

Summary of Medicaid Expansion Proposals in Kansas Since January 1, 2021

Updated as of February 10, 2021

On February 1, Governor Laura Kelly announced a new proposal to expand eligibility for Medicaid in Kansas as allowed under the Affordable Care Act (ACA). The proposal builds on previous legislation to expand the program but creates a new funding mechanism for the state share of expansion: revenues from the legalization of medical marijuana. With Republicans increasing their majority in the House and maintaining their majority in the Senate, and both chambers having more conservatives, how the results of the election will affect the Medicaid expansion debate during the 2021 Legislative Session remains to be seen. Nonetheless, many legislators made it an important part of their election platforms.

The following table provides a summary of the main policy elements of previously proposed legislation to expand Medicaid in Kansas, and how those provisions relate to the new proposal announced by the Governor. In her February 1 press release, the Governor indicated that unless otherwise specified, components of her proposal will resemble those of 2020 SB 252, so information on that bill is included

in this table. If additional Medicaid expansion proposals are introduced, they will be added to the table over time. For more detailed information about other individual Medicaid expansion proposals introduced prior to the 2021 legislative session, please see our [earlier tracking table](#).

On January 28, 2021, President Joe Biden signed an Executive Order requiring the Secretary of Health and Human Services to review Medicaid policies, practices, demonstrations and waiver authorities approved by the Trump Administration. The outcome of that assessment could affect the likelihood of approval of certain provisions of Medicaid expansion legislation. In addition, federal legislation was introduced in February 2021 to encourage expansion by providing a two-year, 5-percentage point increase in the federal match rate for regular Medicaid to states that newly expand their programs.



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Summary of Main Policy Elements	2020 SB 252		Gov. Kelly's Medicaid Expansion and Medical Marijuana Proposal, announced on February 1, 2021.	
	As outlined by Gov. Laura Kelly and Sen. Majority Leader Jim Denning and pre-filed Jan. 9, 2020.	As amended Feb. 20, 2020, by the Senate Public Health and Welfare Committee (work was suspended and the bill died in committee without receiving final action).		
Eligibility	Medicaid eligibility is always based on income but may also depend on age, availability of financial resources and, in some cases, health care needs. States have the option to expand Medicaid to include low-income adults up to 138 percent of the Federal Poverty Level (FPL) under the Affordable Care Act (ACA). Most previous expansion proposals in Kansas would cover any adult under 65 years of age who is not pregnant and whose income does not exceed 133 percent of FPL (equivalent to the 138 percent income level allowed by the ACA after applying a 5-percent income disregard). Some previous proposals have included components seeking to expand eligibility only up to 100 percent FPL, but other states implementing so-called "partial expansions" have not qualified for the ACA's enhanced federal match rate.	Any adult under 65 years of age whose income does not exceed 138 percent of the federal poverty level to begin no later than January 1, 2021.	No change.	"Under the proposed legislation, Medicaid will be expanded to the full 138% Federal Poverty Line at 90% to 10% match from the federal government." *Gov. Kelly indicated that unless otherwise noted, provisions of her proposal will be similar to 2020 SB 252.
Work Referrals / Requirements	Some past expansion proposals and amendments have contained requirements that childless adults without disabilities must be working, volunteering, or seeking employment as a condition of eligibility, or that they be referred, as a condition for eligibility, to existing workforce programs. Work requirements approved in other states have been subject to court challenges.	As a condition of coverage, KDHE evaluates each applicant for education and employment status and factors impacting the applicant's employment status. The KEES program will then be used to determine who should be referred to the Kansas Works Program which will, in turn, maintain a unique identifier for these individuals so reports can be made to the Legislature on how many individuals gain employment through this program after referral.	Amended to establish a 20 hour per month "participation requirement" for able bodied adults to participate in part time work, caring for a child, volunteering, or other related activities.	"The bill requires the Secretary of Health and Environment to collect information from applicants regarding their employment history through the Medicaid application and refer unemployed or underemployed individuals to the Department of Commerce or Department of Children and Families to assist with locating job opportunities through work referral programs."
Premiums	Some past proposals have contained provisions that a monthly fee be charged to those on Medicaid. Most of those provisions would only apply to the expansion population and establish the premium as a set monthly fee per individual with a capped amount per family, while others have set the premium as a percentage of modified adjusted gross income. Premiums have been approved in other expansion states.	KDHE shall charge individuals between 100-138 percent FPL a monthly premium not to exceed \$25 per person or \$100 per family. Unpaid premiums are collected through the established debt setoff program.	No change.	"Individuals will be required to pay a premium not to exceed \$25 per person or \$100 per family, with a provision to grant exceptions based on hardship. Premiums that go more than 60 days unpaid are referred to the established debt setoff program through the Department of Revenue for collection."
Lockouts	Lockout provisions have accompanied some proposals which contained premium requirements and would state that failure to pay the required premium would result in a lockout period during which eligibility is denied for a set amount of time. Disenrollment and lockout periods have been approved in some states.	No lockouts.	No change.	*Not specifically addressed in the Governor's February 1 Press Release, but 2020 SB 252 did not include an applicable provision when introduced.

continued

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Premium Assistance for Private Insurance	All expansion proposals introduced during the 2020 Legislative Session would have allowed for KDHE to establish a premium assistance program for individuals whose household income does not exceed 138 percent FPL and who is eligible for coverage through an employer but cannot afford premiums. Premium assistance has been approved by CMS.	Allows KDHE to implement a Premium Assistance program. A cost effectiveness evaluation is performed for any group health insurance policy that is known to be available for the benefit of a Medicaid beneficiary. All information received is evaluated to determine whether a particular insurance policy is cost-effective for Kansas Medicaid to buy.	No change.	*Not specifically addressed in the Governor's February 1 Press Release, but relevant parts of 2020 SB 252 — or similar provisions — might be reflected in a final proposal.
Managed Care Model	While KanCare currently operates using a managed care model in which enrollees choose or are assigned to one of three managed care organizations (MCOs) that then receive monthly payments from the state based upon their total number of enrollees and historical costs associated with the various population groups, some past expansion proposals have specifically stated that KDHE would be required to administer Medicaid using a managed care delivery system as opposed to any other delivery system such as a fee-for-service model.	Requires KDHE administer Medicaid using a managed care delivery system.	No change.	*Not specifically addressed in the Governor's February 1 Press Release, but relevant parts of 2020 SB 252 — or similar provisions — might be reflected in a final proposal.
"Poison Pill" / Non-Severability	All expansion proposals introduced during the 2020 Legislative session contained a provision requiring KDHE to terminate coverage under the program within 12 months if the federal match rate falls below 90 percent.	Provides that if the federal match drops below 90 percent, Medicaid expansion shall terminate. This provision is non-severable from the remainder of the act.	No change.	*Not specifically addressed in the Governor's February 1 Press Release, but relevant parts of 2020 SB 252 — or similar provisions — might be reflected in a final proposal.
Funding Mechanism	Some past expansion proposals have required that KDHE impose a surcharge on each hospital provider in an amount necessary to generate, in the aggregate, a set amount per fiscal year, to be collected once per calendar quarter on a basis determined by KDHE rules and regulations.	Creates an assessment to begin on July 1, 2021, to be collected and remitted to the state for purpose of funding Medicaid Expansion. The funding is capped at \$35 million annually. This assessment includes The University of Kansas Health System.	No change.	The Governor announced the proposal will use revenue from the legalization of medical marijuana to offset the state share of expanding Medicaid. "The bill designates the Kansas Department of Health and Environment responsibility for overseeing patients and their use of medical marijuana, KDOR is responsible for licensure and fee collections as well as regulation of producers, and the Board of Healing Arts is responsible for certifying prescribing physicians. However, it also establishes a bipartisan medical marijuana advisory committee with appointments made by the governor, legislative leadership, and chaired by the Secretary of Health and Environment."
Inmate Coverage	A few of the proposals introduced last year would have required the secretary of corrections to coordinate with county sheriffs to facilitate enrollment of an inmate incarcerated in a Kansas jail for state Medicaid services during any period the inmate is eligible. Services for individuals in custody are excluded from Medicaid reimbursement except for inpatient care of at least 24 hours.	Requires the secretary of corrections to coordinate with county sheriffs to facilitate enrollment of an inmate incarcerated in a Kansas jail for state Medicaid services during any time period that the inmate is eligible (offsite hospitalization for longer than 24 hours.)	No change.	*Not specifically addressed in the Governor's February 1 Press Release, but relevant parts of 2020 SB 252 — or similar provisions — might be reflected in a final proposal.
Drug Rebate Revenues	All past expansion proposals have required KDHE to remit all Medicaid expansion drug rebate revenue for deposit either into the state general fund (SGF) or into a new special revenue fund administered by KDHE to be used for medical assistance payments for expansion beneficiaries.	Requires KDHE to deposit all moneys received from drug rebates for the entire Medicaid program into SGF. KDHE is required to certify the amount of drug rebates received from the Medicaid program, and this will be a separate line item on a monthly report to the legislature. This money will be used to fund caseload estimates.	No change.	*Not specifically addressed in the Governor's February 1 Press Release, but relevant parts of 2020 SB 252 — or similar provisions — might be reflected in a final proposal.

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FMAP Stabilization Fund	One past proposal included a provision creating an FMAP stabilization fund which would set aside funds to be used in the event that FMAP was reduced.	Includes provisions of 2019 SB 2 creating the FMAP stabilization fund.	No change.	*Not specifically addressed in the Governor's February 1 Press Release, but relevant parts of 2020 SB 252 — or similar provisions — might be reflected in a final proposal.
Abortion Coverage	While state law currently prohibits use of Medicaid funds for abortion services, some past proposals have contained provisions specifically prohibiting program coverage or reimbursement for any abortion services.	N/A	Amended to prohibit the use of Medicaid funds for abortions. Also see "Contingency" below.	*Not specifically addressed in the Governor's February 1 Press Release, but 2020 SB 252 did not include an applicable provision when introduced.
Section 1332 State Innovation Waiver	Some past expansion proposals have called for appropriated funds to establish a state reinsurance program by submitting a section 1332 state innovation waiver to CMS.	Appropriates \$35 million to the State Finance Council in FY 2022 for the reinsurance program. The provision concerning expansion of Medicaid eligibility is separate from the reinsurance program and is not dependent on approval of reinsurance. Requires KID to complete a reinsurance waiver and an actuarial study to be submitted to the State Finance Council for approval. If approved by the State Finance Council, KID will submit the reinsurance waiver to CMS.	No change.	"The reinsurance program has been removed."
Oversight	Expansion proposals have offered various approaches to oversight of an expansion of Medicaid, including: work groups, legislative post audits, task forces, and reporting requirements.	Requires the Secretary of KDHE to submit reports to the legislature summarizing cost savings achieved by moving covered individuals from the MediKan program to coverage under Medicaid Expansion and additional revenues generated by Medicaid Expansion. Requires Legislative Post Audit to complete an economic impact analysis of Medicaid Expansion within the first two years of expansion. Creates an uncompensated care task force within KDHE in coordination with the Kansas Hospital Association, Kansas Medical Society, Community Care Network of Kansas and other private stakeholders to develop a plan to measure and report uncompensated care incurred in Kansas. Adds an extra day to KanCare Oversight Committee to review the expansion population.	No change.	*Not specifically addressed in the Governor's February 1 Press Release, but relevant parts of 2020 SB 252 — or similar provisions — might be reflected in a final proposal.
IMD Exclusion Waiver	Some past proposals have included a requirement for KDHE to apply for a waiver via statute on the Institutions for Mental Disease (IMD) exclusion requesting CMS allow for Medicaid reimbursement for inpatient psychiatric acute care.	Requires KDHE to submit a waiver request to CMS to allow for Medicaid reimbursement for inpatient psychiatric acute care.	No change.	*Not specifically addressed in the Governor's February 1 Press Release, but relevant parts of 2020 SB 252 — or similar provisions — might be reflected in a final proposal.

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Rural Health	Some past proposals have included components related to rural health, including a task force to investigate health care issues in rural Kansas, consideration of applying to CMS for a demonstration project for a modified rural health delivery system, or establishing a rural primary health center pilot initiative overseen by an advisory committee.	Establishes the "Rural primary health center pilot initiative" and has KDHE establish an advisory committee to oversee that program.	No change.	*Not specifically addressed in the Governor's February 1 Press Release, but relevant parts of 2020 SB 252 — or similar provisions — might be reflected in a final proposal.
Provider Conscience Protections	A late amendment offered on 2020 SB 252 included a provision to protect conscience and religious exemptions for providers.	N/A	Amended to protect conscience and religious exemptions for providers.	*Not specifically addressed in the Governor's February 1 Press Release, but 2020 SB 252 did not include an applicable provision when introduced.
Contingency	Some past proposals or amendments have also attempted to make the whole of the expansion legislation contingent upon certain provisions or criteria being met.	N/A	Amended to make the enactment of Medicaid Expansion contingent upon passage of a constitutional amendment to allow legislative regulation of abortion and upon the outcome of the <i>Texas v. United States</i> lawsuit; and makes committee amendments non-severable.	*Not specifically addressed in the Governor's February 1 Press Release, but 2020 SB 252 did not include an applicable provision when introduced.