

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 831

Introduced by Christensen, 44.

Read first time January 13, 2014

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to insurance; to amend section 44-1540, Revised
2 Statutes Cumulative Supplement, 2012; to provide a
3 requirement relating to coverage for medical equipment;
4 to prohibit unreasonable delays relating to preapproval
5 of coverage for medical equipment; and to repeal the
6 original section.

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

1 Section 1. In the case of (1) any individual or group
2 sickness and accident insurance policy, certificate, or subscriber
3 contract delivered, issued for delivery, or renewed in this state and
4 any hospital, medical, or surgical expense-incurred policy, except
5 for policies that provide coverage for a specified disease or other
6 limited-benefit coverage, and (2) any self-funded employee benefit
7 plan to the extent not preempted by federal law, reimbursement for
8 medical equipment costs shall be applied to the deductible year in
9 which the request for approval of coverage of the medical equipment
10 was received by the insurer.

11 Sec. 2. Section 44-1540, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 44-1540 Any of the following acts or practices by an
14 insurer, if committed in violation of section 44-1539, shall be an
15 unfair claims settlement practice:

16 (1) Knowingly misrepresenting to claimants and insureds
17 relevant facts or policy provisions relating to coverages at issue;

18 (2) Failing to acknowledge with reasonable promptness
19 pertinent communications with respect to claims arising under its
20 policies;

21 (3) Failing to adopt and implement reasonable standards
22 for the prompt investigation and settlement of claims arising under
23 its policies;

24 (4) Not attempting in good faith to effectuate prompt,
25 fair, and equitable settlement of claims submitted in which liability

1 has become reasonably clear;

2 (5) Not attempting in good faith to effectuate prompt,
3 fair, and equitable settlement of property and casualty claims (a) in
4 which coverage and the amount of the loss are reasonably clear and
5 (b) for loss of tangible personal property within real property which
6 is insured by a policy subject to section 44-501.02 and which is
7 wholly destroyed by fire, tornado, windstorm, lightning, or
8 explosion;

9 (6) Compelling insureds or beneficiaries to institute
10 litigation to recover amounts due under its policies by offering
11 substantially less than the amounts ultimately recovered in
12 litigation brought by them;

13 (7) Refusing to pay claims without conducting a
14 reasonable investigation;

15 (8) Failing to affirm or deny coverage of a claim within
16 a reasonable time after having completed its investigation related to
17 such claim;

18 (9) Attempting to settle a claim for less than the amount
19 to which a reasonable person would believe the insured or beneficiary
20 was entitled by reference to written or printed advertising material
21 accompanying or made part of an application;

22 (10) Attempting to settle claims on the basis of an
23 application which was materially altered without notice to or
24 knowledge or consent of the insured;

25 (11) Making a claims payment to an insured or beneficiary

1 without indicating the coverage under which each payment is being
2 made;

3 (12) Unreasonably delaying the investigation or payment
4 of claims by requiring both a formal proof-of-loss form and
5 subsequent verification that would result in duplication of
6 information and verification appearing in the formal proof-of-loss
7 form;

8 (13) Failing, in the case of the denial of a claim or the
9 offer of a compromise settlement, to promptly provide a reasonable
10 and accurate explanation of the basis for such action;

11 (14) Failing to provide forms necessary to present claims
12 with reasonable explanations regarding their use within fifteen
13 working days of a request;

14 (15) Failing to adopt and implement reasonable standards
15 to assure that the repairs of a repairer owned by or affiliated with
16 the insurer are performed in a skillful manner. For purposes of this
17 subdivision, a repairer is affiliated with the insurer if there is a
18 preexisting arrangement, understanding, agreement, or contract
19 between the insurer and repairer for services in connection with
20 claims on policies issued by the insurer;

21 (16) Requiring the insured or claimant to use a
22 particular company or location for motor vehicle repair. Nothing in
23 this subdivision shall prohibit an insurer from entering into
24 discount agreements with companies and locations for motor vehicle
25 repair or otherwise entering into any business arrangements or

1 affiliations which reduce the cost of motor vehicle repair if the
2 insured or claimant has the right to use a particular company or
3 reasonably available location for motor vehicle repair. If the
4 insured or claimant chooses to use a particular company or location
5 other than the one providing the lowest estimate for like kind and
6 quality motor vehicle repair, the insurer shall not be liable for any
7 cost exceeding the lowest estimate. For purposes of this subdivision,
8 motor vehicle repair shall include motor vehicle glass replacement
9 and motor vehicle glass repair;

10 (17) Failing to provide coverage information or
11 coordinate benefits pursuant to section 68-928; ~~and~~

12 (18) Failing to pay interest on any proceeds due on a
13 life insurance policy as required by section 44-3,143; and -

14 (19) Unreasonably delaying a request for preapproval of
15 coverage for medical equipment.

16 Sec. 3. Original section 44-1540, Revised Statutes
17 Cumulative Supplement, 2012, is repealed.