

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 296

FINAL READING

Introduced by Ballard, 21.

Read first time January 11, 2023

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to insurance; to amend section 44-312, Reissue
- 2 Revised Statutes of Nebraska; to adopt the Pet Insurance Act; to
- 3 change provisions relating to the reimbursement rate for telehealth
- 4 service; to define terms; to require the use of a distinct National
- 5 Provider Identifier as prescribed; to provide operative dates; and
- 6 to repeal the original section.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 10 of this act shall be known and may be
2 cited as the Pet Insurance Act.

3 Sec. 2. (1) The purpose of the Pet Insurance Act is to promote the
4 public welfare by creating a comprehensive legal framework within which
5 pet insurance may be sold in this state.

6 (2) The requirements of the Pet Insurance Act shall apply to pet
7 insurance policies that are issued to any resident of this state and are
8 sold, solicited, negotiated, or offered in this state and pet insurance
9 policies or certificates that are delivered or issued for delivery in
10 this state.

11 (3) All other applicable provisions of the insurance laws of this
12 state shall continue to apply to pet insurance, except that the specific
13 provisions of the Pet Insurance Act shall supersede any general
14 provisions of law that would otherwise be applicable to pet insurance.

15 Sec. 3. (1) A pet insurer that uses any of the terms defined in
16 section 4 of this act in a policy of pet insurance shall use such terms
17 as the terms are defined in section 4 of this act. A pet insurer shall
18 also make the specific definitions available through a clear and
19 conspicuous link on the main page of the website of the pet insurer or
20 pet insurer's program administrator.

21 (2) Nothing in the Pet Insurance Act shall prohibit or limit the
22 types of exclusions a pet insurer may use in a pet insurance policy or
23 require a pet insurer to use in a pet insurance policy any limitation or
24 exclusion set forth in the Pet Insurance Act.

25 Sec. 4. For purposes of the Pet Insurance Act:

26 (1) Chronic condition means a condition that can be treated or
27 managed, but not cured;

28 (2) Congenital anomaly or disorder means a condition that is present
29 from birth, whether inherited or caused by the environment, which may
30 cause or contribute to illness or disease;

31 (3) Hereditary disorder means an abnormality that is genetically

1 transmitted from parent to offspring and may cause illness or disease;

2 (4) Orthopedic condition refers to a condition affecting the bones,
3 skeletal muscle, cartilage, tendons, ligaments, and joints. Orthopedic
4 condition includes, but is not limited to, elbow dysplasia, hip
5 dysplasia, intervertebral disc degeneration, patellar luxation, and
6 ruptured cranial cruciate ligaments. Orthopedic condition does not
7 include cancer or metabolic, hemopoietic, or autoimmune disease;

8 (5) Pet insurance policy means a property insurance policy that
9 provides coverage for accidents and illnesses of pets;

10 (6)(a) Preexisting condition means any condition for which any of
11 the following are true prior to the effective date of a pet insurance
12 policy or during any waiting period under such policy:

13 (i) A veterinarian provided medical advice;

14 (ii) The pet received previous treatment; or

15 (iii) Based on information from verifiable sources, the pet had
16 signs or symptoms directly related to the condition for which a claim is
17 being made.

18 (b) A condition for which coverage is afforded on a policy cannot be
19 considered a preexisting condition on any renewal of the policy;

20 (7) Renewal means to issue and deliver at the end of an insurance
21 policy period a policy which supersedes a policy previously issued and
22 delivered by the same pet insurer or affiliated pet insurer and which
23 provides types and limits of coverage substantially similar to those
24 contained in the policy being superseded;

25 (8) Veterinarian means an individual who holds a valid license to
26 practice veterinary medicine from the appropriate licensing entity in the
27 jurisdiction in which such veterinarian practices;

28 (9) Veterinary expenses means the costs associated with medical
29 advice, diagnosis, care, or treatment provided by a veterinarian,
30 including, but not limited to, the cost of drugs prescribed by a
31 veterinarian;

1 (10) Waiting period means the period of time specified in a pet
2 insurance policy that is required to transpire before some or all of the
3 coverage in the policy can begin. Waiting periods may not be applied to
4 renewals of existing coverage; and

5 (11) Wellness program means a subscription or reimbursement-based
6 program that is separate from an insurance policy that provides goods and
7 services to promote the general health, safety, or well-being of the pet.
8 If any wellness program undertakes to indemnify another, pays a specified
9 amount upon determinable contingencies, or provides coverage for a
10 fortuitous event, it is transacting the business of insurance and is
11 subject to the insurance laws of this state. This definition is not
12 intended to classify a contract directly between a service provider and a
13 pet owner that only involves the two parties as being in the business of
14 insurance unless other indications of insurance exist.

15 Sec. 5. (1) A pet insurer transacting pet insurance shall disclose
16 to consumers:

17 (a) If the policy excludes coverage due to:

18 (i) A preexisting condition;

19 (ii) A hereditary condition;

20 (iii) A congenital anomaly or disorder; or

21 (iv) A chronic condition;

22 (b) If the policy includes any other exclusions and if so, the pet
23 insurer shall include a statement substantially similar to the following:

24 Other exclusions may apply. Please refer to the exclusions section
25 of the policy for more information;

26 (c) Any policy provision that limits coverage through a waiting or
27 affiliation period, a deductible, coinsurance, or an annual or lifetime
28 policy limit;

29 (d) Whether the pet insurer reduces coverage or increases premiums
30 based on the insured's claim history, the age of the covered pet, or a
31 change in the geographic location of the insured; and

1 (e) If the underwriting company differs from the brand name used to
2 market and sell the product.

3 (2)(a) Unless the insured has filed a claim under the pet insurance
4 policy, a pet insurance applicant has the right to examine and return the
5 policy, certificate, or rider to the pet insurer or insurance producer
6 within thirty days from its date of receipt and to have the premium
7 refunded if, after examination of the policy, certificate, or rider, the
8 applicant is not satisfied for any reason.

9 (b) A pet insurance policy, certificate, or rider shall have a
10 notice prominently printed on the first page or attached thereto,
11 including specific instructions to accomplish a return, and shall include
12 a statement substantially similar to the following:

13 You have up to thirty days from the day you receive this policy,
14 certificate, or rider to review it and return it to the pet insurer if
15 you decide not to keep it. You do not have to tell the pet insurer why
16 you are returning it. If you decide not to keep it, simply return it to
17 the pet insurer at the insurer's administrative office or you may return
18 it to the insurance producer that you bought it from as long as you have
19 not filed a claim. You must return it within thirty days after the day
20 you first received it. The pet insurer will refund the full amount of any
21 premium paid within thirty days after the pet insurer receives the
22 returned policy, certificate, or rider. The premium refund will be sent
23 directly to the person who paid it. The policy, certificate, or rider
24 will be void as if it had never been issued.

25 (3) A pet insurer shall clearly disclose a summary description of
26 the basis or formula on which the pet insurer determines claim payments
27 under a pet insurance policy within the policy, prior to policy issuance
28 and through a clear and conspicuous link on the main page of the website
29 of the pet insurer or pet insurer's program administrator.

30 (4) A pet insurer that uses a benefit schedule to determine claim
31 payment under a pet insurance policy shall:

1 (a) Clearly disclose the applicable benefit schedule in the policy;
2 and

3 (b) Disclose all benefit schedules used by the pet insurer under its
4 pet insurance policies through a clear and conspicuous link on the main
5 page of the website of the pet insurer or pet insurer's program
6 administrator.

7 (5) A pet insurer that determines claim payments under a pet
8 insurance policy based on usual and customary fees, or any other
9 reimbursement limitation based on prevailing veterinary expenses, shall:

10 (a) Include a usual-and-customary-fee limitation provision in the
11 policy that clearly describes the pet insurer's basis for determining
12 usual and customary fees and how that basis is applied in calculating
13 claim payments; and

14 (b) Disclose the pet insurer's basis for determining usual and
15 customary fees through a clear and conspicuous link on the main page of
16 the website of the pet insurer or pet insurer's program administrator.

17 (6) If any medical examination by a veterinarian is required to
18 effectuate coverage, the pet insurer shall clearly and conspicuously
19 disclose the required aspects of the examination prior to purchase and
20 disclose that examination documentation may result in a preexisting
21 condition exclusion.

22 (7) Waiting periods and the requirements applicable to them shall be
23 clearly and prominently disclosed to consumers prior to policy purchase.

24 (8)(a) The pet insurer shall include a summary of all policy
25 provisions required in subsections (1) through (7) of this section in a
26 separate document titled Insurer Disclosure of Important Policy
27 Provisions.

28 (b) The pet insurer shall:

29 (i) Provide the consumer with a copy of the Insurer Disclosure of
30 Important Policy Provisions document in at least twelve-point bold type;
31 and

1 (ii) Post the Insurer Disclosure of Important Policy Provisions
2 document through a clear and conspicuous link on the main page of the
3 website of the pet insurer or pet insurer's program administrator.

4 (9) At the time a pet insurance policy is issued or delivered to a
5 policyholder, the pet insurer shall include a written disclosure with the
6 following information printed in twelve-point bold type:

7 (a) The mailing address, toll-free telephone number, and website of
8 the Department of Insurance;

9 (b) The mailing address and customer service telephone number of the
10 pet insurer or insurance producer of record; and

11 (c) If the policy was issued or delivered by an insurance producer,
12 a statement advising the policyholder to contact the insurance producer
13 for assistance.

14 (10) The disclosures required by this section shall be in addition
15 to any other disclosure requirements required by law or rule and
16 regulation.

17 Sec. 6. (1) A pet insurer may issue policies that exclude coverage
18 on the basis of one or more preexisting conditions with appropriate
19 disclosure to the consumer. The pet insurer has the burden of proving
20 that the preexisting condition exclusion applies to the condition for
21 which a claim is being made.

22 (2)(a) A pet insurer may issue policies that impose waiting periods
23 upon effectuation of the policy that do not exceed thirty days for
24 illness or orthopedic conditions not resulting from an accident. Waiting
25 periods for accidents are prohibited.

26 (b) A pet insurer utilizing a waiting period shall include a
27 provision in such pet insurer's policy that allows the waiting period to
28 be waived upon completion of a medical examination. The pet insurer may
29 require that:

30 (i) The examination be conducted by a veterinarian;

31 (ii) The examination include certain specific elements as long as

1 such elements do not unreasonably restrict a consumer's ability to waive
2 the waiting period; and

3 (iii) The examination and any required elements be documented and
4 provided to the pet insurer.

5 (c) The pet insurer shall clearly and prominently disclose if the
6 policy includes a waiting period and any requirements applicable to the
7 waiting period to consumers prior to the policy purchase.

8 (3) A pet insurer shall not require a veterinary examination of the
9 covered pet for the insured to have such insured's policy renewed.

10 (4) If a pet insurer includes any prescriptive, wellness, or
11 noninsurance benefits in the policy form, then such benefits shall be
12 considered part of the policy and the pet insurer shall follow all
13 applicable laws, rules, and regulations related to such benefits.

14 (5) A consumer's eligibility to purchase a pet insurance policy
15 shall not be based on participation, or lack of participation, in a
16 separate wellness program.

17 Sec. 7. (1) A pet insurer or insurance producer shall not market a
18 wellness program as pet insurance.

19 (2) If a pet insurer or insurance producer sells a wellness program:

20 (a) The purchase of the wellness program shall not be a requirement
21 to the purchase of pet insurance;

22 (b) The costs of the wellness program shall be separate and
23 identifiable from any pet insurance policy sold by a pet insurer or
24 insurance producer;

25 (c) The terms and conditions for the wellness program shall be
26 separate from any pet insurance policy sold by a pet insurer or insurance
27 producer;

28 (d) The products or coverage available through a wellness program
29 shall not duplicate products or coverages available through the pet
30 insurance policy;

31 (e) The advertising of the wellness program shall not be misleading;

1 and

2 (f) The pet insurer or insurance producer shall provide a written
3 disclosure to consumers in twelve-point bold font that includes:

4 (i) A statement that wellness programs are not insurance;

5 (ii) The mailing address, toll-free telephone number, and website of
6 the Department of Insurance; and

7 (iii) The address and customer service telephone number of the pet
8 insurer or insurance producer of record.

9 (3) Coverages included in the pet insurance policy contract
10 described as wellness benefits are insurance.

11 Sec. 8. (1) An insurance producer shall not sell, solicit, or
12 negotiate a pet insurance product until after the insurance producer is
13 appropriately licensed and has completed the required training as
14 provided in subsection (3) of this section.

15 (2) A pet insurer shall ensure that its insurance producers are
16 appropriately trained on the coverages and conditions of such insurer's
17 pet insurance products and have received the training required in
18 subsection (3) of this section.

19 (3) Training required for an insurance producer shall include
20 information on:

21 (a) Preexisting conditions and waiting periods;

22 (b) The differences between pet insurance and noninsurance wellness
23 programs;

24 (c) Hereditary disorders, congenital anomalies or disorders, and
25 chronic conditions, and how pet insurance policies interact with such
26 conditions or disorders; and

27 (d) Rating, underwriting, renewal, and other related administrative
28 topics.

29 (4) An insurance producer that has satisfied substantially similar
30 training requirements in another state shall be considered to have
31 satisfied the training requirements in this state.

1 Sec. 9. The Director of Insurance may adopt and promulgate rules
2 and regulations to carry out the Pet Insurance Act.

3 Sec. 10. Any violation of the Pet Insurance Act or the rules and
4 regulations adopted and promulgated under the act shall be considered an
5 unfair trade practice under the Unfair Insurance Trade Practices Act in
6 addition to any other remedies and penalties available under the laws of
7 this state.

8 Sec. 11. Section 44-312, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 44-312 (1) For purposes of this section:

11 (a)(i) Telehealth means the use of medical information
12 electronically exchanged from one site to another, whether synchronously
13 or asynchronously, to aid a health care provider in the diagnosis or
14 treatment of a patient.

15 (ii) Telehealth includes (A) services originating from a patient's
16 home or any other location where such patient is located, (B)
17 asynchronous services involving the acquisition and storage of medical
18 information at one site that is then forwarded to or retrieved by a
19 health care provider at another site for medical evaluation, and (C)
20 telemonitoring.

21 (iii) Telehealth also includes audio-only services for the delivery
22 of individual behavioral health services for an established patient, when
23 appropriate, or crisis management and intervention for an established
24 patient as allowed by federal law; and

25 (b) Telemonitoring means the remote monitoring of a patient's vital
26 signs, biometric data, or subjective data by a monitoring device which
27 transmits such data electronically to a health care provider for analysis
28 and storage.

29 (2) Any insurer offering (a) any individual or group sickness and
30 accident insurance policy, certificate, or subscriber contract delivered,
31 issued for delivery, or renewed in this state, (b) any hospital, medical,

1 or surgical expense-incurred policy, except for policies that provide
2 coverage for a specified disease or other limited-benefit coverage, or
3 (c) any self-funded employee benefit plan to the extent not preempted by
4 federal law, shall provide upon request to a policyholder, certificate
5 holder, or health care provider a description of the telehealth and
6 telemonitoring services covered under the relevant policy, certificate,
7 contract, or plan.

8 (3) The description shall include:

9 (a) A description of services included in telehealth and
10 telemonitoring coverage, including, but not limited to, any coverage for
11 transmission costs;

12 (b) Exclusions or limitations for telehealth and telemonitoring
13 coverage, including, but not limited to, any limitation on coverage for
14 transmission costs; and

15 (c) Requirements for the licensing status of health care providers
16 providing telehealth and telemonitoring services.

17 (4) Except as otherwise provided in section 44-793, the
18 reimbursement rate for any telehealth service shall, at a minimum, be the
19 same as a comparable in-person health care service if the licensed
20 provider providing the telehealth service also provides in-person health
21 care services at a physical location in Nebraska or is employed by or
22 holds medical staff privileges at a licensed facility in Nebraska and
23 such facility provides in-person health care services in Nebraska.

24 Sec. 12. (1) For purposes of this section:

25 (a) National Provider Identifier means the standard, unique health
26 identifier number for a health care provider that is issued by the
27 National Provider System in accordance with 45 C.F.R. part 162, as such
28 regulations existed on January 1, 2023; and

29 (b) Off-campus location means a facility:

30 (i) With operations that are directly or indirectly owned or
31 controlled by, in whole or in part, a hospital, or that is affiliated

1 with a hospital, regardless of whether such off-campus location is
2 operated by the same governing body as the hospital;

3 (ii) That is located in its entirety, including all real estate,
4 structures, and permanent fixtures, more than one mile from the main
5 campus of the hospital as measured from the closest real estate,
6 structure, or permanent fixture of the main campus;

7 (iii) That provides services which are organizationally and
8 functionally integrated with the hospital; and

9 (iv) That is an outpatient facility providing ambulatory surgery,
10 urgent care, or emergency room services.

11 (2) An off-campus location of a hospital shall obtain a National
12 Provider Identifier that is distinct from the National Provider
13 Identifier used by the main campus of the affiliated hospital and any
14 other off-campus location of such hospital and shall use such identifier
15 on all claims for reimbursement or payment for health care services
16 provided at such location.

17 Sec. 13. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of this act
18 become operative on January 1, 2024. The other sections of this act
19 become operative on their effective date.

20 Sec. 14. Original section 44-312, Reissue Revised Statutes of
21 Nebraska, is repealed.