

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 who at the date of hire it cannot be determined that the employee is reasonably expected to work at least 1,000 hours of work per year.

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(b) ~~Active participants~~ Primary Participant. Subject to the provisions of subsection (c), the classes of persons eligible to participate as active 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 variable hour. 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;~~

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

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

(c) Waiting period.

(1) Each person who is within a class listed in paragraph (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), 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.

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(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 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.~~

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~~(B)~~ (A) 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) 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 participant or a direct bill participant when the plan 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 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 State law and subject to documentation requirements as required by the State Employee Health Plan;](#)

and

(B) any of the primary participant's eligible dependent children, [subject to documentation requirements as required by the State Employee Health Plan.](#)

(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 limitations:-

(A) The primary participant who enrolls as a dependent participant of another primary participant's coverage must be the lawful spouse, as defined in (g)(1)(A), of the primary participant.

(B) A primary participant who enrolls in the health care benefits program as a dependent of a primary participant will no longer be eligible to be enrolled as a primary participant during that plan year.

(C) Eligible dependent participants may only enroll under one primary participant's coverage and not be covered under two primary participant's coverage.

(D) A primary participant who enrolls as a dependent of another primary participant must adhere 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 Supp. 75-6501 and K.S.A. 75-6510; implementing K.S.A. 2010 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.)