

3. Act on Proposed Regulation Amendments to Ensure Continued Student Eligibility for the Board's Student Health Insurance Plan and to Clarify Scope of Coverage that May be Elected (Roll Call Vote)

Summary and Staff Recommendation

Current Board regulations preclude online only students from eligibility for the Board's student health insurance plans. In light of the COVID pandemic and the potential for universities to limit participation in face-to-face classes, Board staff recommended in June that the Board adopt a proposed temporary amendment to this regulation to provide an exception for any semester in which the university suspends or substantially modifies its in-person attendance requirements. Staff has now completed the process for making this regulatory change permanent and requests that the Board adopt the permanent version. Additionally, staff recommends adoption of a permanent amendment to K.A.R. 88-30-2 to clarify that students may elect spouse and/or dependent coverage only for plan years for which that coverage is offered.

Adoption of these two permanent regulations must be accomplished by roll call vote.

Background

K.S.A. 75-4101(e)(1) authorizes the Board to “enter into one or more group insurance contracts to provide health and accident insurance coverage . . . for all students attending a state educational institution . . . and such students’ dependents” K.S.A. 75-4101(e)(4) authorizes the Board to “adopt rules and regulations necessary to administer and implement the provisions of this section.”

K.A.R. 88-30-1 is the Board’s regulation that defines terms used in its other student health insurance regulations. As currently written, K.A.R. 88-30-1 excludes from coverage any student who is enrolled exclusively in online/distance education courses. This limitation was required to allow the insurance provider to eliminate the possibility of covering students who might never physically be present on campus in order to moderate the plan’s costs so that the Board could keep the premiums as low as possible. Because one of the primary reasons the Board offers student health insurance is to keep the campus community healthy, and because the insurance provider works closely with campus health clinics to contain costs, it is normally appropriate to limit eligibility in this manner.

However, with the COVID-19 stay-at-home orders and the need to avoid group activities, the six state universities suspended in-person classes last Spring and there remains a possibility that there may be a need to do so again should there be a public health reason for that action. Board staff therefore recommended an amendment to the definition that the Board adopted at its June meeting on a temporary basis, to allow for continued coverage for students who wish to take advantage of the Board’s plans in a semester when classes are substantially online only. Temporary regulations may be put into effect more quickly than permanent regulations, but they have only a 120-day life span. Staff believes it prudent to also adopt a permanent amendment to address any required pivot to substantially online instruction that may occur after expiration of the temporary amendment.

As does the temporary version adopted by the Board in June, the proposed permanent amendment to K.A.R. 88-30-1 would suspend the eligibility requirement that students not be entirely online or receive instruction exclusively by distance education during any semester when the institution at which the student is enrolled has eliminated or substantially restricted in-person class options.

The proposed permanent amendment to K.A.R. 88-30-2 would clarify that students may elect spouse and/or dependent coverage for only those plan years when that coverage is offered by the Board. This amendment is recommended by staff in preparation for the possibility that the Board may determine it is in the best interest of students covered under the Board plan to discontinue spouse and/or dependent coverage for any given plan year.

K.S.A. 75-4101(e)(1) does not require the Board to provide for such coverage and we believe this flexibility is already in place, but this amendment would further clarify that point.

The Board has not been and is not currently being asked to consider eliminating the spouse or dependent coverage options, but as the cost of insurance continues to rise and if spouse or dependent claims experience continue to drive costs upward, there may come a time when the Board will be compelled to consider this alternative. This possibility was discussed by the Board Governance Committee when the Committee reviewed the rate/benefit proposals for plan years 2019-2020 and 2020-2021.

State law establishes the procedures an agency must follow to promulgate administrative regulations, including Director of the Budget approval of the Economic Impact Statement accompanying the regulations, Kansas Department of Administration approval of language and format, approval by the Attorney General's office of the legal authority and compliance with applicable laws, and for permanent regulations such as this one, a public hearing and public comment period that includes review by the Joint Committee on Rules and Regulations.⁹ Board staff has now completed all those steps.

Staff Recommendation

Board staff recommend the Board adopt, upon a roll call vote as required by the Filing Act, K.A.R. 88-30-1 and 88-30-2, as amended. The two proposed permanent regulations are set forth in the attachment to the agenda materials.

⁹ See the Rules and Regulations Filing Act, K.S.A. 77-415 *et seq.*