

Title 210 -- NEBRASKA DEPARTMENT OF INSURANCE

Chapter 58 --MOTOR VEHICLE SERVICE CONTRACT REIMBURSEMENT INSURANCE

001. Authority. This rule is promulgated pursuant to the authority granted in the Motor Vehicle Service Contract Reimbursement Insurance Act, Neb. Rev. Stat. §§ 44-3520 ~~to~~ through 44-3526.

002. Purpose. This rule sets forth regulations and procedural requirements which the Director of Insurance deems necessary to carry out the provisions of the Motor Vehicle Service Contract Reimbursement Insurance Act, including but not limited to the establishment of minimum standards for disclosure of the coverage limitation and exclusions in motor vehicle service contracts.

003. Definitions.

003.01A The definitions in the Motor Vehicle Service Contract Reimbursement Insurance Act as set forth in Neb. Rev. Stat. § 44-3521, shall apply in the construction of this rule.

003.01B The term “conspicuously” shall mean writing, displaying, or presenting a term in such a way that a reasonable person against whom it is to operate ought to have noticed it. Conspicuously stated terms include:

i. a heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and

ii. language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language.

004. Filing requirements.

~~004.01A It is the responsibility of the insurer issuing the motor vehicle service contract reimbursement insurance policy to file true and correct copies of the policy and applicable motor vehicle service contract form(s) with the Department prior to use.~~

~~004.01B~~ It is the responsibility of the motor vehicle service contract provider issuing the motor vehicle service contract to file a true and correct copy of the ~~contract form with the Department prior to use~~ motor vehicle service contract form(s), motor vehicle service contract reimbursement insurance policy(ies), and the Notice of Filing form with the Department. The Notice of Filing shall be made on a form provided by the Department and must contain the name and address of the business entity filing the form as well as a contact person, the names and addresses of entities from which the service contract forms were purchased, the names and addresses of insurers insuring the provider's contractual liability, and the names and addresses of sales personnel. For filings covering contracts related to vehicle protection products, the Notice of Filing must also include an analysis outlining why the product is not governed by the Magnuson-Moss Warranty – Federal Trade Commission Improvement Act, 15 U.S.C. 2301 et seq. It is the responsibility of the motor vehicle service contract provider to notify the Department on a continuing basis of any changes in the filings.-

~~004.02 A Notice of Filing shall be submitted with each of the above filings. The Notice of Filing shall be made on a form provided by the Department, and must be typed or printed in ink and properly notarized. It should contain the name and address of the business entity filing the form as well as a contact person. A Notice of Filing submitted by a provider should contain the names and addresses of all providers. A Notice of Filing submitted by a provider should contain the names and addresses of all insurers, sales personnel and companies from whom the provider purchased the service contract forms. It is the responsibility of the business entity filing the form to notify the Department on a continuing basis of any changes in the filings.~~

005. Insurer's obligation. Each insurer shall provide coverage for all obligations and liabilities incurred by a provider arising out of the provider's contractual obligations to a service contract holder.

006. Disclosure to service contract holders. Every motor vehicle service contract shall be written in clear, understandable language and shall be printed or typed in easy-to-read type, size and style, and shall not be issued, sold, or offered for sale in this state unless the contract:

006.01 Identifies the motor vehicle service contract provider and the service contract holder;

006.02 Conspicuously states that the obligations of the motor vehicle service contract provider to the service contract holder are guaranteed under a service contract reimbursement insurance policy;

006.03 Conspicuously states the name and address of the insurance company issuing the reimbursement insurance policy;

006.04 Sets forth the total purchase price and the terms under which it is to be paid;

006.05 Sets forth the procedure for making a claim, including an address and telephone number for claim assistance;

006.06 Conspicuously states the existence of a deductible amount, if any;

006.07 Clearly specifies the merchandise or services, or both, to be provided and any limitations, exceptions or exclusions;

006.08 Sets forth all of the obligations and duties of the service contract holder, such as the duty to prevent any further damage to the vehicle, the obligation to notify the provider in advance of any repair, etc., if any;

006.09 Sets forth any terms, restrictions, or conditions governing transferability of a service contract, if any; and

006.10 Sets forth applicable cancellation requirements.

007. Violations. If the Director determines that a motor vehicle service contract provider has failed to comply with the Motor Vehicle Service Contract Reimbursement Insurance Act, the Director may issue an order to cease and desist from selling or offering for sale motor vehicle service contracts. Accompanied with that order shall be a Notice of Hearing setting forth the time, date, place and issues to be heard. Such hearing shall take place not less than ten days nor more than thirty days from the date from the cease and desist. Upon the failure of a motor vehicle service contract provider to obey a cease and desist order issued by the Director, the director may give notice in writing of the failure to the Attorney General, who may commence an action against the provider to enjoin that provider from selling or offering for sale motor vehicle service contracts.

008. Severability. If any provision of this regulation is held invalid, the remainder shall not be affected.