

AMENDMENTS TO LB604

Introduced by Banking, Commerce and Insurance.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Sections 1 to 14 of this act shall be known and may be
4 cited as the Nebraska Right to Shop Act.

5 Sec. 2. For purposes of the Nebraska Right to Shop Act:

6 (1) Allowed amount means the contractually agreed upon amount paid
7 by an insurance carrier to a health care entity participating in the
8 insurance carrier's network or the amount the health plan is required to
9 pay under the health plan policy or certificate of insurance for out-of-
10 network covered benefits provided to the patient;

11 (2) Department means the Department of Insurance;

12 (3) Director means the Director of Insurance;

13 (4) Enrollee means an individual receiving health insurance coverage
14 from an insurance carrier;

15 (5) Health care entity means:

16 (a) A facility licensed under the Health Care Facility Licensure
17 Act;

18 (b) A health care professional licensed under the Uniform
19 Credentialing Act; and

20 (c) An organization or association of health care professionals
21 licensed under the Uniform Credentialing Act;

22 (6) Incentive payment means a payment described in section 7 of this
23 act that is made by an insurance carrier to an enrollee;

24 (7) Insurance carrier means any entity that provides health
25 insurance in this state. Insurance carrier includes (a) an insurance
26 company, (b) a fraternal benefit society, (c) a health maintenance
27 organization, and (d) any other entity providing a plan of health

1 insurance or health benefits subject to state insurance regulation;

2 (8) Shared savings incentive payment program means a program
3 established by an insurance carrier pursuant to section 7 of this act to
4 provide incentive payments to enrollees; and

5 (9) Shoppable health care service means a health care service for
6 which an insurance carrier offers incentive payments under a shared
7 savings incentive payment program established by the insurance carrier.
8 Shoppable health care service includes, at a minimum, health care
9 services in the following categories:

10 (a) Physical and occupational therapy services;

11 (b) Obstetrical and gynecological services;

12 (c) Radiology and imaging services;

13 (d) Laboratory services;

14 (e) Infusion therapy;

15 (f) Inpatient or outpatient surgical procedures; and

16 (g) Outpatient nonsurgical diagnostic tests or procedures.

17 Sec. 3. The Nebraska Right to Shop Act shall apply to any insurance
18 carrier that elects to be subject to the act. An insurance carrier making
19 such election shall file a notice of the election with the department.

20 Sec. 4. (1) Prior to a nonemergency admission, procedure, or
21 service and upon request by a patient or prospective patient, a health
22 care entity within the patient's or prospective patient's insurer network
23 shall, within three working days, disclose the allowed amount of the
24 nonemergency admission, procedure, or service, including the amount for
25 any facility fees required, to the patient or prospective patient.

26 (2) Prior to a nonemergency admission, procedure, or service and
27 upon request by a patient or prospective patient, a health care entity
28 outside the patient's or prospective patient's insurer network shall,
29 within three working days, disclose the amount that will be charged for
30 the nonemergency admission, procedure, or service, including the amount
31 for any facility fees required, to the patient or prospective patient.

1 (3) If a health care entity is unable to quote a specific amount
2 under subsection (1) or (2) of this section in advance due to the health
3 care entity's inability to predict the specific treatment or diagnostic
4 code, the health care entity shall disclose what is known for the
5 estimated amount for a proposed nonemergency admission, procedure, or
6 service, including the amount for any facility fees required. A health
7 care entity shall disclose the incomplete nature of the estimate and
8 shall inform the patient or prospective patient of his or her ability to
9 obtain an updated estimate once additional information is determined.

10 (4) If a patient or prospective patient is covered by insurance, a
11 health care entity that participates in an insurance carrier's network
12 shall, upon request of a patient or prospective patient, provide, based
13 on the information available to the health care entity at the time of the
14 request, sufficient information regarding the proposed nonemergency
15 admission, procedure, or service for the patient or prospective patient
16 to receive a cost estimate from his or her insurance carrier to identify
17 out-of-pocket costs, which could be through an insurance carrier's toll-
18 free telephone number or web site. A health care entity may assist a
19 patient or prospective patient in using an insurance carrier's toll-free
20 telephone number or web site.

21 Sec. 5. An insurance carrier shall establish an interactive
22 mechanism on its publicly accessible web site that enables an enrollee to
23 request and obtain from the insurance carrier information on the payments
24 made by the insurance carrier to network providers for health care
25 services. The interactive mechanism must allow an enrollee seeking
26 information about the cost of a particular health care service to compare
27 costs among network providers.

28 Sec. 6. (1) Within two working days of an enrollee's request, an
29 insurance carrier shall provide a good faith estimate of the amount the
30 enrollee will be responsible to pay out-of-pocket for a proposed
31 nonemergency procedure or service that is a medically necessary covered

1 benefit from an insurance carrier's network provider, including any
2 copayment, deductible, coinsurance, or other out-of-pocket amount for any
3 covered benefit, based on the information available to the insurance
4 carrier at the time the request is made.

5 (2) Nothing in this section shall prohibit an insurance carrier from
6 imposing cost-sharing requirements disclosed in the enrollee's
7 certificate of coverage for unforeseen health care services that arise
8 out of the nonemergency procedure or service or for a procedure or
9 service provided to an enrollee that was not included in the original
10 estimate.

11 (3) An insurance carrier shall notify the enrollee that the amounts
12 provided under subsection (1) of this section are estimated costs and
13 that the actual amount the enrollee will be responsible to pay may vary
14 due to unforeseen services that arise out of the proposed nonemergency
15 procedure or service.

16 Sec. 7. (1) An insurance carrier shall develop and implement a
17 shared savings incentive payment program that provides incentive payments
18 for enrollees in a health plan who elect to receive shoppable health care
19 services that are covered by the plan from providers that charge less
20 than the average price paid by that insurance carrier for that shoppable
21 health care service.

22 (2) Incentive payments may be calculated as a percentage of the
23 difference in price, as a flat dollar amount, or by some other reasonable
24 methodology approved by the director. The insurance carrier must provide
25 the incentive payment as a cash payment to the enrollee.

26 (3) The shared savings incentive payment program must provide
27 enrollees with at least fifty percent of the insurance carrier's saved
28 costs for each shoppable health care service or category of shoppable
29 health care service resulting from shopping by enrollees. An insurance
30 carrier is not required to provide an incentive payment or credit to an
31 enrollee when the insurance carrier's saved cost is fifty dollars or

1 less.

2 (4) An insurance carrier shall base the average price on the average
3 amount paid to an in-network provider for the procedure or service under
4 the enrollee's health plan within a reasonable timeframe not to exceed
5 one year. An insurance carrier may determine an alternate methodology for
6 calculating the average price if approved by the director.

7 Sec. 8. An insurance carrier shall make the shared savings
8 incentive payment program available as a component of all health plans
9 offered by the insurance carrier in this state. Annually at enrollment or
10 renewal, an insurance carrier shall provide notice about the availability
11 of the program to any enrollee who is enrolled in a health plan eligible
12 for the program.

13 Sec. 9. Prior to offering the shared savings incentive payment
14 program to any enrollee, an insurance carrier shall file a description of
15 the program with the department in the manner determined by the director.
16 The department may review the filing made by the insurance carrier to
17 determine if the insurance carrier's program complies with the
18 requirements of the Nebraska Right to Shop Act. Filings and any
19 supporting documentation submitted pursuant to this section are
20 confidential until the filing has been reviewed by the department.

21 Sec. 10. If an enrollee elects to receive a shoppable health care
22 service from an out-of-network provider that results in an incentive
23 payment, the insurance carrier shall apply the amount paid for the
24 shoppable health care service toward the enrollee's member cost sharing
25 as specified in the enrollee's health plan as if the health care services
26 were provided by an in-network provider.

27 Sec. 11. An incentive payment made by an insurance carrier in
28 accordance with the Nebraska Right to Shop Act is not an administrative
29 expense of the insurance carrier for rate development or rate filing
30 purposes.

31 Sec. 12. (1) On or before March 31 each year, each insurance

1 carrier shall file with the department the following information for the
2 most recent calendar year:

3 (a) The total number of incentive payments made pursuant to the
4 insurance carrier's shared savings incentive payment program;

5 (b) The use of shoppable health care services by category of service
6 for which incentive payments are made;

7 (c) The total amount of incentive payments made to enrollees;

8 (d) The average amount of incentive payments made by category of
9 shoppable health care service;

10 (e) The total savings achieved below the average prices by category
11 of shoppable health care service; and

12 (f) The total number and percentage of an insurance carrier's
13 enrollees that participated in the shared savings incentive payment
14 program.

15 (2) On or before July 1, 2019, and on or before July 1 of each year
16 thereafter, the department shall electronically submit an aggregate
17 report for all insurance carriers filing the information required by
18 subsection (1) of this section to the Legislature.

19 Sec. 13. (1) The personnel division of the Department of
20 Administrative Services, in its discretion, may develop and implement a
21 program for state employees receiving health insurance coverage under
22 sections 84-1601 to 84-1615 that is similar to the shared savings
23 incentive payment program described in section 7 of this act. If the
24 division develops and implements such a program, the division may use the
25 State Employees Insurance Fund to make incentive payments to state
26 employees pursuant to such program.

27 (2) If a program for state employees is developed and implemented
28 pursuant to this section, then on or before July 1 of each year after
29 implementation of such program, the personnel division of the Department
30 of Administrative Services shall electronically report to the Legislature
31 the following information for the most recent calendar year:

1 (a) The total number of incentive payments made pursuant to the
2 program;

3 (b) The use of shoppable health care services by category of service
4 for which incentive payments are made;

5 (c) The total amount of incentive payments made to state employees;

6 (d) The average amount of incentive payments made by category of
7 shoppable health care service;

8 (e) The total savings achieved below the average prices by category
9 of shoppable health care service; and

10 (f) The total number and percentage of state employees that
11 participated in the program.

12 Sec. 14. The department may adopt and promulgate rules and
13 regulations as necessary to carry out the Nebraska Right to Shop Act.

14 Sec. 15. Section 44-361, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 44-361 No insurance company, by itself or any other party, and no
17 insurance agent or broker, personally or by any other party, shall offer,
18 promise, allow, give, set off, or pay, directly or indirectly, any rebate
19 of, or part of, the premium payable on the policy, or of any policy, or
20 agent's commission thereon, or earnings, profits, dividends, or other
21 benefits founded, arising, accruing or to accrue thereon or therefrom, or
22 any paid employment or contract for service, or for advice of any kind,
23 or any other valuable consideration or inducement to, or for insurance,
24 on any risk authorized to be taken under section 44-201 now or hereafter
25 to be written, which is not specified in the policy contract of
26 insurance; nor shall any such company, agent, or broker, personally or
27 otherwise, offer, promise, give, sell or purchase any stock, bonds,
28 securities or property, or any dividends or profits accruing or to accrue
29 thereon, or other things of value whatsoever, as inducement to insurance
30 or in connection therewith, which is not specified in the policy. No
31 insured person or party shall receive or accept, directly or indirectly,

1 any rebate of premium, or part thereof, or agent's or broker's commission
2 thereon, payable on the policy, or on any policy of insurance, or any
3 favor or advantage or share in the dividends or other benefits to accrue
4 on, or any valuable consideration or inducement not specified in the
5 policy contract of insurance. Extending of interest-free credit on life
6 and liability insurance premiums or interest-free credit on crop hail
7 insurance premiums shall not be a rebate of the premium. Payments made
8 pursuant to the Nebraska Right to Shop Act shall not be considered a
9 rebate of the premium for purposes of this section.

10 Sec. 16. Section 84-1613, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 84-1613 The State Employees Insurance Fund is established. The fund
13 shall be administered by the personnel division of the Department of
14 Administrative Services. All funds appropriated to pay the state's share
15 of the cost of the coverages provided by sections 84-1601 to 84-1615 and
16 all payroll deductions made under sections 84-1601 to 84-1615 shall be
17 credited to the fund. The division shall make premium payments to the
18 carrier, carriers, or combinations of carriers selected under section
19 84-1603 from this fund. The division may also use the fund to make
20 incentive payments to state employees pursuant to section 13 of this act.

21 Any funds in the State Employees Insurance Fund available for
22 investment shall be invested by the state investment officer pursuant to
23 the Nebraska Capital Expansion Act and the Nebraska State Funds
24 Investment Act.

25 On or before October 1, 2001, the State Treasurer shall transfer one
26 million five hundred thousand dollars from the excess state share of life
27 insurance history money of the State Employees Insurance Fund to the
28 Workers' Compensation Claims Revolving Fund.

29 Sec. 17. Original sections 44-361 and 84-1613, Reissue Revised
30 Statutes of Nebraska, are repealed.