STATE OF NEW YORK

7845

IN SENATE

January 3, 2024

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to providing for the issuance of pet insurance

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

Section 1. Paragraph 34 of subsection (a) of section 1113 of the insurance law, as renumbered by chapter 359 of the laws of 2021, is renumbered paragraph 35 and a new paragraph 34 is added to read as follows:

(34) "Pet insurance" shall have the same meaning as defined by subdivision (a) of section three thousand four hundred sixty-two of this chapter.

§ 2. The insurance law is amended by adding a new section 3462 to read as follows:

§ 3462. Pet insurance. (a) As used in this section, the following terms shall have the following meanings:

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

(2) "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.

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

(4) "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.

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

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

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(6) "Preexisting condition" means 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:

(A) A veterinarian provided medical advice;

(B) The pet received previous treatment; or

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

A condition for which coverage is afforded on a policy shall not be considered a preexisting condition on any renewal of the policy.

(7) "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 insurer or affiliated insurer and which provides types and limits of coverage substantially similar to those contained in the policy being superseded.

(8) "Veterinarian" means an individual who holds a valid license to practice veterinary medicine under article one hundred thirty-five of the education law.

(9) "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.

(10) "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 shall not be applied to renewals of existing coverage.

(11) "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. If any wellness program requires an agreement or other transaction whereby an insurer is obligated to confer a benefit of pecuniary value upon another party, dependent upon the happening of a fortuitous event in which the insured or beneficiary has, or is expected to have at the time of such happening, a material interest which will be adversely affected by the happening of such event, it is transacting in the business of insurance and is subject to the provisions of this chapter. This definition is not intended to classify a contract directly between a service provider and a pet owner that only involves the two parties as being the business of insurance, unless other indications of insurance also exist.

(b) If an insurer uses any of the terms in subsection (a) of this section in a policy of pet insurance, the insurer shall use the definition of each of those terms as set forth in such subsection and include the definition of the terms in the policy. The insurer shall also make the definitions available through a clear and conspicuous link on the main page of the insurer or insurer's program administrator's website. Nothing in this section shall in any way prohibit or limit the types of exclusions insurers may use in their policies or require insurers to have any of the limitations or exclusions defined in this section.

(c) (1) An insurer transacting pet insurance shall disclose the following to consumers:

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

(i) A preexisting condition;

(ii) A hereditary disorder;

(iii) A congenital anomaly or disorder; or

(iv) 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 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.

(2) (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 thirty 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 free look 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."

(3) An 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, prior to policy issuance and through a clear and conspicuous link on the main page of the insurer or insurer's program administrator's website.

(4) An insurer that uses a benefit schedule to determine claim payment under a pet insurance policy shall do both of the following:

(A) Clearly disclose the applicable benefit schedule in the policy.

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

(5) An 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:

(A) 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.

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

(6) If any medical examination by a licensed veterinarian is required to effectuate coverage, the 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.

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

(8) The insurer shall include a summary of all policy provisions required in paragraphs one through seven of this subsection, inclusive, in a separate document titled "Insurer Disclosure of Important Policy Provisions."

(9) The insurer shall post the "Insurer Disclosure of Important Policy Provisions" document required in paragraph eight of this subsection through a clear and conspicuous link on the main page of the insurer or insurer's program administrator's website.

(10) 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 paragraph eight of this subsection in at least twelve-point type when it delivers the policy.

(11) At the time a pet insurance policy is issued or delivered to a policyholder, the insurer shall include a written disclosure with the following information, printed in twelve-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 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.

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

(d) (1) An insurer may issue policies that exclude coverage on the basis of one or more preexisting conditions with appropriate disclosure to the consumer. The insurer has the burden of proving that the preexisting condition exclusion applies to the condition for which a claim is being made.

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

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

(C) A medical examination under subparagraph (B) of this paragraph shall be paid for by the policyholder, unless the policy specifies that the insurer will pay for the examination.

(D) An insurer may 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 prescribed in subparagraph (B) of this paragraph.

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

(3) An insurer shall not require a veterinary examination of the covered pet for the insured to have their policy renewed.

(4) If an insurer includes any prescriptive, wellness, or non-insurance benefits in the policy form, then it is made part of the policy contract and shall follow all applicable laws and regulations under this chapter.

(5) 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.

(e) (1) No insurer or insurance producer shall market a wellness program as pet insurance.

(2) If a wellness program is sold by an insurer or insurance 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 an insurer or insurance producer.

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

(D) The products or coverages available through the wellness program shall not duplicate products or coverages available through the pet insurance policy; and

(E) The advertising of the wellness program shall not be misleading and shall comply with the provisions of paragraph two of subsection (c) of this section.

(F) An insurer or insurance producer shall clearly disclose the following to consumers, printed in twelve-point boldface type:

(i) That wellness programs are not insurance.

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

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

(3) Coverages included in a pet insurance policy contract described as "wellness" benefits are insurance.

(f) (1) An insurance producer shall not sell, solicit, or negotiate a pet insurance product until after the producer is appropriately licensed and has completed the required training identified in paragraph three of this subsection.

(2) Insurers shall ensure that its producers are trained under paragraph three of this subsection and that its producers have been appropriately trained on the coverages and conditions of its pet insurance products.

(3) The training required under this subsection shall include information on the following topics:

(A) preexisting conditions and waiting periods;

(B) the differences between pet insurance and noninsurance wellness programs;

(C) hereditary disorders, congenital anomalies or disorders and chronic conditions and how pet insurance policies interact with those conditions or disorders; and

(D) rating, underwriting, renewal and other related administrative topics.

(4) The satisfaction of the training requirements of another state that are substantially similar to the provisions of paragraph three of this subsection as determined by the superintendent shall be deemed to satisfy the training requirements of this subsection.

(g) The superintendent shall promulgate any rules and regulations necessary for the implementation of this section.

(h) All other applicable provisions of this chapter shall continue to apply to pet insurance except that the specific provisions of this section shall supersede any general provision of law that would otherwise be applicable to pet insurance.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to all policies entered into, renewed, modified or amended on or after such effective date. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.