

LEGISLATURE OF NEBRASKA

ONE HUNDRED THIRD LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 860

Introduced by Nordquist, 7; Conrad, 46; Cook, 13; Howard, 9.

Read first time January 13, 2014

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to insurance; to amend sections 44-761 and
2 44-7,103, Reissue Revised Statutes of Nebraska, and
3 section 44-710.01, Revised Statutes Supplement, 2013; to
4 adopt health insurance requirements relating to annual
5 and lifetime limits, rescissions, preexisting conditions,
6 and age of dependents; to harmonize provisions; and to
7 repeal the original sections.

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

1 Section 1. (1) A group health plan and a health insurer
2 offering group or individual health insurance coverage may not
3 establish:

4 (a) Lifetime limits on the dollar value of benefits for
5 any participant or beneficiary; or

6 (b) Unreasonable annual limits, within the meaning of
7 section 223 of the Internal Revenue Code, on the dollar value of
8 benefits for any participant or beneficiary.

9 (2) Subsection (1) of this section shall not be construed
10 to prevent a group health plan or health insurance coverage that is
11 not required to provide essential health benefits from placing annual
12 or lifetime per beneficiary limits on specific covered benefits to
13 the extent that such limits are otherwise permitted under federal or
14 state law.

15 Sec. 2. A group health plan and a health insurer offering
16 group or individual health insurance coverage shall not rescind such
17 plan or coverage with respect to an enrollee once the enrollee is
18 covered under such plan or coverage involved, except that this
19 section shall not apply to a covered individual who has performed an
20 act or practice that constitutes fraud or makes an intentional
21 misrepresentation of material fact as prohibited by the terms of the
22 plan or coverage. Such plan or coverage may not be cancelled except
23 with prior notice to the enrollee.

24 Sec. 3. A group health plan and a health insurer offering
25 group or individual health insurance coverage may not impose any

1 preexisting condition exclusion with respect to such plan or
2 coverage.

3 Sec. 4. A health insurer offering group or individual
4 health insurance coverage shall, with respect to each plan year,
5 submit to the Director of Insurance a report concerning the
6 percentage of total premium revenue that such coverage expends:

7 (1) On reimbursement for clinical services provided to
8 enrollees under such coverage;

9 (2) For activities that improve health care quality; and
10 (3) On all other nonclaims costs, including an
11 explanation of the nature of such costs, and excluding state taxes
12 and licensing or regulatory fees.

13 The director shall make reports received under this
14 section available to the public on the web site of the Department of
15 Insurance.

16 Sec. 5. A health insurer offering group or individual
17 health insurance coverage shall, with respect to each plan year,
18 provide an annual rebate to each enrollee under such coverage, on a
19 pro rata basis, in an amount that is equal to the amount by which
20 premium revenue expended by the issuer on activities described in
21 subdivision (3) of section 4 of this act exceeds:

22 (1) With respect to a health insurer offering coverage in
23 the group market, twenty percent; or

24 (2) With respect to a health insurer offering coverage in
25 the individual market, twenty-five percent, except that such

1 percentage shall be adjusted to the extent the Director of Insurance
2 determines that the application of such percentage may destabilize
3 the existing individual market in this state.

4 Sec. 6. A group health plan and a health insurer offering
5 group or individual health insurance coverage shall implement an
6 effective appeals process for appeals of coverage determinations and
7 claims under which the plan or insurer shall at a minimum:

8 (1) Have in effect an internal claims appeal process;
9 (2) Provide notice to enrollees, in a culturally and
10 linguistically appropriate manner, of available internal and external
11 appeals processes, and the availability of any applicable consumer
12 assistance in the Department of Insurance to assist such enrollees
13 with the appeals processes;

14 (3) Allow an enrollee to review their file, to present
15 evidence and testimony as part of the appeals process, and to receive
16 continued coverage pending the outcome of the appeals process; and

17 (4) Provide an external review process for such plans and
18 issuers that, at a minimum, includes the consumer protections set
19 forth in the Health Carrier External Review Act.

20 Sec. 7. (1) With respect to the premium rate charged by a
21 health insurer for health insurance coverage offered in the
22 individual or small group market:

23 (a) Such rate shall vary with respect to the particular
24 plan or coverage involved only by:

25 (i) Whether such plan or coverage covers an individual or

1 family;

2 (ii) Rating area, as established by the Director of

3 Insurance;

4 (iii) Age, except that such rate shall not vary by more

5 than three to one for adults; and

6 (iv) Tobacco use, except that such rate shall not vary by

7 more than one and five-tenths to one; and

8 (b) Such rate shall not vary with respect to the

9 particular plan or coverage involved by any other factor not

10 described in subdivision (1)(a) of this section.

11 (2) The director shall define the permissible age bands

12 for rating purposes under subdivision (1)(a)(iii) of this section.

13 (3) With respect to family coverage under a group health

14 plan or health insurance coverage, the rating variations permitted

15 under subdivisions (1)(a)(iii) and (iv) of this section shall be

16 applied based on the portion of the premium that is attributable to

17 each family member covered under the plan or coverage.

18 Sec. 8. Section 44-710.01, Revised Statutes Supplement,
19 2013, is amended to read:

20 44-710.01 No policy of sickness and accident insurance
21 shall be delivered or issued for delivery to any person in this state
22 unless (1) the entire money and other considerations therefor are
23 expressed therein, (2) the time at which the insurance takes effect
24 and terminates is expressed therein, (3) it purports to insure only
25 one person, except that a policy may insure, originally or by

1 subsequent amendment, upon the application of an adult member of a
2 family who shall be deemed the policyholder, any two or more eligible
3 members of that family, including husband, wife, dependent children,
4 any children enrolled on a full-time basis in any college,
5 university, or trade school, or any children under a specified age
6 which shall not be less than twenty-six years or exceed thirty years
7 and any other person dependent upon the policyholder; any individual
8 policy hereinafter delivered or issued for delivery in this state
9 which provides that coverage of a dependent child shall terminate
10 upon the attainment of the limiting age for dependent children
11 specified in the policy shall also provide in substance that
12 attainment of such limiting age shall not operate to terminate the
13 coverage of such child during the continuance of such policy and
14 while the child is and continues to be both (a) incapable of self-
15 sustaining employment by reason of an intellectual disability or a
16 physical disability and (b) chiefly dependent upon the policyholder
17 for support and maintenance, if proof of such incapacity and
18 dependency is furnished to the insurer by the policyholder within
19 thirty-one days of the child's attainment of the limiting age and
20 subsequently as may be required by the insurer but not more
21 frequently than annually after the two-year period following the
22 child's attainment of the limiting age; such insurer may charge an
23 additional premium for and with respect to any such continuation of
24 coverage beyond the limiting age of the policy age of twenty-six
25 years with respect to such child, which premium shall be determined

1 by the insurer on the basis of the class of risks applicable to such
2 child, (4) it contains a title on the face of the policy correctly
3 describing the policy, (5) the exceptions and reductions of indemnity
4 are set forth in the policy and, except those which are set forth in
5 sections 44-710.03 and 44-710.04, are printed, at the insurer's
6 option, either included with the benefit provision to which they
7 apply or under an appropriate caption such as EXCEPTIONS, or
8 EXCEPTIONS AND REDUCTIONS; if an exception or reduction specifically
9 applies only to a particular benefit of the policy, a statement of
10 such exception or reduction shall be included with the benefit
11 provision to which it applies, (6) each such form, including riders
12 and endorsements, shall be identified by a form number in the lower
13 left-hand corner of the first page thereof, (7) it contains no
14 provision purporting to make any portion of the charter, rules,
15 constitution, or bylaws of the insurer a part of the policy unless
16 such portion is set forth in full in the policy, except in the case
17 of the incorporation of, or reference to, a statement of rates or
18 classification of risks, or short-rate table filed with the Director
19 of Insurance, and (8) on or after January 1, 1999, any restrictive
20 rider contains a notice of the existence of the Comprehensive Health
21 Insurance Pool if the policy provides health insurance as defined in
22 section 44-4209.

23 Sec. 9. Section 44-761, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 44-761 Each group policy of sickness and accident

1 insurance shall contain in substance the following provisions:

2 (1) A provision that the policy, the application of the
3 policyholder if such application or copy thereof is attached to such
4 policy, and the individual applications, if any, submitted in
5 connection with such policy by the employees or members, shall
6 constitute the entire contract between the parties, that all
7 statements, in the absence of fraud, made by any applicant or
8 applicants shall be deemed representations and not warranties, and
9 that no such statement shall avoid the insurance or reduce benefits
10 thereunder unless contained in a written application of which a copy
11 is attached to the policy;

12 (2) A provision that the insurer will furnish to the
13 policyholder, for delivery to each employee or member of the insured
14 group, an individual certificate setting forth in summary form a
15 statement of the essential features of the insurance coverage of such
16 employee or member and to whom benefits thereunder are payable. If
17 dependents are included in the coverage, only one certificate need be
18 issued for each family unit;

19 (3) A provision that to the group originally insured may
20 be added from time to time eligible new employees or members or
21 dependents, as the case may be, in accordance with the terms of the
22 policy; and

23 (4) A provision that the insurance coverage of the
24 employee or member may include, originally or by subsequent
25 amendment, upon the application of the employee or member, any two or

1 more eligible members of his or her family, including husband, wife,
2 dependent children, any children enrolled on a full-time basis in any
3 college, university, or trade school, or any children under a
4 specified age which shall not be less than twenty-six years or exceed
5 thirty years, and any other person dependent upon the policyholder.
6 Any policy which provides that coverage of an unmarried dependent
7 child shall terminate upon the attainment of the limiting age for
8 unmarried dependent children specified in the policy shall also
9 provide that attainment of such limiting age shall not operate to
10 terminate the coverage of such child during the continuance of the
11 insurance coverage of the employee or member under such policy and
12 while such child is and continues to be (a) incapable of self-
13 sustaining employment by reason of mental or physical handicap and
14 (b) chiefly dependent upon the policyholder for support and
15 maintenance, if proof of such incapacity and dependency is furnished
16 to the insurer by the policyholder within thirty-one days of such
17 child's attainment of the limiting age and subsequently as may be
18 required by the insurer but not more frequently than annually after
19 the two-year period following such child's attainment of the limiting
20 age. The insurer may charge an additional premium for and with
21 respect to any such continuation of coverage beyond ~~the limiting age~~
22 ~~of the policy, twenty-six years of age,~~ which premium shall be
23 determined by the insurer on the basis of the class of risks
24 applicable to such child. The provisions of this subdivision shall be
25 contained in all new policies of group sickness and accident

1 insurance delivered or issued for delivery to any person in this
2 state. No group policy of sickness and accident insurance shall
3 contain any provisions which are in conflict with sections 44-3,144
4 to 44-3,150.

5 Sec. 10. Section 44-7,103, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 44-7,103 (1) For purposes of this section, health benefit
8 plan means any expense-incurred individual or group sickness and
9 accident insurance policy, health maintenance organization contract,
10 subscriber contract, or self-funded employee benefit plan to the
11 extent not preempted by federal law, except for any policy or
12 contract that provides coverage only for excepted benefits as defined
13 in the federal Health Insurance Portability and Accountability Act of
14 1996, 29 U.S.C. 1191b, and regulations adopted pursuant to the act,
15 as such act and regulations existed on ~~January 1, 2009, January 1,~~
16 2014, or any policy or contract that provides coverage for a
17 specified disease or other limited-benefit coverage.

18 (2) Notwithstanding section 44-3,131, any health benefit
19 plan that provides coverage for children shall provide for continuing
20 coverage for such children as follows:

21 (a) If coverage under the health benefit plan would
22 otherwise terminate because a covered child ceases to be a dependent,
23 ceases to be a full-time student, or attains an age which exceeds the
24 specified age at which coverage ceases pursuant to the plan which
25 shall not be less than twenty-six years, the health benefit plan

1 shall provide the option to the insured to continue coverage for such
2 child through the end of the month in which the child (i) marries,
3 (ii) ceases to be a resident of the state, unless the child is under
4 nineteen years of age or is enrolled on a full-time basis in any
5 college, university, or trade school, (iii) receives coverage under
6 another health benefit plan or a self-funded employee benefit plan
7 that is not included in the definition of a health benefit plan under
8 subsection (1) of this section but provides similar coverage, or (iv)
9 attains thirty years of age; and

10 (b) The health benefit plan may require:

11 (i) A written election from the insured; and

12 (ii) An additional premium for the child upon attaining
13 the age of twenty-six years. Such premium shall not vary based upon
14 the health status of the child and shall not exceed the amount the
15 health benefit plan would receive for an identical individual for a
16 single adult insured. No employer shall be required to contribute to
17 any additional premium under this subdivision.

18 Sec. 11. Original sections 44-761 and 44-7,103, Reissue
19 Revised Statutes of Nebraska, and section 44-710.01, Revised Statutes
20 Supplement, 2013, are repealed.