

**40-2209p. Same; required coverage for all applying small employers; medical service enrollment, limitations; denial of coverage, when; definitions.** (a) On and after July 1, 1997, and subject to any exclusions set out in subsections (b) through (e), each accident and sickness insurer that offers or renews policies providing hospital, medical or surgical expense benefits to a small employer must: (1) Accept every small employer that applies for such coverage; and (2) accept for enrollment all eligible employees or dependents under such policy who apply for enrollment during the period in which the eligible employee or dependent first becomes eligible to enroll under the terms of the policy.

(b) (1) In the case of an accident and health insurer that offers a policy providing hospital, medical or surgical expense benefits to a small employer through a medical service enrollment area the accident and health insurer may:

(A) Limit the small employers that may apply for such coverage to those with eligible employees or dependents who live, work or reside in the medical service enrollment area for such policy; and

(B) within the medical service enrollment area of such policy, deny coverage to such small employer if the accident and sickness insurer has demonstrated to the commissioner that: (i) It will not have the capacity to deliver services adequately to small employees and dependents of any additional small employers because of its obligations to existing small employer group policyholders or certificateholders and to eligible employees and dependents; and (ii) it will apply this paragraph uniformly to all small employers without regard to the claims experience of those small employers and their employees and dependents and without regard to the health status factors of any employees or dependents.

(2) An accident and sickness insurer which denies coverage to a small employer under any policy providing hospital, medical or surgical expense benefits in any medical service enrollment area in accordance with subsection (b)(1)(B) may not offer such policies to small employers within such medical service enrollment area for a period of 180 days after coverage is denied.

(c) (1) An accident and sickness insurer may deny coverage to a small employer under a policy providing hospital, medical or surgical expense benefits if the accident and sickness insurer has demonstrated to the commissioner that:

(A) It does not have the financial reserves necessary to underwrite additional coverage; and

(B) it is applying this paragraph uniformly to all small employers in this state without regard to the claims experience of the small employers and their employees and dependents and without regard to any health status factors of any employees or dependents.

(2) An accident and health insurer upon denying coverage to small employers under policies providing hospital, medical or surgical expense benefits in accordance with subsection (c)(1) may not offer any policies providing hospital, medical or surgical expense benefits to any small employer for a period of 180 days after the date such policies are denied or until the accident and health insurer has demonstrated to the commissioner that it has sufficient financial reserves to underwrite additional coverage, whichever is later.

(d) The requirements of subsection (a) shall not be construed to preclude an accident and health insurer from establishing employer contribution rules or group participation rules for the offering of policies providing hospital, medical or surgical expense benefits to small employers.

(e) The requirements of subsection (a) shall not apply to small employer group policies offered by an accident and health insurer if such coverage is made available only through one or more associations.

(f) As used in this subsection the following mean:

(1) "Dependent" means those persons as defined in subsection (k) of K.S.A. 40-2209d, and amendments thereto;

(2) "employee" means those persons as defined in subsection (1) of K.S.A. 40-2209d, and amendments thereto;

(3) "employer contribution rule" means a requirement relating to the minimum level or amount of employer contribution toward the premium for enrollment of employees and dependents;

(4) "group participation rule" means a requirement relating to the minimum number of employees and dependents that must be enrolled in relation to a specified percentage or number of eligible employees or dependents;

(5) "health status related factors" means: (A) a physical or mental illness medical condition, (B) claims experience, (C) receipt of health care, (D) medical history, (E) genetic information, (F) evidence of insurability including conditions arising out of acts of domestic violence and (H) disability; and

(6) "small employer" means those employers as defined by subsection (z) of K.S.A. 40-2209d, and amendments thereto.

**History:** L. 1997, ch. 190, § 6; July 1.