CHAPTER 149
HB 249 - FINAL VERSION

22Mar2023... 0750h
15Jun2023... 2189EBA

2023 SESSION

23-0310
05/10

HOUSE BILL ***249***

AN ACT establishing regulatory standards for the pet insurance industry and allowing restaurant owners to keep their dog on the premises.

SPONSORS: Rep. Edwards, Rock. 31; Rep. Burroughs, Carr. 2; Sen. Gannon, Dist 23

COMMITTEE: Commerce and Consumer Affairs

AMENDED ANALYSIS

This bill establishes regulatory standards for the sale of pet insurance. The bill also allows the restaurant owner to bring their companion dog to the restaurant premises.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT establishing regulatory standards for the pet insurance industry and allowing restaurant owners to keep their dog on the premises.

Be it Enacted by the Senate and House of Representatives in General Court convened:

149:1 New Chapter; Pet Insurance. Amend RSA by inserting after chapter 402-O the following new chapter:

CHAPTER 402-P

PET INSURANCE

402-P:1 Definitions. In this chapter:

I. "Chronic condition" means a condition that can be treated or managed, but not cured.

II. "Congenital anomaly or disorder" means a condition that is present from birth, whether inherited or caused by the environment, which may cause or contribute to illness or disease.

III. "Department" means the New Hampshire insurance department.

IV. "Hereditary disorder" means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.

V. "Pet insurance" means a property insurance policy that provides coverage for accidents and illnesses of pets.

VI. "Preexisting condition":

(a) Is any condition for which any of the following are true prior to the effective date of a pet insurance policy or during any waiting period:

(1) A veterinarian provided medical advice;

(2) The pet received previous treatment; or

(3) Based on information from verifiable sources, the pet had signs or symptoms directly related to the condition for which a claim is being made.

(b) Does not include a condition that was covered under a preceding policy period prior to the renewal so long as there was no break in the superseding policy periods.

VII. "Veterinarian" means an individual who holds a valid license to practice veterinary medicine from the appropriate licensing entity in the jurisdiction in which he or she practices.

VIII. "Veterinary expenses" means the costs associated with medical advice, diagnosis, care, or treatment provided by a veterinarian, including, but not limited to, the cost of drugs prescribed by a veterinarian.

IX. "Waiting period" means the period of time specified in a pet insurance policy that is required to transpire before some or all of the coverage in the policy can begin. Waiting periods may not be applied to renewals of existing coverage.

X. "Renewal" means to issue and deliver at the end of an insurance policy period a policy which supersedes a policy previously issued and delivered by the same pet insurer or affiliated pet insurer and which provides types and limits of coverage substantially similar to those contained in the policy being superseded.

XI. "Orthopedic" refers to conditions affecting the bones, skeletal muscle, cartilage, tendons, ligaments, and joints. It includes, but is not limited to, elbow dysplasia, hip dysplasia, intervertebral disc degeneration, patellar luxation, and ruptured cranial cruciate ligaments. It does not include cancers or metabolic, hemopoietic, or autoimmune diseases.

XII. "Wellness program" means a subscription or reimbursement-based program that is separate from an insurance policy that provides goods and services to promote the general health, safety, or wellbeing of the pet.

XIII. If a pet insurer uses any of the defined terms in this section in a policy of pet insurance, the pet insurer shall use the definition of each of those terms as set forth in this section and include the definition of the terms in the policy. The pet insurer shall also make the definition available through a clear and conspicuous link on the main page of the pet insurer or pet insurer's program administrator's website.

402-P:2 Purpose and Scope.

I. The purpose of this chapter is to promote the public welfare by creating a comprehensive legal framework within which pet insurance may be sold in this state.

II. The requirements of this chapter shall apply to pet insurance policies that are issued to any resident of this state, and are sold, solicited, negotiated, or offered in this state, and policies or certificates that are delivered or issued for delivery in this state.

III. All other applicable provisions of this state's insurance laws shall continue to apply to pet insurance, except that the specific provisions of this chapter shall supersede any general provisions of law that would otherwise be applicable to pet insurance.

IV. Nothing in this chapter shall in any way prohibit or limit the types of exclusions pet insurers may use in their policies or require pet insurers to have any of the limitations or exclusions defined below.

V. Any person licensed in a major line of authority as an insurance producer is authorized to sell, solicit, and negotiate pet insurance.

402-P:3 Disclosures.

I. A pet insurer transacting pet insurance shall disclose the following to consumers:

(a) If the policy excludes coverage due to any of the following:

(1) A preexisting condition;

(2) A hereditary disorder;

(3) A congenital anomaly or disorder; or

(4) A chronic condition.

(b) If the policy includes any other exclusions, the following statement: "Other exclusions may apply. Please refer to the exclusions section of the policy for more information."

(c) Any policy provision that limits coverage through a waiting or affiliation period, a deductible, coinsurance, or an annual or lifetime policy limit.

(d) Whether the pet insurer reduces coverage or increases premiums based on the insured's claim history, the age of the covered pet, or a change in the geographic location of the insured.

(e) If the underwriting company differs from the brand name used to market and sell the product.

II. Right to examine and return the policy.

(a) Unless the insured has filed a claim under the pet insurance policy, pet insurance applicants shall have the right to examine and return the policy, certificate, or rider to the company or an agent/insurance producer of the company within 30 days of its receipt and to have the premium refunded if, after examination of the policy, certificate, or rider, the applicant is not satisfied for any reason.

(b) Pet insurance policies, certificates and riders shall have a notice prominently printed on the first page or attached thereto including specific instructions to accomplish a return. The following statement or language substantially similar shall be included:

"You have 30 days from the day you receive this policy, certificate, or rider to review it and return it to the company if you decide not to keep it. You do not have to tell the company why you are returning it. If you decide not to keep it, simply return it to the company at its administrative office or you may return it to the agent/insurance producer that you bought it from as long as you have not filed a claim. You must return it within 30 days of the day you first received it. The company will refund the full amount of any premium paid within 30 days after it receives the returned policy, certificate, or rider. The premium refund will be sent directly to the person who paid it. The policy, certificate, or rider will be void as if it had never been issued."

(c) This paragraph shall not apply to renewals.

III. A pet insurer shall clearly disclose a summary description of the basis or formula on which the pet insurer determines claim payments under a pet insurance policy within the policy, prior to policy issuance and through a clear and conspicuous link on the main page of the pet insurer or pet insurer's program administrator's website.

IV. A pet insurer that uses a benefit schedule to determine claim payment under a pet insurance policy shall:

(a) Clearly disclose the applicable benefit schedule in the policy; and

(b) Disclose all benefit schedules used by the pet insurer under its pet insurance policies through a clear and conspicuous link on the main page of the pet insurer or pet insurer's program administrator's website.

V. A pet insurer that determines claim payments under a pet insurance policy based on usual and customary fees, or any other reimbursement limitation based on prevailing veterinary service provider charges, shall:

(a) Include a usual and customary fee limitation provision in the policy that clearly describes the pet insurer's basis for determining usual and customary fees and how that basis is applied in calculating claim payments.

(b) Disclose the pet insurer's basis for determining usual and customary fees through a clear and conspicuous link on the main page of the pet insurer or pet insurer's program administrator's website.

VI. If any medical examination by a licensed veterinarian is required to effectuate coverage, the pet insurer shall clearly and conspicuously disclose the required aspects of the examination prior to purchase and disclose that examination documentation may result in a preexisting condition exclusion.

VII. Waiting periods and the requirements applicable to them, shall be clearly and prominently disclosed to consumers prior to the policy purchase.

VIII. The pet insurer shall include a summary of all disclosures required by this section in a separate document titled "Insurer Disclosure of Important Policy Provisions." The pet insurer shall post the document by way of a clear and conspicuous link on the main page of the pet insurer or pet insurer's program administrator's website.

IX. In connection with the issuance of a new pet insurance policy, the pet insurer shall provide the consumer with a copy of the "Insurer Disclosure of Important Policy Provisions" document required pursuant to RSA 402-P:3, VIII in at least 12-point type when it delivers the policy.

X. At the time a pet insurance policy is issued or delivered to a policyholder, the pet insurer shall include a written disclosure with the following information, printed in 12-point boldface type:

(a) The department's mailing address, toll-free telephone number, and website address.

(b) The address and customer service telephone number of the pet insurer or the agent or broker of record.

(c) If the policy was issued or delivered by an agent or broker, a statement advising the policyholder to contact the broker or agent for assistance.

XI. The disclosures required in this section shall be in addition to any other disclosure requirements required by law or regulation.

402-P:4 Policy Conditions.

I. A pet insurer may issue policies that exclude coverage on the basis of one or more preexisting conditions with appropriate disclosure to the consumer. The pet insurer has the burden of proving that the preexisting condition exclusion applies to the condition for which a claim is being made.

II. A pet insurer may issue policies that impose waiting periods upon effectuation of the policy that do not exceed 30 days for illnesses or orthopedic conditions not resulting from an accident. Waiting periods for accidents are prohibited.

(a) A pet insurer utilizing a waiting period shall include a provision in its contract that allows the waiting periods to be waived upon completion of a medical examination. Pet insurers may require the examination to be conducted by a licensed veterinarian after the purchase of the policy.

(1) A medical examination shall be paid for by the policyholder, unless the policy specifies that the pet insurer will pay for the examination.

(2) A pet insurer can specify elements to be included as part of the examination and require documentation thereof, provided the specifications do not unreasonably restrict a consumer's ability to waive the waiting periods by completing a medical examination.

(b) Waiting periods and the requirements applicable to them, shall be clearly and prominently disclosed to consumers prior to the policy purchase.

III. A pet insurer shall not require a veterinary examination of the covered pet for the insured to have their policy renewed.

IV. If a pet insurer includes any prescriptive, wellness, or non-insurance benefits in the policy form, then such benefits made part of the policy contract and shall follow all applicable laws and regulations in the insurance code.

V. An insured's eligibility to purchase a pet insurance policy shall not be based on participation, or lack of participation, in a separate wellness program.

402-P:5 Sales Practices for Wellness Programs.

I. No pet insurer and/or producer shall market a wellness program as pet insurance.

II. If a wellness program is sold by a pet insurer and/or producer:

(a) The purchase of the wellness program shall not be a requirement to the purchase of pet insurance.

(b) The costs of the wellness program shall be separate and identifiable from any pet insurance policy sold by a pet insurer and/or producer.

(c) The terms and conditions for the wellness program shall be separate from any pet insurance policy sold by a pet insurer and/or producer.

(d) The products or coverages available through the wellness program shall not duplicate products or coverages available through the pet insurance policy.

(e) The advertising of the wellness program shall not be misleading and shall be in accordance with this section.

(f) A pet insurer and/or producer shall clearly disclose the following to consumers, printed in 12-point boldface type:

(1) That wellness programs are not insurance.

(2) The address and customer service telephone number of the pet insurer or producer or broker of record.

(3) The department's mailing address, toll-free telephone number, and website address.

III. Coverages included in the pet insurance policy contract described as "wellness" benefits are insurance.

402-P:6 Rulemaking. The commissioner may adopt rules, pursuant to RSA 541-A, relative to the implementation of this chapter.

149:2 New Paragraph; Restaurants and Food Stores; Dogs. Amend RSA 466:44 by inserting after paragraph II the following new paragraph:

III. A restaurant owner may allow his or her properly disciplined companion dog inside his or her place of business. Such dogs shall not be allowed in food preparation or production areas. A restaurant owner allowing his or her companion dog shall prominently display a sign at all public entrances advising patrons that his or her companion dog is allowed on the premises and that such dog shall be removed

from any portion of the premises where members of the public are present in the event a patron with a service animal is present.

149:3 Effective Date. This act shall take effect January 1, 2024.

Approved: July 28, 2023
Effective Date: January 01, 2024