STATE OF NEW YORK

2357--B

2017-2018 Regular Sessions

IN ASSEMBLY

January 18, 2017

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to pet insurance

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The insurance law is amended by adding a new article 42-A to read as follows:

ARTICLE 42-A
PET INSURANCE

Section 4250. Definitions.
4251. Applicability.
4252. Coverage disclosures and requirements.
4253. Penalties.
4254. Violations.
4255. Rules and regulations.

§ 4250. Definitions. For purposes of this article, the following definitions shall apply:

(a) "Chronic condition" shall mean a condition that can be treated or managed, even if not cured.

(b) "Congenital anomaly or disorder" shall mean a condition that is present from birth, whether inherited or caused by the environment, which, to a reasonable medical certainty, has been determined to cause or otherwise contribute to illness or disease.

(c) "Hereditary disorder" shall mean an abnormality that is genetically transmitted from parent to offspring which, to a reasonable medical certainty, has been determined to cause illness or disease.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD05415-06-8

(d) "Pet insurance" shall mean insurance, whether provided under an individual or group insurance policy that provides coverage for veterinary expenses.

(e) "Preexisting condition" shall mean any condition, whether curable or incurable, which existed or presented on or before the pet insurance policy effective date, whether or not a veterinarian provided a medical diagnosis or for which the pet received treatment.

(f) "Veterinarian" shall mean an individual who holds a valid license to practice veterinary medicine from an appropriate licensing entity in the jurisdiction in which he or she practices.

(g) "Veterinary expenses" shall mean the costs associated with medical advice, diagnosis, care, treatment or alternative therapies, provided by a veterinarian, including, but not limited to, the cost of drugs prescribed by a veterinarian.

(h) "Waiting period" shall mean the period of time specified in a policy of pet insurance before coverage begins under such policy.

(i) "Rescue animal" shall include but not be limited to any animal that is (a) adopted from a shelter, (b) adopted from a rescue organization with foster care, or (c) a stray animal or abandoned animal not from a shelter or rescue organization, including animals surrendered to a veterinarian.

§ 4251. Applicability. A policy of pet insurance that is marketed, issued, amended, renewed, or delivered, whether or not in New York, to a New York resident, on and after July first, two thousand nineteen, regardless of the situs of the contract or group policyholder, or the jurisdiction in which the contract was issued or delivered, is subject to this article.

§ 4252. Coverage disclosures and requirements. (a) No policy of pet insurance may be issued if such policy excludes any of the following: a pre-existing condition; a congenital anomaly or disorder; a hereditary disorder; or a chronic condition.

(b) (1) Exclusions from coverage other than those set forth in subsection (a) of this section are permissible if prominently disclosed following the statement: "Exclusions may apply. Please refer to the exclusions section of the policy for more information."

(2) If any policy of pet insurance provides a limit on coverage through a waiting period, a deductible, co-insurance or an annual or lifetime policy limit, the following shall apply:

(i) the waiting period for accident coverage shall not exceed one day after purchase or payment of the initial premium. Except as provided in the preceding sentence (relating to accident coverage), there shall be no waiting period;

(ii) the deductible, if any, shall be an annual deductible; and

(iii) the waiting period, deductible, co-insurance requirements and/or annual or lifetime limits, if any, shall be prominently disclosed. Such disclosure shall appear or be summarized on the first page of such policy or shall be referred to on the first page in a manner that clearly indicates where such provisions appear in such policy.

(3) If such policy includes any other exclusion, the following statement shall be included in bold font large enough to be easily visible: "Other exclusions may apply. Please refer to the exclusions section of the policy for more information."

(4) Review of denied claims shall be handled by a veterinarian and determinations shall be made based on a standard of reasonable medical certainty. In the event a claim has been denied following an initial or

first level review, a secondary review shall be handled by an unaffiliated, independent veterinarian.

(c) (1) Coverage under a policy of pet insurance shall be continuous so long as premiums are paid, regardless of any change of ownership of the covered animal.

(2) Each policy of pet insurance shall be transferable and be assignable to a new owner of a covered animal.

(3) Renewal of a policy of pet insurance shall not be denied based on claims history or age of the covered animal.

(4) Premiums shall not be increased based on claims history.

(5) Premium increases shall be approved by the superintendent and such approval shall be made available to the public at least sixty days prior to the effective date of such increase.

(d) If a pet insurer uses any of the definitional terms of this article in a policy of pet insurance, the insurer shall use the definitions of those terms as set forth in this article and include the definition of the term in the policy. The pet insurer shall also make the definition available through a link on the main page of the insurer's internet website.

(e) A pet insurer shall clearly disclose a summary description of the basis or formula on which the insurer determines claim payments under a pet insurance policy within the policy and through a link on the main page of the insurer's internet website.

(f) A pet insurer that uses a benefit schedule to determine claim payments under a pet insurance policy shall do both of the following:

(1) clearly disclose the applicable benefit schedule in the policy; and

(2) disclose all benefit schedules used by the insurer under its pet insurance policies through a link on the main page of the insurer's internet website.

(g) 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 do both of the following:

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

(2) disclose the insurer's basis for determining usual and customary fees through a link on the main page of the insurer's internet website.

(3) any pet insurer that issues a policy subject to this article shall be prohibited from imposing any limitations on such type of legal remedies that policyholders may seek to pursue for resolution of disputes relating to such policy, including denials of coverage at any stage. No pet insurance company may limit or attempt to limit resolution of disputes by policyholders to binding arbitration, so as to preclude a policyholder from seeking remedies in courts of law.

(h) The insurer shall create a summary of all policy provisions required in this section into a separate document titled "Insurer Disclosure of Important Policy Provisions."

(i) The insurer shall post the "Insurer Disclosure of Important Policy Provisions" document required in this section through a link on the main page of the insurer's internet website.

(j) (1) In connection with the issuance of a new pet insurance policy, the insurer shall provide the consumer with a copy of the "Insurer

Disclosure of Important Policy Provisions" document required pursuant to this section in at least twelve point type when it delivers the policy.

(2) In addition, the pet insurance policy shall have clearly printed thereon or attached thereto a notice stating that, after receipt of the policy by the owner, the policy may be returned by the insured for cancellation by delivering it or mailing it to the insurer or to the agent through whom it was purchased.

(i) The period of time set forth by the insurer for return of the policy shall be clearly stated on the notice, and this free look period shall be not less than thirty days. The insured may return the policy to the insurer or the agent through whom the policy was purchased at any time during the free look period specified in the notice.

(ii) The delivery or mailing of the policy by the insured pursuant to this section shall void the policy from the beginning, and the parties shall be in the same position as if a policy or contract had not been issued.

(iii) All premiums paid and any policy fee paid for the policy shall be refunded to the insured within thirty days from the date that the insurer is notified of the cancellation. However, if the insurer has paid any claim, or has advised the insured in writing that a claim will be paid, the thirty day free look right pursuant to this section is inapplicable and instead the policy provisions relating to cancellation apply to any refund.

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

§ 4253. Penalties. (a) A person who violates any provision of this article is liable to the state for a civil penalty to be determined by the superintendent, not to exceed five thousand dollars for each violation, or, if the violation was willful, a civil penalty not to exceed ten thousand dollars for each violation. The superintendent may establish the acts that constitute a distinct violation for purposes of this section. However, when the issuance, amendment, or servicing of a policy or endorsement is inadvertent, all of those acts constitute a single violation for purposes of this section.

(b) The penalty imposed by this section shall be imposed by and determined by the superintendent. The penalty imposed by this section is appealable.

§ 4254. Violations. (a) Whenever the superintendent shall have reason to believe that a person has engaged or is engaging in this state in a violation of this article, and that a proceeding by the superintendent in respect thereto would be to the interest of the public, he or she shall issue and serve upon that person an order to show cause containing a statement of the charges in that respect, a statement of that person's potential liability under this part, and a notice of a hearing thereon to be held at a time and place fixed therein, which shall not be less than thirty days after the service thereof, for the purpose of determining whether the superintendent should issue an order to that person to pay the penalty imposed by this article and to cease and desist those methods, acts, or practices, or any of them, that violate this article.

(b) If the charges are found to be justified, the superintendent shall issue and cause to be served upon that person an order requiring that person to pay the penalty imposed by this article and to cease and desist from engaging in those methods, acts, or practices found to be in violation of this article.

(c) Hearings shall be conducted according to the procedure designated by the superintendent. However, the superintendent shall not interfere

with or abridge the rights of a policyholder's right to seek remedies in a court of law.

(d) Parties to such hearings shall be entitled to have the proceedings and the order reviewed by means of any remedy provided by the superintendent.

(e) The jurisdiction of the superintendent shall not be exclusive and nothing in this article shall be deemed to preclude review by the attorney general of the state of New York.

§ 4255. Rules and regulations. The superintendent may adopt reasonable rules and regulations, as are necessary to administer this article, in accordance with existing procedures under this chapter, however, no rules or regulations may interfere with or abridge a policyholder's right to seek remedies in a court of law.

§ 2. This act shall take effect on the thirtieth day after it shall have become a law.