

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 422

Introduced by Nordquist, 7.

Read first time January 14, 2011

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to the Comprehensive Health Insurance Pool Act;
2 to amend sections 44-4221 and 44-4228, Reissue Revised
3 Statutes of Nebraska; to expand eligibility for pool
4 coverage; to require notice of ineligibility as
5 prescribed; to harmonize provisions; and to repeal the
6 original sections.

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

1 Section 1. Section 44-4221, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 44-4221 (1) To be eligible to purchase pool coverage, an
4 individual shall:

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

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

12 (ii)(A) Who, if such individual was offered the option of
13 continuation coverage under COBRA or under a similar program, both
14 elected such continuation coverage and exhausted such continuation
15 coverage; ~~and~~

16 (B) Who, if such individual was offered coverage under a
17 short-term health insurance policy comparable in election to the
18 coverage under COBRA for a duration of at least eighteen months, both
19 elected and exhausted such policy;

20 (C) Who, if such individual was offered coverage under a
21 short-term health insurance policy as an alternative to the
22 continuation coverage offered under section 44-1640 and the policy
23 was subject to the election time period as required in section
24 44-1640 and the duration of the policy was at least twelve months,
25 both elected and exhausted such policy; or

1 (D) Who, if such individual is not eligible for
2 continuation coverage under state or federal law following
3 termination of employment, was offered a short-term health insurance
4 policy within an election time period equivalent to that required for
5 continuation coverage under COBRA for a duration of at least twelve
6 months and who both elected and exhausted such policy; and

7 (iii)(A) Who has received, within six months prior to
8 application to the pool, a rejection in writing, for reasons of
9 health, from an insurer for health insurance coverage comparable to
10 pool coverage;

11 (B) Who currently has, or has been offered within six
12 months prior to application to the pool, health insurance coverage
13 comparable to pool coverage by an insurer which includes a
14 restrictive rider which limits health insurance coverage for a
15 preexisting medical condition; or

16 (C) Who has been refused health insurance coverage
17 comparable to pool coverage, or has been offered health insurance
18 coverage at a rate exceeding the premium rate for pool coverage,
19 within six months prior to application to the pool;

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

22 (i) For whom, as of the date the individual seeks pool
23 coverage under this section, the aggregate of the periods of
24 creditable coverage is eighteen or more months and whose most recent
25 prior creditable coverage was under a group health plan, governmental

1 plan, or church plan;

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

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

9 (iv)(A) Who, if such individual was offered the option of
10 continuation coverage under COBRA or under a similar program, both
11 elected such continuation coverage and exhausted such continuation
12 coverage; ~~or~~

13 (B) Who, if such individual was offered coverage under a
14 short-term health insurance policy comparable in election to the
15 coverage under COBRA for a duration of at least eighteen months, both
16 elected and exhausted such policy;

17 (C) Who, if such individual was offered coverage under a
18 short-term health insurance policy as an alternative to the
19 continuation coverage offered under section 44-1640 and the policy
20 was subject to the election time period as required in section
21 44-1640 and the duration of the policy was at least twelve months,
22 both elected and exhausted such policy; or

23 (D) Who, if such individual is not eligible for
24 continuation coverage under state or federal law following
25 termination of employment, was offered a short-term health insurance

1 policy within an election time period equivalent to that required for
2 continuation coverage under COBRA for a duration of at least twelve
3 months and who both elected and exhausted such policy; or

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

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

13 (3) Any insurer offering a short-term health insurance
14 policy that is not equivalent to any of the short-term policies
15 described in subdivisions (1)(a)(ii) and (1)(b)(iv) of this section
16 shall include a written notice on the application for any such policy
17 that is signed by the applicant that the policy does not conform to
18 Nebraska law that guarantees continuity of coverage by the
19 Comprehensive Health Insurance Pool and that electing such policy
20 will disqualify the applicant from guaranteed continuous coverage.

21 Sec. 2. Section 44-4228, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 44-4228 (1) Pool coverage shall exclude charges or
24 expenses incurred during the first six months following the effective
25 date of pool coverage as to any condition (a) which had manifested

1 itself during the six-month period immediately preceding the
2 effective date of pool coverage in such a manner as would cause an
3 ordinarily prudent person to seek diagnosis, care, or treatment or
4 (b) for which medical advice, care, or treatment was recommended or
5 received during the six-month period immediately preceding the
6 effective date of pool coverage.

7 (2) Any individual whose health coverage is involuntarily
8 terminated on or after January 1, 1992, and who is not eligible for a
9 conversion policy or a continuation-of-coverage policy or contract
10 available under state or federal law may apply for pool coverage but
11 shall submit proof of eligibility pursuant to subdivision (1)(a) of
12 section 44-4221. If such proof is supplied and if pool coverage is
13 applied for under the Comprehensive Health Insurance Pool Act within
14 sixty days after the involuntary termination and if premiums are paid
15 to the pool for the entire coverage period, any waiting period or
16 preexisting condition exclusions provided for under the pool coverage
17 shall be waived to the extent similar exclusions, if any, under the
18 previous health coverage have been satisfied and the effective date
19 of the pool coverage shall be the day following termination of the
20 previous health coverage. The board may assess an additional premium
21 for pool coverage provided pursuant to this subsection
22 notwithstanding the premium limitations stated in section 44-4227.
23 For purposes of this section, an individual whose health coverage is
24 involuntarily terminated means an individual whose health insurance
25 or health plan is terminated by reason of the withdrawal by the

1 insurer from this state, bankruptcy or insolvency of the employer or
2 employer trust fund, or cessation by the employer of providing any
3 group health plan for all of its employees.

4 (3) Any individual whose health coverage under a
5 continuation-of-coverage policy or contract available under state or
6 federal law or an alternative short-term health insurance policy as
7 provided in section 44-4221 terminates or is involuntarily terminated
8 on or after July 1, 1993, for any reasons other than nonpayment of
9 premium may apply for pool coverage but shall submit proof of
10 eligibility applied for within ninety days after the termination or
11 involuntary termination. If premiums are paid to the pool for the
12 entire coverage period, the effective date of the pool coverage shall
13 be the day following termination of the previous coverage under the
14 continuation-of-coverage policy or contract. Any waiting period or
15 preexisting condition exclusions provided for under the pool shall be
16 waived to the extent similar exclusions, if any, under any prior
17 health coverage have been satisfied.

18 (4) Subsection (1) of this section shall not apply to an
19 individual who has received medical assistance pursuant to the
20 Medical Assistance Act or section 43-522 or an organ transplant
21 recipient terminated from coverage under medicare during the six-
22 month period immediately preceding the effective date of coverage.

23 (5) All waiting periods and preexisting conditions shall
24 be waived for an individual eligible for pool coverage under
25 subdivision (1)(b) of section 44-4221.

1 (6) The waiting period and preexisting condition
2 exclusions are waived for a qualified trade adjustment assistance
3 eligible individual under subdivision (1)(c) of section 44-4221 if
4 the individual maintained creditable coverage for an aggregate period
5 of three months as of the date on which the individual seeks to
6 enroll in pool coverage, not counting any period prior to a sixty-
7 three-day break in coverage.

8 Sec. 3. Original sections 44-4221 and 44-4228, Reissue
9 Revised Statutes of Nebraska, are repealed.