

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 73

Introduced by Pahls, 31.

Read first time January 06, 2011

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to insurance; to amend sections 44-4217, 44-4219,
2 44-4220.02, 44-4223, 44-4224, 44-4225, and 77-918,
3 Reissue Revised Statutes of Nebraska; to provide for a
4 pool administrator under the Comprehensive Health
5 Insurance Pool Act; to delete obsolete language; to
6 harmonize provisions; to provide an operative date; to
7 repeal the original sections; and to declare an
8 emergency.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-4217, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 44-4217 ~~The members shall select the board as it is~~
4 ~~composed prior to January 1, 2001, except the representative of the~~
5 ~~general public and the representative of the health agency who shall~~
6 ~~be appointed by the director. The director shall select the board, as~~
7 ~~it is composed on and after January 1, 2001. The board shall select~~
8 ~~one or more insurers to serve as administering insurer a pool~~
9 ~~administrator pursuant to section 44-4223. The selection of the board~~
10 ~~as it is composed prior to January 1, 2001, and the selection of the~~
11 ~~administering insurer by the board prior to January 1, 2001, or after~~
12 ~~December 31, 2000, shall be subject to the approval of the director.~~

13 Sec. 2. Section 44-4219, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 44-4219 In its plan of operation, the board shall:

16 (1) Establish procedures for the handling and accounting
17 of assets and funds of the pool;

18 (2) ~~Select an administering insurer a pool administrator~~
19 in accordance with section 44-4223;

20 (3) Establish procedures for the selection, replacement,
21 term of office, and qualifications of the directors of the board and
22 rules of procedures for the operation of the board; and

23 (4) Develop and implement a program to publicize the
24 existence of the pool, the eligibility requirements, and the
25 procedures for enrollment and to maintain public awareness of the

1 pool.

2 Sec. 3. Section 44-4220.02, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 44-4220.02 ~~(1)(a) In addition to the requirements of~~
5 ~~section 44-4220.01, following the close of each calendar year, the~~
6 ~~board shall conduct a review of health care provider reimbursement~~
7 ~~rates for benefits payable under pool coverage for covered services.~~
8 ~~The board shall report to the director the results of the review~~
9 ~~within thirty days after the completion of the review.~~

10 ~~(b) The review required by this section shall include a~~
11 ~~determination of whether (i) health care provider reimbursement rates~~
12 ~~for benefits payable under pool coverage for covered services are in~~
13 ~~excess of reasonable amounts and (ii) cost savings in the operation~~
14 ~~of the pool could be achieved by establishing the level of health~~
15 ~~care provider reimbursement rates for benefits payable under pool~~
16 ~~coverage for covered services as a multiplier of an objective~~
17 ~~standard.~~

18 ~~(c) In the determination pursuant to subdivision (1)(b)~~
19 ~~(i) of this section, the board shall consider:~~

20 ~~(i) The success of any efforts by the administering~~
21 ~~insurer to negotiate reduced health care provider reimbursement rates~~
22 ~~for benefits payable under pool coverage for covered services on a~~
23 ~~voluntary basis;~~

24 ~~(ii) The effect of health care provider reimbursement~~
25 ~~rates for benefits payable under pool coverage for covered services~~

1 ~~on the number and geographic distribution of health care providers~~
2 ~~providing covered services to covered individuals;~~

3 ~~(iii) The administrative cost of implementing a level of~~
4 ~~health care provider reimbursement rates for benefits payable under~~
5 ~~pool coverage for covered services; and~~

6 ~~(iv) A filing by the administering insurer which shows~~
7 ~~the difference, if any, between the aggregate amounts set for health~~
8 ~~care provider reimbursement rates for benefits payable under pool~~
9 ~~coverage for covered services by existing contracts between the~~
10 ~~administering insurer and health care providers and the amounts~~
11 ~~generally charged to reimburse health care providers prevailing in~~
12 ~~the commercial market. No such filing shall require the administering~~
13 ~~insurer to disclose proprietary information regarding health care~~
14 ~~provider reimbursement rates for specific covered services under pool~~
15 ~~coverage.~~

16 ~~(d) If the board determines that cost savings in the~~
17 ~~operation of the pool could be achieved, the board shall set forth~~
18 ~~specific findings supporting the determination and may establish the~~
19 ~~level of health care provider reimbursement rates for benefits~~
20 ~~payable under pool coverage for covered services as a multiplier of~~
21 ~~an objective standard.~~

22 ~~(2) A health care provider who provides covered services~~
23 ~~to a covered individual under pool coverage and requests payment is~~
24 ~~deemed to have agreed to reimbursement according to the health care~~
25 ~~provider reimbursement rates for benefits payable under pool coverage~~

1 ~~for covered services established pursuant to this section. Any~~
2 ~~reimbursement paid to a health care provider for providing covered~~
3 ~~services to a covered person under pool coverage is limited to the~~
4 ~~lesser of billed charges or the health care provider reimbursement~~
5 ~~rates for benefits payable under pool coverage for covered services~~
6 ~~established pursuant to this section. A health care provider shall~~
7 ~~not collect or attempt to collect from a covered individual any money~~
8 ~~owed to the health care provider by the pool. A health care provider~~
9 ~~shall not have any recourse against a covered individual for any~~
10 ~~covered services under pool coverage in excess of the copayment,~~
11 ~~coinsurance, or deductible amounts specified in the pool coverage.~~

12 (1) Not later than January 1, 2012, the board shall
13 establish health care provider reimbursement rates for benefits
14 payable under pool coverage for covered services at rates designed to
15 achieve a payment equivalent to one hundred twenty-five percent of
16 medicare reimbursement. A health care provider who provides services
17 to a covered individual and requests payment is deemed to have agreed
18 to reimbursement according to the rates established pursuant to this
19 section. Any reimbursement paid to a health care provider under pool
20 coverage is limited to the lesser of the billed charges or the rates
21 established pursuant to this section.

22 (2) A health care provider shall not collect or attempt
23 to collect from a covered individual any money owed to the health
24 care provider by the pool. A health care provider shall not have any
25 recourse against a covered individual for any covered services in

1 excess of the copayment, coinsurance, or deductible amounts specified
2 in the pool coverage.

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

6 Sec. 4. Section 44-4223, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 44-4223 (1) The board shall select ~~an insurer or insurers~~
9 a pool administrator through a competitive bidding process to
10 administer the pool. The pool administrator may be an insurer, a
11 health maintenance organization, or a third-party administrator
12 authorized to transact business in this state or any other
13 appropriate entity as authorized by the director. The board shall
14 evaluate bids submitted on the basis of criteria established by the
15 board which shall include:

16 (a) The ~~insurer's~~applicant's proven ability to handle
17 individual sickness and accident insurance;

18 (b) The efficiency of the ~~insurer's~~applicant's claim-
19 paying procedures;

20 (c) The ~~insurer's~~applicant's estimate of total charges
21 for administering the pool; ~~and~~

22 (d) The ~~insurer's~~applicant's ability to administer the
23 pool in a cost-effective manner; and -

24 (e) The applicant's ability to negotiate reduced health
25 care provider reimbursement rates for benefits payable under pool

1 coverage for covered services.

2 (2) The ~~administering insurer~~ pool administrator shall
3 serve for a period of three years subject to removal for cause. At
4 least one year prior to the expiration of each three-year period of
5 service by an ~~administering insurer,~~ a pool administrator, the board
6 shall invite all insurers, health maintenance organizations, and
7 third-party administrators, including the current ~~administering~~
8 ~~insurer,~~ pool administrator, to submit bids to serve as the
9 ~~administering insurer~~ pool administrator for the succeeding three-
10 year period. Selection of the ~~administering insurer~~ pool
11 administrator for the succeeding period shall be made at least six
12 months prior to the end of the current three-year period.

13 Sec. 5. Section 44-4224, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 44-4224 The ~~administering insurer~~ pool administrator
16 shall:

17 (1) Perform all eligibility verification functions
18 relating to the pool;

19 (2) Establish a premium billing procedure for collection
20 of premiums from covered individuals on a periodic basis as
21 determined by the board;

22 (3) Perform all necessary functions to assure timely
23 payment of benefits to covered individuals, including:

24 (a) Making available information relating to the proper
25 manner of submitting a claim for benefits to the pool and

1 distributing forms upon which submission shall be made; and

2 (b) Evaluating the eligibility of each claim for payment
3 by the pool;

4 (4) Submit regular reports to the board regarding the
5 operation of the pool. The frequency, content, and form of the
6 reports shall be determined by the board;

7 (5) Following the close of each calendar year, report
8 such income and expense items as directed by the board to the board
9 and the department on a form prescribed by the director; and

10 (6) Be paid as provided in the plan of operation for its
11 expenses incurred in the performance of its services to the pool.

12 Sec. 6. Section 44-4225, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 44-4225 (1) Following the close of each calendar year,
15 the board shall report the board's determination of the paid and
16 incurred losses for the year, taking into account investment income
17 and other appropriate gains and losses. The board shall distribute
18 copies of the report to the director, the Governor, and each member
19 of the Legislature.

20 (2) The Comprehensive Health Insurance Pool Distributive
21 Fund is created. Commencing with the premium and related retaliatory
22 taxes for the taxable year ending December 31, 2001, and for each
23 taxable year thereafter, any premium and related retaliatory taxes
24 imposed by section 44-150 or 77-908 paid by insurers writing health
25 insurance in this state, except as otherwise set forth in

1 subdivisions (1) and (2) of section 77-912, shall be remitted to the
2 State Treasurer for credit to the fund. The fund shall be used for
3 the operation of and payment of claims made against the pool. Any
4 money in the fund available for investment shall be invested by the
5 state investment officer pursuant to the Nebraska Capital Expansion
6 Act and the Nebraska State Funds Investment Act. ~~Funds held by the~~
7 ~~administering insurer as of December 31, 2000, shall be carried~~
8 ~~forward by the administering insurer for payment of claims, costs of~~
9 ~~operation, and any remaining refunds.~~

10 (3) The board shall make periodic estimates of the amount
11 needed from the fund for payment of losses resulting from claims,
12 including a reasonable reserve, and administrative, organizational,
13 and interim operating expenses and shall notify the director of the
14 amount needed and the justification of the board for the request.

15 (4) The director shall approve all withdrawals from the
16 fund and may determine when and in what amount any additional
17 withdrawals may be necessary from the fund to assure the continuing
18 financial stability of the pool.

19 (5) No later than May 1, 2002, and each May 1 thereafter,
20 after funding of the net loss from operation of the pool for the
21 prior premium and related retaliatory tax year, taking into account
22 the policyholder premiums, account investment income, claims, costs
23 of operation, and other appropriate gains and losses, the director
24 shall transmit any money remaining in the fund as directed by section
25 77-912, disregarding the provisions of subdivisions (1) through (3)

1 of such section. Interest earned on money in the fund shall be
2 credited proportionately in the same manner as premium and related
3 retaliatory taxes set forth in section 77-912.

4 ~~(6) By June 30, 2001, the State Treasurer shall transfer~~
5 ~~three million one hundred sixty five thousand two hundred sixty five~~
6 ~~dollars from the Department of Insurance Cash Fund to the General~~
7 ~~Fund.~~

8 Sec. 7. Section 77-918, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 77-918 Insurers transacting insurance in this state whose
11 annual tax for the preceding taxable year was four thousand dollars
12 or more shall make prepayments of the annual taxes imposed pursuant
13 to Chapter 77, article 9, and related retaliatory taxes imposed
14 pursuant to Chapter 44, article 1.

15 Each insurer required to make prepayments shall remit
16 such prepayments on or before April 15, June 15, and September 15 of
17 the current taxable year. Remittance for such prepayments shall be
18 accompanied by a prepayment form prescribed by the director.

19 The amount of each such prepayment shall be at least one-
20 fourth of either (1) the total tax paid for the immediately preceding
21 taxable year or (2) eighty percent of the actual tax due for the
22 current taxable year. ~~For the taxable year ending December 31, 2001,~~
23 ~~total tax paid for the immediately preceding taxable year means tax~~
24 ~~payable prior to any offsets taken under subsection (1) of section~~
25 ~~44-4233.~~

1 The director, for good cause shown, may extend for not
2 more than ten days the time for making a prepayment. The extension
3 may be granted at any time if a request for such extension is filed
4 with the director within or prior to the period for which the
5 extension may be granted. Insurers who fail to pay any premium or
6 retaliatory tax, including prepayments, when due shall pay interest
7 at the rate prescribed by section 45-104.02, as such rate may from
8 time to time be adjusted, until such tax is paid. Any insurer who
9 fails to make the prepayments within the prescribed time period or to
10 obtain an extension shall be subject to the penalties prescribed in
11 section 77-911.

12 The director shall immediately deposit one-half of the
13 prepayments received in the Premium and Retaliatory Tax Suspense
14 Fund, which fund is hereby created, and one-half of the prepayments
15 received in the General Fund. Commencing with the premium and related
16 retaliatory taxes for the taxable year ending December 31, 2001, and
17 for each taxable year thereafter, the director shall determine the
18 amount of the premium and related retaliatory taxes imposed by
19 section 44-150 or 77-908 paid by insurers writing health insurance in
20 this state, except as otherwise set forth in subdivisions (1) and (2)
21 of section 77-912, and such amount shall be credited to the
22 Comprehensive Health Insurance Pool Distributive Fund. Except as
23 provided in ~~subsections (5) and (6)~~ subsection (5) of section
24 44-4225, on May 1 of each year the director shall transfer all of the
25 interest earned in the Premium and Retaliatory Tax Suspense Fund on

1 the immediately preceding year's prepayments to the General Fund and
2 transfer the balance of the preceding year's prepayments deposited in
3 the Premium and Retaliatory Tax Suspense Fund to the Insurance Tax
4 Fund. Any money in the Premium and Retaliatory Tax Suspense Fund
5 available for investment shall be invested by the state investment
6 officer pursuant to the Nebraska Capital Expansion Act and the
7 Nebraska State Funds Investment Act.

8 Sec. 8. This act becomes operative on July 1, 2011.

9 Sec. 9. Original sections 44-4217, 44-4219, 44-4220.02,
10 44-4223, 44-4224, 44-4225, and 77-918, Reissue Revised Statutes of
11 Nebraska, are repealed.

12 Sec. 10. Since an emergency exists, this act takes effect
13 when passed and approved according to law.