

STATE OF NEW YORK

2976

2019-2020 Regular Sessions

IN ASSEMBLY

January 28, 2019

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Insurance

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:

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

3 ARTICLE 42-A
4 PET INSURANCE

5 Section 4250. Definitions.

6 4251. Applicability.

7 4252. Coverage disclosures and requirements.

8 4253. Penalties.

9 4254. Violations.

10 4255. Rules and regulations.

11 § 4250. Definitions. For purposes of this article, the following defi-
12 nitions shall apply:

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

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

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

22 (d) "Pet insurance" shall mean insurance, whether provided under an
23 individual or group insurance policy that provides coverage for veteri-
24 nary expenses.

25 (e) "Pet insurer" shall mean a company or organization who issues a
26 policy of pet insurance.

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

LBD04628-01-9

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

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

8 (h) "Veterinary expenses" shall mean the costs associated with veteri-
9 nary medical advice, diagnosis, care, treatment or alternative therapies
10 provided by a veterinarian, including, but not limited to, the cost of
11 drugs prescribed by a veterinarian.

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

14 § 4251. Applicability. A policy of pet insurance that is marketed,
15 issued, amended, renewed, or delivered, whether or not in New York, to a
16 New York resident, on and after July first, two thousand twenty, regard-
17 less of the situs of the contract or group policyholder, or the juris-
18 isdiction in which the contract was issued or delivered, is subject to
19 this article.

20 § 4252. Coverage disclosures and requirements. (a) No policy of pet
21 insurance to which this article applies may be issued if such policy
22 excludes any of the following: a pre-existing condition; a congenital
23 anomaly or disorder; a hereditary disorder; or a chronic condition.

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

28 (2) If any policy of pet insurance to which this article applies
29 provides a limit on coverage through a waiting period, a deductible,
30 co-insurance or an annual or lifetime policy limit, the following shall
31 apply:

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

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

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

42 (3) If such policy provides for any other exclusion from or limitation
43 on coverage, the following statement shall be included in bold font
44 large enough to be easily visible: "Other exclusions or limitations may
45 apply. Please refer to the exclusions section of the policy for more
46 information."

47 (4) Review of denied claims shall be handled by a veterinarian and
48 determinations shall be made based on a standard of reasonable medical
49 certainty. In the event a claim has been denied following an initial or
50 first level review, a secondary review shall be handled by an unaffil-
51 iated, independent veterinarian.

52 (c) Coverage under a policy of pet insurance to which this article
53 applies:

54 (1) Shall be continuous so long as premiums are paid, regardless of
55 any change of ownership of the covered animal; and each policy of pet

1 insurance shall be transferable and be assignable to a new owner of a
2 covered animal.

3 (2) Renewal of a policy of pet insurance to which this article applies
4 shall not be denied based on claims history or age of the covered
5 animal.

6 (3) Premiums for a policy of pet insurance shall not be increased
7 based on claims history.

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

11 (d) If a pet insurer uses any of the definitional terms of this arti-
12 cle in a policy of pet insurance, the insurer shall use the definitions
13 of those terms as set forth in this article and include the definition
14 of the term in the policy. The pet insurer shall also make the defi-
15 nition available through a link on the main page of the insurer's inter-
16 net website.

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

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

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

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

28 (g) A pet insurer that determines claim payments under a pet insurance
29 policy based on usual and customary fees, or any other reimbursement
30 limitation based on prevailing veterinary service provider charges,
31 shall do both of the following:

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

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

38 (h) Any pet insurer that issues a policy of pet insurance subject to
39 this article shall be prohibited from imposing any limitations on the
40 type of legal remedies that policyholders may seek to pursue for resol-
41 ution of disputes relating to such policy, including denials of coverage
42 at any stage. No pet insurer may limit or attempt to limit resolution of
43 disputes by policyholders to binding arbitration, so as to preclude a
44 policyholder from seeking remedies in courts of law.

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

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

51 (k) (1) In connection with the issuance of a new pet insurance policy,
52 the pet insurer shall provide the consumer with a copy of the "Insurer
53 Disclosure of Important Policy Provisions" document required pursuant to
54 this section in at least twelve point type when it delivers the policy.

55 (2) In addition, the pet insurance policy shall have clearly printed
56 thereon or attached thereto a notice stating that, after receipt of the

1 policy by the owner, the policy may be returned to the pet insurer for
2 cancellation by delivering it or mailing it to the pet insurer or to the
3 agent through whom it was purchased.

4 (i) The period of time set forth by the pet insurer for return of the
5 policy, the free look period, shall be clearly stated on the notice and
6 shall not be less than thirty days.

7 (ii) The delivery or mailing of the policy to the pet insurer by the
8 pet insurance policyholder pursuant to this section shall void the poli-
9 cy from the beginning, and the parties shall be in the same position as
10 if a policy or contract had not been issued.

11 (iii) All premiums paid and any policy fee paid for a policy that is
12 cancelled during the free look period shall be refunded to the pet
13 insurance policyholder within thirty days from the date that the pet
14 insurer is notified of the cancellation. However, if the pet insurer
15 has paid any claim, or has advised the pet insurance policyholder in
16 writing that a claim will be paid, the thirty day free look right pursu-
17 ant to this section is inapplicable and instead the policy provisions
18 relating to cancellation apply to any refund.

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

21 § 4253. Penalties. (a) A person who violates any provision of this
22 article is liable to the state for a civil penalty to be determined by
23 the superintendent, not to exceed five thousand dollars for each
24 violation, or, if the violation was willful, a civil penalty not to
25 exceed ten thousand dollars for each violation. The superintendent may
26 establish the acts that constitute a distinct violation for purposes of
27 this section. However, when the issuance, amendment, or servicing of a
28 policy or endorsement is inadvertent, all of those acts constitute a
29 single violation for purposes of this section.

30 (b) The penalty imposed by this section shall be imposed by and deter-
31 mined by the superintendent. The penalty imposed by this section is
32 appealable.

33 § 4254. Violations. (a) Whenever the superintendent shall have reason
34 to believe that a person has engaged or is engaging in a violation of
35 this article, and that a proceeding by the superintendent in respect
36 thereto would be to the interest of the public, he or she shall issue
37 and serve upon that person an order to show cause containing a statement
38 of the charges in that respect, a statement of that person's potential
39 liability under this part, and a notice of a hearing thereon to be held
40 at a time and place fixed therein, which shall not be less than thirty
41 days after the service thereof, for the purpose of determining whether
42 the superintendent should issue an order to that person to pay the
43 penalty imposed by this article and to cease and desist those methods,
44 acts, or practices, or any of them, that violate this article.

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

50 (c) Hearings shall be conducted according to the procedure designated
51 by the superintendent. However, the superintendent shall not interfere
52 with or abridge the rights of a pet insurance policyholder's right to
53 seek remedies in a court of law.

54 (d) Parties to such hearings shall be entitled to have the proceedings
55 and the order reviewed by means of any remedy provided by the super-
56 intendent.

1 (e) The jurisdiction of the superintendent shall not be exclusive and
2 nothing in this article shall be deemed to preclude review by the attor-
3 ney general of the state of New York.

4 § 4255. Rules and regulations. The superintendent may adopt reason-
5 able rules and regulations, as are necessary to administer this article,
6 in accordance with existing procedures under this chapter, however, no
7 rules or regulations may interfere with or abridge a pet insurance
8 policyholder's right to seek remedies in a court of law.

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