

# Legal Notices

***As a member of the Kentucky Employees' Health Plan (KEHP), you have certain legal rights. Several of those rights are summarized below. Please read these provisions carefully. To find out more information, you may contact the Department of Employee Insurance, Member Services Branch at (888) 581-8834 or (502) 564-6534 or visit [kehk.ky.gov](http://kehk.ky.gov).***

## **A. NOTICE ABOUT SPECIAL ENROLLMENT RIGHTS**

Under the Health Insurance Portability and Accountability Act (HIPAA), you have "special enrollment" rights if you have a loss of other coverage or you gain a new dependent. In addition, you may qualify for a special enrollment in KEHP under the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA).

### **1. HIPAA Special Enrollment Provision - Loss of Other Coverage**

If you decline enrollment for yourself or your eligible dependent(s) (including your spouse) because of other health insurance or group health plan coverage (regardless of whether the coverage was obtained inside or outside of a Marketplace), you may be able to enroll yourself and your dependents in this plan if you or your dependents lose eligibility for that other coverage (or if the employer stops contributing toward your or your dependents' other coverage). However, you must request enrollment within 30 days after your or your dependents' other coverage ends (or after the employer stops contributing toward the other coverage).

### **2. HIPAA Special Enrollment Provision - New Dependent as a Result of Marriage, Birth, Adoption, or Placement for Adoption**

If you have a new dependent as a result of marriage, birth, adoption, or placement for adoption, you may be able to enroll yourself and your new dependent(s). However, you must request enrollment within 30 days after the marriage, birth, adoption, or placement for adoption.

### **3. CHIPRA Special Enrollment Provision – Premium Assistance Eligibility**

If you or your children are eligible for Medicaid or the Children's Health Insurance Program (CHIP) and you're eligible for health coverage from your employer, Kentucky may have a premium assistance program that can help pay for coverage using funds from the state's Medicaid or CHIP programs. If you or your dependent(s) are eligible for premium assistance under Medicaid or CHIP, as well as eligible for health insurance coverage through KEHP, your employer must allow you to enroll in KEHP if you aren't already enrolled. This is called a "special enrollment" opportunity, and you must request coverage within 60 days of being determined eligible for premium assistance. In addition, you may enroll in KEHP if you or your dependent's Medicaid or CHIP coverage is terminated because of loss of eligibility. An employee must request this special enrollment within 60 days of the loss of coverage.

## **B. WELLNESS PROGRAM DISCLOSURE AND NOTICE**

LivingWell is KEHP's voluntary wellness program available to all persons who enroll in a KEHP health insurance plan and their enrolled spouse. The program is administered according to federal rules permitting employer-sponsored wellness programs that seek to improve employee health or prevent disease. Those federal rules include the Americans with Disabilities Act of 1990, the Genetic Information Nondiscrimination Act of 2008, and the Health Insurance Portability and Accountability Act, as applicable, among others. If you choose to participate in the wellness program, you will be asked to complete a voluntary health assessment (or "HA") that asks a series of questions about your health-related activities and behaviors and whether you have or had certain medical conditions (e.g., cancer, diabetes, or heart disease). You are not required to complete the HA. However, employees who choose to participate in the LivingWell wellness program will receive an incentive in the form of discounted employee premium contributions for the employee's health insurance coverage. Although you are not required to complete the HA, only employees who do so will receive the discounted health insurance premiums.

Additional incentives in the form of gift cards, consumer goods, and other prizes may be available for employees who participate in certain health-related activities such as walking challenges or quitting smoking. In addition, KEHP offers discounted, monthly employee premium contribution rates to non-tobacco users. Each KEHP member has at least one opportunity per Plan Year to qualify for the monthly premium contribution discount.

KEHP is committed to helping you achieve your best health. Incentives for participating in KEHP's LivingWell wellness program are available to all persons who enroll in a KEHP health insurance plan and their enrolled spouse. If you are unable to participate in any of the health-related activities, or you think you might be unable to meet a standard to earn an incentive under the LivingWell wellness program, you may request a reasonable accommodation or an alternative standard. Contact the Department of Employee Insurance, Member Services Branch at (888) 581-8834 or (502) 564-6534 and we will work with you (and, if you wish, with your doctor) to find a wellness program with the same incentive that is right for you in light of your health status.

**Protections from Disclosure of Medical Information:** KEHP is required by law to maintain the privacy and security of your personally identifiable health information. KEHP does not collect or retain personal health or medical information through its LivingWell wellness program unless it is part of an audit, compliance, payment, operations, or customer service review; however, KEHP may receive and use aggregate information that does not identify any individual in order to design programs based on health risks identified in the workplace and that are aimed at improving the health of KEHP members. KEHP will never disclose any of your personal information either publicly or to your employer, except as necessary to respond to a request from you for a reasonable accommodation needed to participate in the wellness program, or as expressly permitted by law. Medical information that personally identifies you that is provided in connection with the wellness program will not be provided to your supervisors or managers and may never be used to make decisions regarding your employment.

Your health information will not be sold, exchanged, transferred, or otherwise disclosed except to the extent permitted by law to carry out specific activities related to the wellness program. You will not be asked or required to waive the confidentiality of your health information as a condition of participating in the wellness program or receiving an incentive. Anyone who receives your information for purposes of providing you services as part of the wellness program will abide by the same confidentiality requirements. The only individuals who may receive your personally identifiable health information are persons employed by Castlight (KEHP's wellness administrator) and Anthem (KEHP's third-party medical administrator). This may include nurses in Anthem's disease management program or health coaches. Disclosure of your personally identifiable health information to these persons is necessary in order to provide you with services under the wellness program.

In addition, all medical information obtained through the wellness program will be maintained separate from your personnel records; information stored electronically will be encrypted; and no information you provide as part of the wellness program will be used in making any employment decision.

Appropriate precautions will be taken to avoid any data breach. In the event a data breach occurs involving information you provide in connection with the wellness program, we will notify you as soon as it is feasible after discovery of the breach. You may not be discriminated against in employment because of the medical information you provide as part of participating in the LivingWell wellness program, nor may you be subjected to retaliation if you choose not to participate. If you have questions or concerns regarding this notice, or about protections against discrimination and retaliation, please contact the Department of Employee Insurance, Member Services Branch at (888) 581-8834 or (502) 564-6534.

## **C. THE CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1986 (COBRA)**

COBRA continuation coverage is a continuation of KEHP coverage when it would otherwise end because of a life event, also called a “qualifying event.” After a qualifying event, COBRA continuation coverage must be offered to each person who is a “qualified beneficiary.” Qualified beneficiaries may elect to continue their coverage under the plan for a prescribed period of time on a self-pay basis. Each qualified beneficiary has 60 days to choose whether or not to elect COBRA coverage, beginning from the later of the date the election notice is provided, or the date on which the qualified beneficiary would otherwise lose coverage under KEHP due to a qualifying event. The KEHP’s third-party COBRA administrator is HealthEquity. To learn more about COBRA and your rights under COBRA, please refer to the Medical Benefit Booklet or go to [kehp.ky.gov](http://kehp.ky.gov) (Resources/Docs, Forms, and Legal Notices link).

## **D. THE WOMEN’S HEALTH AND CANCER RIGHTS ACT OF 1998 (WHCRA)**

Your plan, as required by WHCRA, provides benefits for mastectomy-related services including all stages of reconstruction and surgery to achieve symmetry between the breasts, prostheses, and complications resulting from a mastectomy, including lymphedema. For more information regarding this coverage, please refer to your Medical Benefit Booklet or go to [kehp.ky.gov](http://kehp.ky.gov) (Resources/Docs, Forms, and Legal Notices link).

## **E. NEWBORNS’ AND MOTHERS’ HEALTH PROTECTION ACT OF 1996 (NEWBORNS’ ACT)**

Under federal law, group health plans generally may not restrict benefits for a hospital stay in connection with childbirth for the mother or newborn child to less than 48 hours following a vaginal delivery, or less than 96 hours following a cesarean section. However, federal law generally does not prohibit the mother’s or newborn’s attending provider, after consulting with the mother, from discharging the mother or her newborn earlier than 48 (or 96, as applicable) hours. In any case, health insurance plans may not require that a provider obtain authorization from the plan or the insurance issuer for prescribing a length of stay not in excess of 48 (or 96) hours.

## **F. HIPAA PRIVACY NOTICE**

KEHP gathers and collects demographic information about its members such as name, address, and social security numbers. This information is referred to as individually identifiable health information and is protected by HIPAA and related privacy and security regulations. HIPAA requires KEHP to maintain the privacy of your protected health information (PHI) and notify you following a breach of unsecured PHI. In addition, KEHP is required to provide to its members a copy of its Notice of Privacy Practices (NPP) outlining how KEHP may use and disclose your PHI to carry out treatment, payment, or health care operations, or for any other purposes that are permitted or required by law. The NPP also informs members about their rights regarding their PHI and how to file a complaint if a member believes their rights have been violated. KEHP’s Notice of Privacy Practices and associated forms may be obtained by visiting [kehp.ky.gov](http://kehp.ky.gov) (Resources/Docs, Forms, and Legal Notices link).

## **G. KEHP PRESCRIPTION DRUG COVERAGE AND MEDICARE NOTICE OF CREDITABLE COVERAGE**

KEHP has determined that KEHP’s prescription drug coverage is, on average for all plan participants, expected to pay out as much as standard Medicare prescription drug coverage and is therefore considered Creditable Coverage. Because your existing coverage is Creditable Coverage, you can keep this coverage and not pay a higher premium (a penalty) if you later decide to join a Medicare drug plan.

## **H. NOTICE OF AVAILABILITY OF SUMMARY OF BENEFITS AND COVERAGE (SBC)**

As an employee or retiree, the health benefits available to you represent a significant component of your compensation/retirement package. Those benefits also provide important protection for you and your family in the case of illness or injury. KEHP offers a variety of health coverage options, and choosing the option that is right for you and your family is an important decision. To help you make an informed health coverage choice, KEHP publishes a Summary of Benefits and Coverage (SBC). For easier comparison, the SBC summarizes important information about your health coverage options in a standard format. The SBCs are only a summary. You should consult KEHP’s Summary Plan Descriptions and Medical Benefit Booklets to determine the governing contractual provisions of the coverage. KEHP’s SBCs are available on KEHP’s website at [kehp.ky.gov](http://kehp.ky.gov) (Resources/Docs, Forms, and Legal Notices link). A paper copy is also available, free of charge, by contacting the Department of Employee Insurance, Member Services Branch at (888) 581-8834 or (502) 564-6534.

## **I. WAIVER HEALTH REIMBURSEMENT ARRANGEMENT (HRA)**

If an employer participates in the Waiver Health Reimbursement Arrangement (HRA) program through KEHP, an employee may elect to waive KEHP health insurance coverage and choose a Waiver HRA that is funded by the employer, up to \$2,100 a year. There are two Waiver HRA options: the Waiver General Purpose HRA and the Waiver Limited Purpose HRA. An employee is eligible for the Waiver General Purpose HRA only if the employee, and the employee’s spouse and dependents, if applicable, have other group health plan coverage. An employee that elects a Waiver General Purpose HRA must attest that the employee and, if applicable, the employee’s spouse and dependents are enrolled in another group health plan that provides minimum value. A “group health plan” refers to coverage provided by an employer, an employer organization, or a union. A “group health plan” does not include individual policies purchased through the Marketplace or governmental plans such as TRICARE, Veteran’s Benefits, Medicare, or Medicaid. A group health plan that provides “minimum value” means the plan pays at least 60% of the total allowed cost of covered benefits/services and participants or members in the plan are required to pay no more than 40% of the total allowed cost of covered benefits/services. An employee that elects a Waiver General Purpose HRA and that ceases to be covered under another group health plan that provides minimum value is required to notify KEHP within 30 days of the date that the other group health plan coverage ceased. In this event, coverage under the Waiver General Purpose HRA will be terminated, and the employee may elect a KEHP health insurance plan option or the Waiver Limited Purpose HRA. Each employee is permitted to permanently opt out of and waive future reimbursements from the Waiver General Purpose HRA at least annually during open enrollment.

## **J. NOTIFICATION OF SUSPECTED FRAUDULENT ACTIVITY**

Each employee is responsible for confirming that only legitimate claims are processed in their Flexible Spending (FSA) and HRA accounts. The employee must notify KEHP or HealthEquity within 60 days of any suspected fraudulent activity posted on the employee’s HealthEquity account.