

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 493

Introduced by Pahls, 31.

Read first time January 18, 2011

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to insurance; to amend sections 44-710.01 and
2 44-761, Reissue Revised Statutes of Nebraska; to provide
3 health insurance coverage for dependents up to the age of
4 twenty-six as prescribed; to eliminate the provision of
5 health insurance coverage for dependents up to the age of
6 thirty; to define terms; to harmonize provisions; to
7 provide an operative date; to repeal the original
8 sections; and to outright repeal section 44-7,103,
9 Reissue Revised Statutes of Nebraska.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. For purposes of sections 1 to 6 of this act:

2 (1) Group health insurance coverage means, in connection
3 with a group health plan, health insurance coverage offered in
4 connection with such plan;

5 (2) Group health plan means an employee welfare benefit
6 plan as defined in the federal Employee Retirement Income Security
7 Act of 1974, 29 U.S.C. 1002(1), to the extent that the plan provides
8 medical care and includes items and services paid for as medical care
9 to employees, including both current and former employees, or their
10 dependents as defined under the terms of the plan directly or through
11 insurance, reimbursement, or otherwise;

12 (3)(a) Health benefit plan means a policy, contract,
13 certificate, or agreement offered by a health carrier to provide,
14 deliver, arrange for, pay for, or reimburse any of the costs of
15 health care services. Health benefit plan includes short-term and
16 catastrophic health insurance policies and a policy that pays on a
17 cost-incurred basis, except as otherwise specifically exempted in
18 this subdivision (3) of this section.

19 (b) Health benefit plan does not include:

20 (i) Coverage only for accident or disability income
21 insurance or any combination thereof; coverage issued as a supplement
22 to liability insurance; liability insurance, including general
23 liability insurance and automobile liability insurance; workers'
24 compensation or similar insurance; automobile medical payment
25 insurance; credit-only insurance; coverage for onsite medical

1 clinics; and other similar insurance coverage specified in federal
2 regulations issued pursuant to the federal Health Insurance
3 Portability and Accountability Act of 1996, Public Law 104-191, under
4 which benefits for medical care are secondary or incidental to other
5 insurance benefits;

6 (ii) The following benefits if they are provided under a
7 separate policy, certificate, or contract of insurance or are
8 otherwise not an integral part of the plan:

9 (A) Limited scope dental or vision benefits;

10 (B) Benefits for long-term care, nursing home care, home
11 health care, community-based care, or any combination thereof; or

12 (C) Other similar, limited benefits specified in federal
13 regulations issued pursuant to the federal Health Insurance
14 Portability and Accountability Act of 1996;

15 (iii) The following benefits if the benefits are provided
16 under a separate policy, certificate, or contract of insurance, there
17 is no coordination between the provision of the benefits and any
18 exclusion of benefits under any group health plan maintained by the
19 same plan sponsor, and the benefits are paid with respect to an event
20 without regard to whether benefits are provided with respect to such
21 an event under any group health plan maintained by the same plan
22 sponsor:

23 (A) Coverage only for a specified disease or illness; or

24 (B) Hospital indemnity or other fixed indemnity
25 insurance; and

1 (iv) The following if offered as a separate policy,
2 certificate, or contract of insurance:

3 (A) Medicare supplemental health insurance as defined
4 under section 1882(g)(1) of the federal Social Security Act;

5 (B) Coverage supplemental to the coverage provided under
6 Chapter 55 of Title 10 of the United States Code; or

7 (C) Similar supplemental coverage provided to coverage
8 under a group health plan;

9 (4) Health carrier means an entity subject to the
10 insurance laws and regulations of this state, or subject to the
11 jurisdiction of the Director of Insurance, that contracts or offers
12 to contract to provide, deliver, arrange for, pay for, or reimburse
13 any of the costs of health care services, including a sickness and
14 accident insurance company, a health maintenance organization, a
15 nonprofit hospital and health service corporation, or any other
16 entity providing a plan of health insurance, health benefits, or
17 health services;

18 (5) Health maintenance organization means a person that
19 undertakes to provide or arrange for the delivery of basic health
20 care services to covered persons on a prepaid basis, except for the
21 covered person's responsibility for copayments, coinsurance, or
22 deductibles;

23 (6) Individual health insurance coverage means health
24 insurance coverage offered to individuals in the individual market,
25 which includes a health benefit plan provided to individuals through

1 a trust arrangement, association, or other discretionary group that
2 is not an employer plan, but does not include short-term limited
3 duration insurance. For purposes of this subdivision (6), a health
4 carrier offering health insurance coverage in connection with a group
5 health plan shall not be deemed to be a health carrier offering
6 individual health insurance coverage solely because the carrier
7 offers a conversion policy;

8 (7) Individual market means the market for health
9 insurance coverage offered to individuals other than in connection
10 with a group health plan;

11 (8) Medical care means amounts paid for:

12 (a) The diagnosis, care, mitigation, treatment, or
13 prevention of disease or amounts paid for the purpose of affecting
14 any structure or function of the body;

15 (b) Transportation primarily for and essential to medical
16 care referred to in subdivision (a) of this subdivision; and

17 (c) Insurance covering medical care referred to in
18 subdivisions (a) and (b) of this subdivision;

19 (9) Participant has the same meaning as in the federal
20 Employee Retirement Income Security Act of 1974, 29 U.S.C. 1002(7);
21 and

22 (10) Subscriber means, in the case of an individual
23 health insurance contract, the person in whose name the contract is
24 issued.

25 Sec. 2. (1) Except as provided in subsection (2) of this

1 section, sections 1 to 6 of this act shall apply to any health
2 carrier providing coverage under an individual or group health
3 benefit plan.

4 (2) Subject to section 6 of this act, sections 1 to 6 of
5 this act apply to grandfathered plan coverage for individual health
6 insurance coverage and group health insurance coverage. For purposes
7 of this subsection, grandfathered plan coverage means coverage
8 provided by a health carrier in which an individual was enrolled on
9 March 23, 2010, for as long as it maintains that status in accordance
10 with federal regulations.

11 Sec. 3. (1) A health carrier that makes available
12 dependent coverage of children shall make that coverage available for
13 children until the attainment of twenty-six years of age.

14 (2)(a) With respect to a child who has not attained
15 twenty-six years of age, a health carrier shall not define dependent
16 for purposes of eligibility for dependent coverage of children other
17 than the terms of a relationship between a child and the plan
18 participant and, in the individual market, a primary subscriber;

19 (b) A health carrier shall not deny or restrict coverage
20 for a child who has not attained twenty-six years of age based on the
21 presence or absence of the child's financial dependency upon the
22 participant, primary subscriber, or any other person, residency with
23 the participant and, in the individual market, the primary
24 subscriber, or with any other person, marital status, student status,
25 employment, or any combination of such factors. In addition and

1 except as provided in section 6 of this act, a health carrier shall
2 not deny or restrict coverage of a child based on eligibility for
3 other coverage.

4 (3) Nothing in this section shall be construed to require
5 a health carrier to make coverage available for the child of a child
6 receiving dependent coverage unless the grandparent becomes the legal
7 guardian or adoptive parent of such grandchild.

8 (4) The terms of coverage in a health benefit plan
9 offered by a health carrier providing dependent coverage of children
10 shall not vary based on age except for children who are twenty-six
11 years of age or older.

12 Sec. 4. (1) This section applies to any child:

13 (a) Whose coverage ended, who was denied coverage, or who
14 was not eligible for group health insurance coverage or individual
15 health insurance coverage under a health benefit plan because, under
16 the terms of coverage, the availability of dependent coverage of a
17 child ended before the attainment of twenty-six years of age; and

18 (b) Who becomes eligible, or is required to become
19 eligible, for coverage on the first day of the first plan year and,
20 in the individual market, the first day of the first policy year,
21 beginning on or after the operative date of this act by reason of the
22 provisions of this section.

23 (2) If group health insurance coverage or individual
24 health insurance coverage, in which a child described in subsection
25 (1) of this section is eligible to enroll, or is required to become

1 eligible to enroll, in the coverage in which the child's coverage
2 ended or did not begin for the reasons described in subsection (1) of
3 this section, and if the health carrier is subject to the
4 requirements of this section the health carrier shall give the child
5 an opportunity to enroll that continues for at least thirty days,
6 including the written notice of the opportunity to enroll as
7 described in subsection (3) of this section. The health carrier shall
8 provide the opportunity to enroll, including the written notice,
9 beginning not later than the first day of the first plan year and, in
10 the individual market, the first day of the first policy year,
11 beginning on or after the operative date of this act.

12 (3)(a) The written notice of opportunity to enroll shall
13 include a statement that children whose coverage ended or who were
14 denied coverage or were not eligible for coverage because the
15 availability of dependent coverage of children ended before the
16 attainment of twenty-six years of age are eligible to enroll in the
17 coverage.

18 (b) The notice may be provided to an employee on behalf
19 of the employee's child and, in the individual market, to the primary
20 subscriber on behalf of the primary subscriber's child. For group
21 health insurance coverage:

22 (i) The notice may be included with other enrollment
23 materials that the health carrier distributes to employees, if the
24 statement is prominent; and

25 (ii) If a notice satisfying the requirements of this

1 section is provided to an employee whose child is entitled to an
2 enrollment opportunity under subsection (2) of this section, the
3 obligation to provide the notice of enrollment opportunity under
4 subsection (2) of this section with respect to that child is
5 satisfied for both the plan and the health carrier.

6 (c) The written notice shall be provided beginning not
7 later than the first day of the first plan year and, in the
8 individual market, the first day of the first policy year, beginning
9 on or after the operative date of this act.

10 (4) For an individual who enrolls under subsection (2) of
11 this section, the coverage shall take effect not later than the first
12 day of the first plan year and, in the individual market, the first
13 day of the first policy year, beginning on or after the operative
14 date of this act.

15 Sec. 5. (1) A child enrolling in group health insurance
16 coverage pursuant to section 4 of this act shall be treated as if the
17 child were a special enrollee as provided under 45 C.F.R. 146.117(d).

18 (2) The child, and if the child would not be a
19 participant once enrolled, the participant through whom the child is
20 otherwise eligible for coverage under the plan, shall be offered all
21 the benefit packages available to similarly situated individuals who
22 did not lose coverage by reason of cessation of dependent status. For
23 purposes of this subsection, any difference in benefits or cost-
24 sharing requirements constitutes a different benefit package.

25 (3) The child shall not be required to pay more for

1 coverage than similarly situated individuals who did not lose
2 coverage by reason of cessation of dependent status.

3 Sec. 6. (1) For plan years beginning before January 1,
4 2014, a group health plan providing group health insurance coverage
5 that is a grandfathered plan and makes available dependent coverage
6 of children may exclude an adult child who has not attained twenty-
7 six years of age from coverage only if the adult child is eligible to
8 enroll in an eligible employer-sponsored health benefit plan as
9 defined in section 5000A(f)(2) of the Internal Revenue Code, other
10 than the group health plan of a parent.

11 (2) For plan years beginning on or after January 1, 2014,
12 a group health plan providing group health insurance coverage that is
13 a grandfathered plan shall comply with the requirements of sections 3
14 to 5 of this act.

15 Sec. 7. Section 44-710.01, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 44-710.01 No policy of sickness and accident insurance
18 shall be delivered or issued for delivery to any person in this state
19 unless (1) the entire money and other considerations therefor are
20 expressed therein, (2) the time at which the insurance takes effect
21 and terminates is expressed therein, (3) it purports to insure only
22 one person, except that, subject to sections 1 to 6 of this act, a
23 policy may insure, originally or by subsequent amendment, upon the
24 application of an adult member of a family who shall be deemed the
25 policyholder, any two or more eligible members of that family,

1 including husband, wife, dependent children, any children enrolled on
2 a full-time basis in any college, university, or trade school, or ~~any~~
3 ~~children under a specified age which shall not exceed thirty years~~
4 ~~and~~ any other person dependent upon the policyholder; any individual
5 policy hereinafter delivered or issued for delivery in this state
6 which provides that coverage of a dependent child shall terminate
7 upon the attainment of the limiting age for dependent children
8 specified in the policy shall also provide in substance that
9 attainment of such limiting age shall not operate to terminate the
10 coverage of such child during the continuance of such policy and
11 while the child is and continues to be both (a) incapable of self-
12 sustaining employment by reason of mental retardation or physical
13 handicap and (b) chiefly dependent upon the policyholder for support
14 and maintenance, if proof of such incapacity and dependency is
15 furnished to the insurer by the policyholder within thirty-one days
16 of the child's attainment of the limiting age and subsequently as may
17 be required by the insurer but not more frequently than annually
18 after the two-year period following the child's attainment of the
19 limiting age; such insurer may charge an additional premium for and
20 with respect to any such continuation of coverage beyond the limiting
21 age of the policy with respect to such child, which premium shall be
22 determined by the insurer on the basis of the class of risks
23 applicable to such child, (4) it contains a title on the face of the
24 policy correctly describing the policy, (5) the exceptions and
25 reductions of indemnity are set forth in the policy and, except those

1 which are set forth in sections 44-710.03 and 44-710.04, are printed,
2 at the insurer's option, either included with the benefit provision
3 to which they apply or under an appropriate caption such as
4 EXCEPTIONS, or EXCEPTIONS AND REDUCTIONS; if an exception or
5 reduction specifically applies only to a particular benefit of the
6 policy, a statement of such exception or reduction shall be included
7 with the benefit provision to which it applies, (6) each such form,
8 including riders and endorsements, shall be identified by a form
9 number in the lower left-hand corner of the first page thereof, (7)
10 it contains no provision purporting to make any portion of the
11 charter, rules, constitution, or bylaws of the insurer a part of the
12 policy unless such portion is set forth in full in the policy, except
13 in the case of the incorporation of, or reference to, a statement of
14 rates or classification of risks, or short-rate table filed with the
15 Director of Insurance, and (8) on or after January 1, 1999, any
16 restrictive rider contains a notice of the existence of the
17 Comprehensive Health Insurance Pool if the policy provides health
18 insurance as defined in section 44-4209.

19 Sec. 8. Section 44-761, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 44-761 Each group policy of sickness and accident
22 insurance shall contain in substance the following provisions:

23 (1) A provision that the policy, the application of the
24 policyholder if such application or copy thereof is attached to such
25 policy, and the individual applications, if any, submitted in

1 connection with such policy by the employees or members, shall
2 constitute the entire contract between the parties, that all
3 statements, in the absence of fraud, made by any applicant or
4 applicants shall be deemed representations and not warranties, and
5 that no such statement shall avoid the insurance or reduce benefits
6 thereunder unless contained in a written application of which a copy
7 is attached to the policy;

8 (2) A provision that the insurer will furnish to the
9 policyholder, for delivery to each employee or member of the insured
10 group, an individual certificate setting forth in summary form a
11 statement of the essential features of the insurance coverage of such
12 employee or member and to whom benefits thereunder are payable. If
13 dependents are included in the coverage, only one certificate need be
14 issued for each family unit;

15 (3) A provision that to the group originally insured may
16 be added from time to time eligible new employees or members or
17 dependents, as the case may be, in accordance with the terms of the
18 policy; and

19 (4) ~~A-Subject to sections 1 to 6 of this act, a provision~~
20 that the insurance coverage of the employee or member may include,
21 originally or by subsequent amendment, upon the application of the
22 employee or member, any two or more eligible members of his or her
23 family, including husband, wife, dependent children, any children
24 enrolled on a full-time basis in any college, university, or trade
25 school, or any children under a specified age which shall not exceed

1 ~~thirty years, and any other person dependent upon the policyholder.~~
2 Any policy which provides that coverage of an unmarried dependent
3 child shall terminate upon the attainment of the limiting age for
4 unmarried dependent children specified in the policy shall also
5 provide that attainment of such limiting age shall not operate to
6 terminate the coverage of such child during the continuance of the
7 insurance coverage of the employee or member under such policy and
8 while such child is and continues to be (a) incapable of self-
9 sustaining employment by reason of mental or physical handicap and
10 (b) chiefly dependent upon the policyholder for support and
11 maintenance, if proof of such incapacity and dependency is furnished
12 to the insurer by the policyholder within thirty-one days of such
13 child's attainment of the limiting age and subsequently as may be
14 required by the insurer but not more frequently than annually after
15 the two-year period following such child's attainment of the limiting
16 age. The insurer may charge an additional premium for and with
17 respect to any such continuation of coverage beyond the limiting age
18 of the policy, which premium shall be determined by the insurer on
19 the basis of the class of risks applicable to such child. The
20 provisions of this subdivision shall be contained in all new policies
21 of group sickness and accident insurance delivered or issued for
22 delivery to any person in this state. No group policy of sickness and
23 accident insurance shall contain any provisions which are in conflict
24 with sections 44-3,144 to 44-3,150.

25 Sec. 9. This act becomes operative on September 23, 2011.

1 Sec. 10. Original sections 44-710.01 and 44-761, Reissue
2 Revised Statutes of Nebraska, are repealed.

3 Sec. 11. The following section is outright repealed:
4 Section 44-7,103, Reissue Revised Statutes of Nebraska.