

LEGISLATIVE BILL 835

Approved by the Governor April 17, 1992

Introduced by Wesely, 26; Lynch, 13

AN ACT relating to public health and welfare; to amend section 44-4233, Reissue Revised Statutes of Nebraska, 1943, and sections 44-4228 and 80-401.01, Revised Statutes Supplement, 1991; to authorize coverage under the Comprehensive Health Insurance Pool for persons whose health coverage is involuntarily terminated; to change assessment provisions under the pool; to provide for coordination of pool coverage and veterans' benefits; to define terms relating to veterans; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 44-4228, Revised Statutes Supplement, 1991, be amended to read as follows:

44-4228. (1) Pool coverage shall exclude charges or expenses incurred during the first six months following the effective date of coverage as to any condition (1) (a) which had manifested itself during the six-month period immediately preceding the effective date of coverage in such a manner as would cause an ordinarily prudent person to seek diagnosis, care, or treatment or (2) (b) for which medical advice, care, or treatment was recommended or received during the six-month period immediately preceding the effective date of coverage.

(2) Any person whose health coverage is involuntarily terminated on or after January 1, 1992, and who is not eligible for a conversion policy or a continuation-of-coverage policy or contract available under state or federal law may apply for pool coverage but shall submit proof of eligibility pursuant to section 44-4221. If such proof is supplied and if pool coverage is applied for under the Comprehensive Health Insurance Pool Act within sixty days after the involuntary termination and if premiums are paid to the pool for the entire coverage period, any waiting period or preexisting condition exclusions provided for under the pool shall be waived to the extent similar exclusions, if any, under the previous health coverage

have been satisfied and the effective date of the pool coverage shall be the day following termination of the previous coverage. The board may assess an additional premium for pool coverage provided pursuant to this subsection notwithstanding the premium limitations stated in section 44-4227. For purposes of this subsection, a person whose health coverage is involuntarily terminated shall mean a person whose health insurance or health plan is terminated by reason of the withdrawal by the insurer from this state, bankruptcy or insolvency of the employer or employer trust fund, or cessation by the employer of providing any group health plan for all of its employees.

(3) Subsection (1) of this This section shall not apply to a person who has received medical assistance pursuant to section 43-522 or sections 68-1018 to 68-1025 or an organ transplant recipient terminated from coverage under medicare during the six-month period immediately preceding the effective date of coverage.

Sec. 2. That section 44-4233, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4233. (1) Any insurer subject to premium and related retaliatory tax liability imposed by section 44-150 or 77-908 may offset assessments paid to the pool by such insurer in a calendar year against its tax liability for that year in the year of payment or subsequent years. For tax years commencing on or after January 1, 1992, the insurer may offset such paid assessments against (a) subsequent premium tax prepayments imposed by section 77-918, (b) subsequent premium tax payments imposed by section 77-908, and (c) related retaliatory tax liability imposed by section 44-150. Prior to January 1, 1996, no individual insurer shall be subject to any liability of the pool in excess of its premium and related retaliatory tax liability which may be offset under this section.

(2) Commencing with assessments imposed or paid in 1991 and for all subsequent years prior to January 1, 1996, whenever it reasonably appears to the satisfaction of the board that an insurer has during a calendar year paid assessments that exceed that insurer's premium and related retaliatory tax liability for that calendar year, the board shall, upon request from such insurer, order the refund to that insurer of the amount of the assessment that exceeded that insurer's premium and related retaliatory tax liability. An insurer's request for a refund shall be filed with

the board not later than thirty days after the due date of the insurer's premium tax return filed with the department. If the refund is not made by the board within thirty days after receipt of the refund request, the insurer may within thirty days thereafter initiate a suit in district court for the amount claimed. The suit shall be heard by the district court de novo. In the event that an assessment against a member is limited by reason of that insurer's premium and related retaliatory tax liability, the amount by which the assessment is limited may be assessed against the other members in a manner consistent with the basis for assessments specified in subsection (3) of section 44-4225.

Sec. 3. The Board of Directors of the Comprehensive Health Insurance Pool and the Department of Insurance shall work closely with the Department of Veterans' Affairs to ensure the Veterans' Aid Income Fund and various federal benefits are utilized along with the Comprehensive Health Insurance Pool as resources for veterans and their families.

Sec. 4. That section 80-401.01, Revised Statutes Supplement, 1991, be amended to read as follows:

80-401.01. For purposes of sections 80-401 to 80-412, unless the context otherwise requires:

(1) A recognized veterans organization shall mean a veterans organization that has been chartered by the Congress of the United States, which maintains a fully staffed state headquarters, and which, at the time an appointment is to be made, has enrolled in its membership in Nebraska at least ten percent of the World War I, World War II, Korean War, and Vietnam War veterans eligible therefor, except that the Disabled American Veterans organization shall have enrolled in its membership in Nebraska at least ten percent of those Nebraska veterans receiving service-connected compensation from the United States Department of Veterans Affairs. The recognized veterans organizations shall be the American Legion, Disabled American Veterans, Paralyzed Veterans of America, and Veterans of Foreign Wars of the United States;

(2) Veteran of the Spanish-American War shall mean a person who served on active duty in the armed forces of the United States between April 21, 1898, and July 4, 1902, and who received an honorable discharge, or its equivalent, from such service or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that

war:

~~{2}~~ {3} Veteran of World War I shall mean a person who served on active duty in the armed forces of the United States between April 6, 1917, and November 11, 1918, and who has received an honorable discharge, or its equivalent, from such service or who, being a resident of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

~~{3}~~ {4} Veteran of World War II shall mean a person who served on active duty in the armed forces of the United States between December 7, 1941, and December 31, 1946, and who received an honorable discharge, or its equivalent, from such service or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war and who received an honorable discharge, or its equivalent, from such service;

~~{4}~~ {5} Veteran of the Korean War shall mean a person who served on active duty in the armed forces of the United States between June 25, 1950, and January 31, 1955, and who received an honorable discharge, or its equivalent, from such service or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war and who received an honorable discharge, or its equivalent, from such service;

~~{5}~~ {6} Veteran of the Vietnam War shall mean a person who served on active duty in the armed forces of the United States between August 5, 1964, and May 7, 1975, and who received an honorable discharge, or its equivalent, from such service or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war and who received an honorable discharge, or its equivalent, from such service;

{7} Veteran of Lebanon shall mean a person who served on active duty in the armed forces of the United States between August 25, 1982, and February 26, 1984, and who received an honorable discharge, or its equivalent, from such service or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war and who received an honorable discharge, or its equivalent.

from such service:

(8) Veteran of Grenada shall mean a person who served on active duty in the armed forces of the United States between October 23, 1983, and November 23, 1983, and who received an honorable discharge, or its equivalent, from such service or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war and who received an honorable discharge, or its equivalent, from such service;

(9) Veteran of Panama shall mean a person who served on active duty in the armed forces of the United States between December 30, 1989, and January 31, 1990, and who received an honorable discharge, or its equivalent, from such service or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war and who received an honorable discharge, or its equivalent, from such service;

(6) (10) Veteran of the Persian Gulf War shall mean a person who served on active duty in the armed forces of the United States beginning on August 2, 1990, and ending on the date thereafter prescribed by presidential proclamation or by law, and who received an honorable discharge, or its equivalent, from such service or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war and who received an honorable discharge, or its equivalent, from such service;

(7) Veteran of the Spanish-American War shall mean a person who served on active duty in the armed forces of the United States between April 21, 1898, and July 4, 1902, and received an honorable discharge, or its equivalent, from such service or who, being a citizen of the United States at the time of his or her entry into such service, served with the military forces of any government allied with the United States in that war;

(8) (11) Active duty shall mean full-time duty in the armed forces other than active duty for training; and

(9) (12) Active duty for training shall mean full-time duty in the armed forces performed by reserves for training purposes.

Sec. 5. That original section 44-4233,

Reissue Revised Statutes of Nebraska, 1943, and sections 44-4228 and 80-401.01, Revised Statutes Supplement, 1991, are repealed.

Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.