

LEGISLATIVE BILL 73

Approved by the Governor May 17, 2011

Introduced by Pahls, 31.

FOR AN ACT relating to insurance; to amend sections 44-4217, 44-4219, 44-4220.02, 44-4223, 44-4224, 44-4225, and 77-918, Reissue Revised Statutes of Nebraska; to provide for a pool administrator under the Comprehensive Health Insurance Pool Act; to delete obsolete language; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 44-4217, Reissue Revised Statutes of Nebraska, is amended to read:

44-4217 ~~The members shall select the board as it is composed prior to January 1, 2001, except the representative of the general public and the representative of the health agency who shall be appointed by the director. The director shall select the board, as it is composed on and after January 1, 2001. The board shall select one or more insurers to serve as administering insurer~~ a pool administrator pursuant to section 44-4223. ~~The selection of the board as it is composed prior to January 1, 2001, and the selection of the administering insurer by the board prior to January 1, 2001, or after December 31, 2000, shall be subject to the approval of the director.~~

Sec. 2. Section 44-4219, Reissue Revised Statutes of Nebraska, is amended to read:

44-4219 In its plan of operation, the board shall:

- (1) Establish procedures for the handling and accounting of assets and funds of the pool;
- (2) ~~Select an administering insurer~~ a pool administrator in accordance with section 44-4223;
- (3) Establish procedures for the selection, replacement, term of office, and qualifications of the directors of the board and rules of procedures for the operation of the board; and
- (4) Develop and implement a program to publicize the existence of the pool, the eligibility requirements, and the procedures for enrollment and to maintain public awareness of the pool.

Sec. 3. Section 44-4220.02, Reissue Revised Statutes of Nebraska, is amended to read:

44-4220.02 (1)(a) In addition to the requirements of section 44-4220.01, following the close of each calendar year, the board shall conduct a review of health care provider reimbursement rates for benefits payable under pool coverage for covered services. The board shall report to the director the results of the review within thirty days after the completion of the review.

(b) The review required by this section shall include a determination of whether (i) health care provider reimbursement rates for benefits payable under pool coverage for covered services are in excess of reasonable amounts and (ii) cost savings in the operation of the pool could be achieved by establishing the level of health care provider reimbursement rates for benefits payable under pool coverage for covered services as a multiplier of an objective standard.

(c) In the determination pursuant to subdivision (1)(b)(i) of this section, the board shall consider:

(i) The success of any efforts by the ~~administering insurer~~ pool administrator to negotiate reduced health care provider reimbursement rates for benefits payable under pool coverage for covered services on a voluntary basis;

(ii) The effect of health care provider reimbursement rates for benefits payable under pool coverage for covered services on the number and geographic distribution of health care providers providing covered services to covered individuals;

(iii) The administrative cost of implementing a level of health care provider reimbursement rates for benefits payable under pool coverage for covered services; and

(iv) A filing by the ~~administering insurer~~ pool administrator which shows the difference, if any, between the aggregate amounts set for health care provider reimbursement rates for benefits payable under pool coverage for covered services by existing contracts between the ~~administering insurer~~ pool administrator and health care providers and the amounts generally charged to reimburse health care providers prevailing in the commercial market. No such

filing shall require the ~~administering insurer~~ pool administrator to disclose proprietary information regarding health care provider reimbursement rates for specific covered services under pool coverage.

(d) If the board determines that cost savings in the operation of the pool could be achieved, the board shall set forth specific findings supporting the determination and may establish the level of health care provider reimbursement rates for benefits payable under pool coverage for covered services as a multiplier of an objective standard.

(2) A health care provider who provides covered services to a covered individual under pool coverage and requests payment is deemed to have agreed to reimbursement according to the health care provider reimbursement rates for benefits payable under pool coverage for covered services established pursuant to this section. Any reimbursement paid to a health care provider for providing covered services to a covered person under pool coverage is limited to the lesser of billed charges or the health care provider reimbursement rates for benefits payable under pool coverage for covered services established pursuant to this section. A health care provider shall not collect or attempt to collect from a covered individual any money owed to the health care provider by the pool. A health care provider shall not have any recourse against a covered individual for any covered services under pool coverage in excess of the copayment, coinsurance, or deductible amounts specified in the pool coverage.

(3) Nothing in this section shall prohibit a health care provider from billing a covered individual under pool coverage for services which are not covered services under pool coverage.

Sec. 4. Section 44-4223, Reissue Revised Statutes of Nebraska, is amended to read:

44-4223 (1) The board shall select ~~an insurer or insurers~~ a pool administrator through a competitive bidding process to administer the pool. The pool administrator may be an insurer or a third-party administrator authorized to transact business in this state. The board shall evaluate bids submitted on the basis of criteria established by the board which shall include:

(a) The ~~insurer's~~ applicant's proven ability to handle individual sickness and accident insurance;

(b) The efficiency of the ~~insurer's~~ applicant's claim-paying procedures;

(c) The ~~insurer's~~ applicant's estimate of total charges for administering the pool; and

(d) The ~~insurer's~~ applicant's ability to administer the pool in a cost-effective manner; and-

(e) The applicant's ability to negotiate reduced health care provider reimbursement rates for benefits payable under pool coverage for covered services.

(2) The ~~administering insurer~~ pool administrator shall serve for a period of three years subject to removal for cause. At least one year prior to the expiration of each three-year period of service by an ~~administering insurer,~~ a pool administrator, the board shall invite all ~~insurers and third-party administrators~~ authorized to transact business in this state, including the current ~~administering insurer,~~ pool administrator, to submit bids to serve as the ~~administering insurer~~ pool administrator for the succeeding three-year period. Selection of the ~~administering insurer~~ pool administrator for the succeeding period shall be made at least six months prior to the end of the current three-year period.

Sec. 5. Section 44-4224, Reissue Revised Statutes of Nebraska, is amended to read:

44-4224 The ~~administering insurer~~ pool administrator shall:

(1) Perform all eligibility verification functions relating to the pool;

(2) Establish a premium billing procedure for collection of premiums from covered individuals on a periodic basis as determined by the board;

(3) Perform all necessary functions to assure timely payment of benefits to covered individuals, including:

(a) Making available information relating to the proper manner of submitting a claim for benefits to the pool and distributing forms upon which submission shall be made; and

(b) Evaluating the eligibility of each claim for payment by the pool;

(4) Submit regular reports to the board regarding the operation of the pool. The frequency, content, and form of the reports shall be determined by the board;

(5) Following the close of each calendar year, report such income

and expense items as directed by the board to the board and the department on a form prescribed by the director; and

(6) Be paid as provided in the plan of operation for its expenses incurred in the performance of its services to the pool.

Sec. 6. Section 44-4225, Reissue Revised Statutes of Nebraska, is amended to read:

44-4225 (1) Following the close of each calendar year, the board shall report the board's determination of the paid and incurred losses for the year, taking into account investment income and other appropriate gains and losses. The board shall distribute copies of the report to the director, the Governor, and each member of the Legislature.

(2) The Comprehensive Health Insurance Pool Distributive Fund is created. Commencing with the premium and related retaliatory taxes for the taxable year ending December 31, 2001, and for each taxable year thereafter, any premium and related retaliatory taxes imposed by section 44-150 or 77-908 paid by insurers writing health insurance in this state, except as otherwise set forth in subdivisions (1) and (2) of section 77-912, shall be remitted to the State Treasurer for credit to the fund. The fund shall be used for the operation of and payment of claims made against the pool. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Funds held by the administering insurer as of December 31, 2000, shall be carried forward by the administering insurer for payment of claims, costs of operation, and any remaining refunds.

(3) The board shall make periodic estimates of the amount needed from the fund for payment of losses resulting from claims, including a reasonable reserve, and administrative, organizational, and interim operating expenses and shall notify the director of the amount needed and the justification of the board for the request.

(4) The director shall approve all withdrawals from the fund and may determine when and in what amount any additional withdrawals may be necessary from the fund to assure the continuing financial stability of the pool.

(5) No later than May 1, 2002, and each May 1 thereafter, after funding of the net loss from operation of the pool for the prior premium and related retaliatory tax year, taking into account the policyholder premiums, account investment income, claims, costs of operation, and other appropriate gains and losses, the director shall transmit any money remaining in the fund as directed by section 77-912, disregarding the provisions of subdivisions (1) through (3) of such section. Interest earned on money in the fund shall be credited proportionately in the same manner as premium and related retaliatory taxes set forth in section 77-912.

~~(6) By June 30, 2001, the State Treasurer shall transfer three million one hundred sixty-five thousand two hundred sixty-five dollars from the Department of Insurance Cash Fund to the General Fund.~~

Sec. 7. Section 77-918, Reissue Revised Statutes of Nebraska, is amended to read:

77-918 Insurers transacting insurance in this state whose annual tax for the preceding taxable year was four thousand dollars or more shall make prepayments of the annual taxes imposed pursuant to Chapter 77, article 9, and related retaliatory taxes imposed pursuant to Chapter 44, article 1.

Each insurer required to make prepayments shall remit such prepayments on or before April 15, June 15, and September 15 of the current taxable year. Remittance for such prepayments shall be accompanied by a prepayment form prescribed by the director.

The amount of each such prepayment shall be at least one-fourth of either (1) the total tax paid for the immediately preceding taxable year or (2) eighty percent of the actual tax due for the current taxable year. ~~For the taxable year ending December 31, 2001, total tax paid for the immediately preceding taxable year means tax payable prior to any offsets taken under subsection (1) of section 44-4233.~~

The director, for good cause shown, may extend for not more than ten days the time for making a prepayment. The extension may be granted at any time if a request for such extension is filed with the director within or prior to the period for which the extension may be granted. Insurers who fail to pay any premium or retaliatory tax, including prepayments, when due shall pay interest at the rate prescribed by section 45-104.02, as such rate may from time to time be adjusted, until such tax is paid. Any insurer who fails to make the prepayments within the prescribed time period or to obtain an extension shall be subject to the penalties prescribed in section 77-911.

The director shall immediately deposit one-half of the prepayments received in the Premium and Retaliatory Tax Suspense Fund, which fund is hereby created, and one-half of the prepayments received in the General Fund.

Commencing with the premium and related retaliatory taxes for the taxable year ending December 31, 2001, and for each taxable year thereafter, the director shall determine the amount of the premium and related retaliatory taxes imposed by section 44-150 or 77-908 paid by insurers writing health insurance in this state, except as otherwise set forth in subdivisions (1) and (2) of section 77-912, and such amount shall be credited to the Comprehensive Health Insurance Pool Distributive Fund. Except as provided in ~~subsections (5) and (6)~~ subsection (5) of section 44-4225, on May 1 of each year the director shall transfer all of the interest earned in the Premium and Retaliatory Tax Suspense Fund on the immediately preceding year's prepayments to the General Fund and transfer the balance of the preceding year's prepayments deposited in the Premium and Retaliatory Tax Suspense Fund to the Insurance Tax Fund. Any money in the Premium and Retaliatory Tax Suspense Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 8. Original sections 44-4217, 44-4219, 44-4220.02, 44-4223, 44-4224, 44-4225, and 77-918, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 9. Since an emergency exists, this act takes effect when passed and approved according to law.