



PUBLIC PROTECTION CABINET

Andy Beshear
GOVERNOR

Jacqueline Coleman
LIEUTENANT GOVERNOR

**Kentucky Department of
Insurance**

500 Mero Street, 2SE11
Frankfort, KY 40601
Phone: (502) 564-3630
Toll Free: (800) 595-6053

Ray A. Perry
SECRETARY

DJ Wasson
DEPUTY SECRETARY

Sharon P. Clark
COMMISSIONER

MEMORANDUM

TO: To Whom it May Concern

FROM: Sharon P. Clark, Commissioner /s/ *Sharon P. Clark*
Kentucky Department of Insurance

DATE: February 4, 2025

RE: Amendment to Kentucky's Essential Health Benefit – Benchmark Plan

Pursuant to 45 C.F.R. Section 156.111, the Kentucky Department of Insurance (Department) will be seeking to amend the current essential health benefit benchmark (EHB-Benchmark) plan for Kentucky. As part of this request, the Department will be requesting to add the following five (5) benefits to the EHB-Benchmark plan: 1) elimination of visit limits, exclusions for cause, and utilization management for speech therapy, which includes speech therapy for services for the treatment of stuttering, pursuant to SB 111 enacted during the 2024 Kentucky legislative session; 2) coverage for biomarker testing, pursuant to HB 180 enacted during the 2023 Kentucky legislative session; 3) coverage for iatrogenic infertility preservation services, pursuant to HB 170 enacted during the 2023 Kentucky legislative session; 4) expanded coverage for cancer screenings, pursuant to HB 52 enacted during the 2024 Kentucky legislative session; and 5) routine adult dental coverage, pursuant to the latest federal guidelines permitting states to provide routine adult dental coverage in the EHB-Benchmark plan.

The Department, in consultation with its actuaries, has prepared the attached "Kentucky Plan Year 2027 Benchmark Plan Change Actuarial Report." This Report represents an analysis employing the required federal testing to determine if adding the above-described health benefits to Kentucky's EHB-Benchmark plan meets federal requirements. The Report concludes that adding the described health benefits to the EHB-Benchmark plan meets the required federal testing and is compliant with federal regulations for amending the EHB-Benchmark plan.

Also pursuant to federal requirements, the Department is posting the Report for public comment. Any interested party is invited to submit comments to the Department via email to shaun.orne@ky.gov. Comments will be accepted through the close of business on April 5, 2025.

Once the public comment period concludes, the Department will review and evaluate any submitted comments for thirty (30) days. After the evaluation period concludes, the Department plans to submit its final plan for amending Kentucky's EHB-Benchmark plan to the Department of Health and Human Services on May 5, 2025.

Kentucky Plan Year 2027 Benchmark Plan Change Actuarial Report

PREPARED FOR THE KENTUCKY DEPARTMENT OF INSURANCE

JANUARY 10, 2025

TRACI HUGHES, FSA, MAAA
DAVE DILLON, FSA, MAAA

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Introduction and Background

Lewis & Ellis, LLC (L&E) was engaged by the Kentucky Department of Insurance (KDOI) to assess and certify a proposed change to Kentucky's Benchmark Plan (BMP) for plan year 2027 Benchmark Plan.

In 2018, the Centers for Medicare and Medicaid Services (CMS) began allowing states three options in selecting an Essential Health Benefits (EHB)-benchmark plan for 2020 and beyond. The options included¹:

1. Adopting the EHB-benchmark plan that another state used for the 2017 plan year.
2. Substituting one or more categories of EHBs under its EHB-benchmark plan used for the 2017 plan year with the same category or categories of EHB from the EHB-benchmark plan that another State used for the 2017 plan year.
3. Creating a revised set of benefits for the state's EHB-benchmark plan.

These regulations allow states to annually modify their EHB-benchmark plan. Modifications must be communicated to CMS by the first Wednesday in May, two years prior to the effective date of the revised plan.

For plan year 2027, Kentucky is using option 3 to propose a revised set of benefits for the BMP. Based on the regulations 45 CFR §156.111, supplemented by guidance from CMS, Marketplace Oversight division, the Center for Consumer Information and Insurance Oversight (CMS/CCIIO), for plan years beginning on or after January 1, 2026, a State's BMP must:

Provide a scope of benefits that is equal to the scope benefits of a typical employer plan in the State.

The scope of benefits must fall within a range that is as or more generous than the least generous plan and as or less generous than the most generous plan among the following options:

- *Base-Benchmark Plan Options*
One of the selecting State's 10 base-benchmark plan options established under §156.100, and available for the selecting State's selection for the 2017 plan year.

¹ "Information on Essential Health Benefits (EHB) Benchmark Plans." Centers for Medicare and Medicaid Services, www.cms.gov/marketplace/resources/data/essential-health-benefits.

- **Large Group Health Insurance Plans**

The largest health insurance plan, by enrollment, within one of the five largest large group health insurance products by enrollment in the state. These products and plans must meet the following criteria:

- The product has at least 10 percent of the total enrollment of the five largest large group health insurance products in the State,
- The plan provides minimum value, as defined under § 156.145,
- The benefits are not excepted benefits, as established under § 146.145(b), and § 148.220 of this subchapter, and
- The benefits in the plan are from a plan year beginning after December 31, 2013.

L&E will refer to the requirements described above as the “required testing”.

Proposed Benchmark Plan

The current BMP is the Choice Plus Plan offered by UnitedHealthcare of Kentucky, Ltd. This BMP was set for plan year 2017 and has remained unchanged through plan year 2026.

For plan year 2027, Kentucky is proposing the following changes to the current BMP:

Change Description	Additional Detail
<p>Elimination of Visit Limits, Exclusions for Cause, and Utilization Management for Speech Therapy</p>	<p>Consistent with KY Senate Bill 111, KY desires for the 2027 BMP to cover speech therapy as a treatment for stuttering, with no exclusions based on cause (i.e., injury, stroke, cancer, etc.), no visit limits, and no utilization management (i.e. prior authorization, utilization review, etc.). However, the BMP cannot stipulate requirements based on condition (i.e., stuttering). Therefore, KY is proposing the elimination of visit limits, exclusions for cause, and utilization management for the entirety of the speech therapy benefit. Speech therapy as an overall benefit is already covered in the current BMP, and therefore, does not need to be added.</p>
<p>Biomarker Testing Coverage</p>	<p>Consistent with KY House Bill 180, KY is proposing that the 2027 BMP explicitly cover biomarker testing. Currently, the BMP neither excludes nor explicitly states coverage for biomarker testing. Based on a survey of KY carriers, this benefit is covered by carriers under the laboratory/diagnostic broader benefit category. Therefore, KY is simply proposing a change to BMP forms to explicitly cover biomarker testing such that current coverage practices are ensured to continue moving forward.</p>

Change Description	Additional Detail
<p>Coverage for Iatrogenic Infertility Preservation Services</p>	<p>Consistent with KY House Bill 170, KY is proposing that the 2027 BMP cover oocyte and sperm preservation services when medically necessary treatment may directly or indirectly cause iatrogenic infertility. This benefit is not covered by the current BMP.</p>
<p>Expanded Coverage for Cancer Screenings</p>	<p>Consistent with KY House Bill 52, KY is proposing that the 2027 BMP cover all preventive cancer screenings consistent with nationally recognized clinical practice guidelines. The proposed coverage includes but is not limited to lung, breast, cervical, prostate, colorectal, ovarian, thyroid, skin, and pancreatic cancer screenings, and prohibits exclusions based on the type of cancer being screened. Nationally recognized clinical practice guidelines include but are not limited to the United States Preventive Services Task Force (USPSTF), the American Cancer Society, and the National Comprehensive Cancer Network. KY is proposing that utilization management does not apply to this benefit except for the purpose of determining that the screening meets nationally recognized clinical practice guidelines. The current BMP only covers cancer screenings included in the USPSTF categories A & B, as required federally by the Affordable Care Act (ACA).</p>
<p>Routine Adult Dental Coverage</p>	<p>KY is proposing that the 2027 BMP provide routine adult dental benefit coverage. The 'Final 2025 Notice of Benefit and Payment Parameters' released by CMS lifted a regulatory prohibition on including routine adult dental coverage as an EHB starting in Plan Year 2027. Currently, the BMP includes adult dental coverage only for accidental injury. KY is proposing that "routine" adult dental benefit coverage include coverage for the following services typically defined as class I dental services, being diagnostic or preventive in nature: Oral Exams (1/6-months), Prophylaxis (1/6-months), Fluoride Treatment (1/6-months), Radiographs (1 bitewing series/6-months), space maintainers, and emergency treatment</p>

Benchmark Plan Assessment

In accordance with guidance issued by CMS/CCIIO, L&E conducted the required testing to ensure compliance with federal standards. This testing involved comparing the expected value of fully paying for all covered benefits—i.e., with no member cost-sharing—across the following plans:

1. The Proposed Benchmark Plan
2. The Selected "Least Generous Plan"
3. The Selected "Most Generous Plan"

This analysis ensures that the proposed benchmark plan's scope of benefits aligns with the range established by the least and most generous plans within the state, as required under 45 CFR §156.111.

REQUIRED TESTING

For the required testing, the current benchmark plan was selected to represent the "Least Generous Plan", or the "floor" of a typical employer plan. This plan is one of Kentucky's base-benchmark plan options available for selection for the 2017 plan year.

In comparing the expected value of the proposed benchmark plan (BMP) to the Least Generous Plan, the only differences identified are the benefit expansions and additions detailed in the previous section of this report. As a result, the expected value of the proposed BMP exceeds the Least Generous Plan by the expected value of these expanded or added benefits.

To estimate the value of the expanded or added benefits, L&E utilized the following resources:

- The Kentucky Department of Insurance (DOI) Insurer Annual Data Report.
- Benefit estimates completed as part of other state benefit mandates or changes to benchmark plans.
- L&E's Medical Manual.
- Other publicly available research.

Based on this analysis, L&E estimates that the value of the expanded or added benefits is \$23.35 per member per month (PMPM) after adjusting for full coverage (i.e., no member cost-sharing).

Accordingly, L&E estimates that the expected value of the proposed BMP exceeds the Least Generous Plan by \$23.35 PMPM.

Benefit Differences	Proposed Benchmark Plan	Least Generous Plan
Elimination of Visit Limits, Exclusions for Cause, and Utilization Management for Speech Therapy	\$3.00 PMPM	Covered Up to 25 Visits
Biomarker Testing	Implicitly Covered	Implicitly Covered
Iatrogenic Infertility Preservation	\$0.05 PMPM	Not Covered
Cancer Screenings	\$0.30 PMPM	Partially Covered
Routine Dental Services (Adult)	\$20.00 PMPM	Not Covered
Total Benefit Differences	\$23.35	\$0.00

The Blue Cross Blue Shield Service Benefit Standard Plan was selected to be the “Most Generous Plan”, or the “ceiling” of a typical employer plan. This plan meets the requirements of 45 CFR §156.111 because it was one of the 10 base-benchmark plan options established at §156.100, and available for the selecting State’s selection for the 2017 plan year.²

L&E compared the benefits of the proposed benchmark to the Most Generous Plan and found benefit differences as shown in the table below. Other than the benefits listed below, the two plans cover the same services. Each benefit estimate below was developed based on data from the KY Department of Insurance (DOI) Insurer Annual Data report, benefit estimates completed as part of other state benefit mandates or changes to its benchmark plan, L&E’s medical manual, and other publicly available research. The estimates are based on full coverage (i.e. no member cost sharing).

Benefit Differences	Proposed Benchmark Plan	Most Generous Plan
Home Health Care/Private Duty Nursing³	\$2.00 PMPM 250 Visit Limit	Not Covered
Home Health Care	\$4.00 PMPM 100 Visit Limit	\$3.95 PMPM 50 Visit Limit
Vision Services (Adult)	Not Covered	Accidental & Select Conditions Only: \$0.25 PMPM
Dental Services (Adult)	Routine Only: \$20.00 PMPM	\$60.00 PMPM

² https://insurance.ky.gov/ppc/newstatic_info.aspx?static_id=140

³ The proposed benchmark plan covers private duty nursing for the home health care setting only (i.e., not for inpatient settings, etc.). The Most Generous Plan does not cover private duty nursing in any setting.

Benefit Differences	Proposed Benchmark Plan	Most Generous Plan
Bariatric Surgery	Not Covered	\$0.70 PMPM
Nutritional Counseling	Not Covered	\$0.25 PMPM
Acupuncture	Not Covered	\$1.00 PMPM 20 Visit Limit
Chiropractic Care	\$2.00 20 Visit Limit	\$1.85 12 Visit Limit
Elimination of Visit Limits, Exclusions for Cause, and Utilization Management for Speech Therapy	\$3.00 PMPM	Covered Up to 25 Visits ⁴
Biomarker Testing	Implicitly Covered	Implicitly Covered
Cancer Screenings	\$0.30 PMPM	Partially Covered
Iatrogenic Infertility Preservation	\$0.05 PMPM	Not Covered
Total Benefit Differences	\$31.35 PMPM	\$68.00 PMPM

The estimated value of the benefit differences for the Most Generous Plan is greater than for the proposed BMP.

Therefore, the proposed BMP passes the required testing.

Conclusion

Kentucky is proposing a new Essential Health Benefits Benchmark Plan for the 2027 plan year. The proposed plan enhances the current EHB benchmark by expanding coverage for cancer screenings and speech therapy, adding coverage for iatrogenic infertility and routine adult dental services, and clarifying the requirement for biomarker testing coverage. Per federal regulations, a newly proposed EHB-benchmark plan must pass certain required testing. The analysis outlined in this report shows that the proposed EHB-Benchmark Plan passes the required testing and is therefore compliant with federal regulations.

⁴ Coverage includes up to 75 visits total for physical, occupational, and speech therapy combined. We have assumed an even split between the three therapy types, consistent with the 25 visit limit in the current BMP for each therapy type individually. This assumption was made so that further valuation of visit limit differences for physical and occupational therapy would not be necessary.

ASOP 41 Disclosures

The Actuarial Standards Board (ASB), vested by the U.S.-based actuarial organizations⁵, promulgates actuarial standards of practice (ASOPs) for use by actuaries when providing professional services in the United States.

Each of these organizations requires its members, through its Code of Professional Conduct⁶, to observe the ASOPs of the ASB when practicing in the United States. ASOP 41 provides guidance to actuaries with respect to actuarial communications and requires certain disclosures which are contained in the following.

Identification of the Responsible Actuary

The responsible actuaries are:

- Traci Hughes, FSA, MAAA, Vice President & Principal
- David Dillon, FSA, MAAA, Senior Vice President & Principal

These actuaries are available to provide supplementary information and explanation.

Identification of Actuarial Documents

The date of this document is January 10, 2025. The date (a.k.a. "latest information date") through which data or other information has been considered in performing this analysis is March 11, 2024.

Disclosures in Actuarial Reports

- The contents of this report are intended for the use of the KY Department of Insurance. The authors of this report are aware that it may be distributed to third parties. Any third party with access to this report acknowledges, as a condition of receipt, that they cannot bring a suit, claim, or action against L&E, under any theory of law, related in any way to this material.
- Lewis & Ellis, LLC is financially and organizationally independent from the health insurers and providers involved in this analysis. There is nothing that would impair or seem to impair the objectivity of the work.

⁵ The American Academy of Actuaries (Academy), the American Society of Pension Professionals and Actuaries, the Casualty Actuarial Society, the Conference of Consulting Actuaries, and the Society of Actuaries.

⁶ These organizations adopted identical *Codes of Professional Conduct* effective January 1, 2001.

- The purpose of this report is to assist the KY Department of Insurance in assessing and certifying a proposed change to KY's Benchmark Plan.
- The responsible actuaries identified above are qualified as specified in the Qualification Standards of the American Academy of Actuaries.
- Lewis & Ellis has reviewed the data provided by the insurers and KY Department of Insurance for reasonableness, but the data has not been audited. L&E nor the responsible actuaries assume responsibility for these items that may have a material impact on the analysis. To the extent that there are material inaccuracies in, misrepresentations in, or lack of adequate disclosure by the data, the results may be accordingly affected.
- Several of the assumptions made in this analysis are subject to uncertainty and it is not unexpected that actual results could differ from the calculated estimates.
- L&E is not aware of any subsequent events that may have a material effect on the findings.
- There are no other documents or files that accompany this report.

Actuarial Findings

The actuarial findings of the report can be found in the body of this report.