120) including, but not limited to, mandated health benefits, external appeals, and prompt pay provisions.

*Contact: Health Insurance Policy and Managed Care Division (502) 564-6088*

*Financial Standards and Examination Division (502) 564-6082*

## **Senate Bill 153 – Delivery of Insurance Policies By Electronic Transfer**

This bill amends KRS 304.14-230 and KRS 304.14-240 to allow insurance policies to be delivered electronically upon agreement of the insurer and the insured.

*Contact: Health Insurance Policy and Managed Care Division (502) 564-6088*

*Life Insurance Division (502) 564-6071*

*Property and Casualty Division (502) 564-6046*

## **House Bill 183 – Financial Impact Statements for Proposed Mandated Health Insurance Benefits**

This bill amends KRS 6.948 to require the sponsor of a bill or amendment containing a mandated health benefit to have a financial impact statement prepared and attached to the bill before final consideration of the bill by the standing committee to which it is referred. Any floor amendment containing a mandated health benefit will not be in order until a financial impact statement is attached. A majority of members may also request a financial impact statement on any measure.

A mandated health benefit is defined in the bill as

. . . any requirement that any health benefit plan, as defined in KRS 304.17A-005:

- a. provide a specified benefit;
- b. include a specified coverage

- c. pay, indemnify, or reimburse for a specified medical service; or
- d. pay, indemnify, or reimburse specified health care providers for specific health care services.

The financial impact statement must be prepared by the Department of Insurance and contain information addressing the extent to which the mandated health benefit will:

- increase or decrease administrative expenses of insurers
- increase or decrease premiums
- impact the total cost of health care in the Commonwealth, including potential cost savings to be realized.

The financial impact statement must be completed no later than thirty (30) days after the request by the sponsor or the chair of the standing committee to which the measure has been referred. The financial impact statement must be completed as soon as possible after the request by a majority vote of the House or Senate or the request by a sponsor of a floor amendment.

The financial impact statement must be held confidential until the sponsor or person requesting the statement authorizes its public disclosure.

*Contact: Health Insurance Policy and Managed Care Division (502) 564-6088*

#### **House Bill 225 – Interest Rate for Determining Nonforfeiture Amounts for Annuities**

This bill amends KRS 304.15-315 to change the interest rate to no less than 1.5% per annum at which net considerations, prior withdrawals and partial surrenders are accumulated for the purpose of determining nonforfeiture amounts. This change only applies to contracts issued on or after July 1, 2003 and before July 1, 2005.

Note: Companies submitting filings to reduce the percentages to reflect this change on applicable annuity contracts need to file an actuarial memorandum demonstrating non-forfeiture compliance.

*Contact: Life Division (502) 564-6071*

#### **House Bill 397 – Kentucky Employers' Mutual Insurance Authority**

This bill amends KRS 342.831 to exempt KEMI from the requirement of appointing licensed insurance agents to market and sell its products.

*Contact: Agent Licensing Division (502) 564-6004*

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Janie A. Miller, Commissioner  
Kentucky Department of Insurance

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Date

