

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 358

Introduced by Pahls, 31.

Read first time January 16, 2009

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to the Comprehensive Health Insurance Pool Act;
2 to amend sections 44-4201, 44-4226, and 44-4227, Reissue
3 Revised Statutes of Nebraska, and sections 44-4221 and
4 44-4222, Revised Statutes Cumulative Supplement, 2008; to
5 change provisions relating to eligibility under the act,
6 unfair trade practices, major medical expense coverage,
7 and premium and standard risk rates; to provide duties
8 for the board of directors of the pool; to harmonize
9 provisions; and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-4201, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 44-4201 Sections 44-4201 to 44-4235 and sections 2, 3,
4 and 6 of this act shall be known and may be cited as the
5 Comprehensive Health Insurance Pool Act.

6 Sec. 2. Following the close of each calendar year,
7 the board shall review the operation of the pool and report to
8 the director the board's recommendations for cost savings in the
9 operation of the pool.

10 Sec. 3. (1) The board shall have specific authority
11 to establish provider reimbursement for benefits payable under
12 pool coverage for covered services at rates designed to achieve
13 payment equivalent to one hundred twenty-five percent of medicare
14 reimbursement. A health care provider who provides services to a
15 covered individual and requests payment is deemed to have agreed to
16 reimbursement according to the rates established pursuant to this
17 section. Any reimbursement paid to a health care provider under
18 pool coverage is limited to the lesser of billed charges or the
19 rates established pursuant to this section.

20 (2) A health care provider shall not collect or attempt
21 to collect from a covered individual any money owed to the health
22 care provider by the pool. A health care provider shall not have
23 any recourse against a covered individual for any covered services
24 in excess of the copayment, coinsurance, or deductible amounts
25 specified in the pool coverage.

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

4 Sec. 4. Section 44-4221, Revised Statutes Cumulative
5 Supplement, 2008, is amended to read:

6 44-4221 (1) To be eligible to purchase health insurance
7 ~~coverage from the pool,~~ pool coverage, an individual shall:

8 (a) Be a resident of the state for a period of at least
9 six months and shall be an individual:

10 (i) Who is not eligible for coverage under a group health
11 plan comparable to pool coverage, medicare, or medical assistance
12 pursuant to the Medical Assistance Act or section 43-522, or any
13 successor program, and who does not have any other health insurance
14 coverage comparable to pool coverage;

15 (ii) Who, if such individual was offered the option of
16 continuation coverage under COBRA or under a similar program, both
17 elected such continuation coverage and exhausted such continuation
18 coverage; and

19 ~~(i) Have~~ (iii) (A) Who has received, within six months
20 prior to application to the pool, a rejection in writing, for
21 reasons of health, from an insurer for health insurance coverage
22 comparable to pool coverage;

23 ~~(ii) Currently have,~~ (B) Who currently has, or have has
24 been offered within six months prior to application to the pool,
25 health insurance coverage comparable to pool coverage by an insurer

1 which includes a restrictive rider which limits health insurance
 2 coverage for a preexisting medical condition; or

3 ~~(iii) Have~~ (C) Who has been refused health insurance
 4 coverage comparable to ~~the pool~~ coverage, or ~~have~~ has been offered
 5 ~~such~~ health insurance coverage at a rate exceeding the premium rate
 6 for pool coverage, within six months prior to application to the
 7 pool;

8 (b) Be a resident of the state for any length of time and
 9 be an individual:

10 (i) For whom, as of the date the individual seeks pool
 11 coverage under this section, the aggregate of the periods of
 12 creditable coverage is eighteen or more months and whose most
 13 recent prior creditable coverage was under a group health plan,
 14 governmental plan, or church plan;

15 (ii) Who is not eligible for coverage under a group
 16 health plan, medicare, or medical assistance pursuant to the
 17 Medical Assistance Act or section 43-522, or any successor program,
 18 and who does not have any other health insurance coverage;

19 (iii) With respect to whom the most recent prior
 20 creditable coverage was not terminated for factors relating to
 21 nonpayment of premiums or fraud; and

22 ~~(iv)-(A)~~ (iv) Who, if such individual was offered the
 23 option of continuation coverage under COBRA or under a similar
 24 program, both elected such continuation coverage and exhausted such
 25 continuation coverage, ~~or (B) who had been offered the option of~~

1 ~~continuation coverage under COBRA or under a similar program at a~~
2 ~~premium rate higher than that available from the pool; or~~

3 (c) Be a resident of the state for any length of time and
4 be a qualified trade adjustment assistance eligible individual.

5 (2) The board may adopt and promulgate a list of medical
6 or health conditions for which an individual would be eligible
7 for pool coverage without applying for health insurance coverage
8 pursuant to subdivision (1)(a) of this section. Individuals who
9 can demonstrate the existence or history of any medical or health
10 conditions on the list adopted and promulgated by the board shall
11 be eligible to apply directly to the pool for ~~health insurance~~ pool
12 coverage.

13 Sec. 5. Section 44-4222, Revised Statutes Cumulative
14 Supplement, 2008, is amended to read:

15 44-4222 (1) An individual shall not be eligible for
16 initial or continued pool coverage if:

17 (a) He or she is eligible for medicare benefits by reason
18 of age or medical assistance established pursuant to the Medical
19 Assistance Act;

20 (b) He or she is a resident or inmate of a correctional
21 facility, except that this subdivision shall not apply if such
22 individual is eligible for pool coverage under subdivision (1)(b)
23 of section 44-4221;

24 (c) He or she has terminated pool coverage unless twelve
25 months have elapsed since such termination, except that this

1 subdivision shall not apply if such individual has received and
2 become ineligible for medical assistance pursuant to the Medical
3 Assistance Act during the immediately preceding twelve months, if
4 such individual is eligible for pool coverage under subdivision
5 (1) (b) of section 44-4221, or if such individual is eligible for
6 waiver of any waiting period or preexisting condition exclusions
7 pursuant to section 44-4228;

8 (d) The pool has paid out one million dollars in claims
9 for the individual; ~~or~~

10 (e) He or she is no longer a resident of Nebraska; ~~or-~~

11 (f) The premium for his or her pool coverage is paid for
12 by a person other than the following:

13 (i) The individual;

14 (ii) An individual related to the individual by blood,
15 marriage, or adoption; or

16 (iii) An entity operating under the federal Ryan White
17 HIV/AIDS Treatment Modernization Act of 2006, Public Law 109-415,
18 as such act existed on the effective date of this act.

19 (2) Pool coverage shall terminate for any individual on
20 the date the individual becomes ineligible under subsection (1) of
21 this section.

22 Sec. 6. (1) No insurer, agent, broker, or third-party
23 administrator shall refer an individual employee to the pool or
24 arrange for an individual employee to apply for pool coverage
25 for the purpose of separating that individual employee from

1 group health insurance coverage in connection with the individual
2 employee's employment.

3 (2) Any violation of this section shall be an unfair
4 trade practice in the business of insurance subject to the Unfair
5 Insurance Trade Practices Act.

6 Sec. 7. Section 44-4226, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 44-4226 (1) The pool shall offer major medical expense
9 coverage to every eligible individual. The pool coverage, its
10 schedule of benefits, and exclusions and other limitations
11 shall be established through rules and regulations adopted and
12 promulgated by the director taking into consideration the advice
13 and recommendations of the members.

14 (2) In establishing the pool coverage, the director
15 shall take into consideration the levels of individual health
16 insurance coverage provided in the state and such medical economic
17 factors as may be deemed appropriate and shall determine benefit
18 levels, deductibles, coinsurance and stop-loss factors, exclusions,
19 and limitations determined to be generally reflective of and
20 commensurate with individual health insurance coverage provided by
21 the ~~five~~ ten insurers writing the largest amount of individual
22 health insurance coverage in the state.

23 (3) Pool coverage established under this section shall
24 provide both an appropriate high and low deductible to be
25 selected by the pool applicant. The deductibles and coinsurance

1 and stop-loss factors may be adjusted annually according to the
2 medical component of the Consumer Price Index.

3 Sec. 8. Section 44-4227, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 44-4227 ~~(1)~~ Rates (1)(a) For calendar years prior to
6 January 1, 2010, rates and rate schedules may be adjusted for
7 appropriate risk factors such as age, sex, and area variation
8 in claim costs in accordance with established actuarial and
9 underwriting practices. Special rates shall be provided for
10 children under eighteen years of age.

11 ~~(2)~~ The (b) For calendar years prior to January 1,
12 2010, the pool, with the assistance of an independent actuary,
13 shall determine the standard risk rate by calculating the average
14 individual rate charged by the five insurers writing the largest
15 amount of individual health insurance coverage in the state
16 actuarially adjusted to be comparable with the pool coverage,
17 except that such five insurers shall not include any insurer
18 which has not been writing individual health insurance coverage
19 in this state in at least the three preceding calendar years.
20 The selection of the independent actuary shall be subject to
21 the approval of the director. In the event five insurers do
22 not offer comparable coverage, the standard risk rate shall be
23 established using reasonable actuarial techniques and shall reflect
24 anticipated risk experience and expenses for such coverage. The
25 annual premium rate established for pool coverage shall be one

1 hundred thirty-five percent of rates established as applicable for
2 individual standard risks, except that the annual premium rate
3 established for pool coverage for children under eighteen years
4 of age shall be sixty-seven and five-tenths percent of rates
5 established as applicable for individual standard risks.

6 (2) (a) For calendar years beginning on and after January
7 1, 2010, rates and rate schedules may be adjusted for appropriate
8 risk factors such as age, sex, and area variation in claim costs in
9 accordance with established actuarial and underwriting practices.

10 (b) (i) For calendar years beginning on and after January
11 1, 2010, the pool, with the assistance of an independent actuary,
12 shall determine the standard risk rate by calculating the average
13 individual rate charged by the ten insurers writing the largest
14 amount of individual health insurance coverage in the state
15 actuarially adjusted to be comparable with the pool coverage,
16 except that such ten insurers shall not include any insurer
17 which has not been writing individual health insurance coverage
18 in this state in at least the three preceding calendar years.
19 The selection of the independent actuary shall be subject to the
20 approval of the director. In the event ten insurers do not offer
21 comparable coverage, the standard risk rate shall be established
22 using reasonable actuarial techniques and shall reflect anticipated
23 risk experience and expenses for such coverage.

24 (ii) (A) The annual premium rate established for pool
25 coverage for calendar year 2010 (I) shall be one hundred forty

1 percent of rates established as applicable for individual standard
2 risks or (II) shall be the rates established as applicable for
3 individual standard risks for the previous calendar year adjusted
4 by a trend factor reflecting medical economic factors as the board
5 deems appropriate, whichever is greater.

6 (B) The annual premium rate established for pool coverage
7 for calendar year 2011 (I) shall be one hundred forty-five percent
8 of rates established as applicable for individual standard risks or
9 (II) shall be the rates established as applicable for individual
10 standard risks for the previous calendar year adjusted by a trend
11 factor reflecting medical economic factors as the board deems
12 appropriate, whichever is greater.

13 (C) The annual premium rate established for pool coverage
14 for calendar year 2012 and each calendar year thereafter (I) shall
15 be one hundred fifty percent of rates established as applicable for
16 individual standard risks or (II) shall be the rates established as
17 applicable for individual standard risks for the previous calendar
18 year adjusted by a trend factor reflecting medical economic factors
19 as the board deems appropriate, whichever is greater.

20 (3) The board shall not adjust or increase pool rates
21 more than one time during any calendar year. All rates and rate
22 schedules shall be submitted to the director for approval. The
23 director shall hold a public hearing pursuant to the Administrative
24 Procedure Act prior to approving an adjustment to or increase in
25 pool rates.

1 Sec. 9. Original sections 44-4201, 44-4226, and 44-4227,
2 Reissue Revised Statutes of Nebraska, and sections 44-4221
3 and 44-4222, Revised Statutes Cumulative Supplement, 2008, are
4 repealed.