

STATE OF NEBRASKA

DEPARTMENT OF INSURANCE

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Director



Dave Heineman
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BULLETIN

SUBJECT: MOTOR VEHICLE SERVICE CONTRACTS

The Nebraska Motor Vehicle Service Contract Reimbursement Insurance Act sets forth requirements for all motor vehicle service contracts (MVSCs) issued, sold or offered for sale in Nebraska by a provider, including an automobile dealer or an administrator. This act was recently amended by LB 1054, which expanded the definition of MVSC. This law does not apply to manufacturer warranties or mechanical breakdown insurance policies issued directly to consumers by an insurer. This bulletin addresses questions regarding the expanded definition of MVSC, filing requirements, first dollar coverage, conspicuous disclosures, and multiple programs names.

Expanded Definition of MVSC

Recently, the Nebraska Legislature passed LB 1054 which expands the definition of MVSC to include contracts which provide for: tire/wheel repair or replacement necessitated by road hazards, paintless dent removal, windshield repair or replacement necessitated by road hazards, key/keyfob replacement, or the payment of incidental costs as the result of a failure of a vehicle protection product to perform as specified. These types of contracts are now included in the definition of "motor vehicle service contract" and must meet all the requirements applicable to the traditional MVSCs.

Filing Requirements

MVSC providers must make certain filings with the Department of Insurance before the MVSC may be issued, sold, or offered for sale in Nebraska. Specifically, a MVSC provider is responsible for filing with the Department a true and correct copy of the MVSC form, the corresponding motor vehicle service contract reimbursement policy, and a Notice of Filing form. The Notice of Filing form is provided by the Department, and available at the Department's website at www.doi.ne.gov. These filings must be submitted to the Nebraska Department of Insurance via the SERFF filing system.

First Dollar Coverage

The Nebraska Motor Vehicle Service Contract Reimbursement Insurance Act requires that all MVSCs issued, sold, or offered for sale in Nebraska must be backed by a reimbursement insurance policy between the MVSC provider and an insurer licensed to do business in Nebraska (Policy). The Policy must conspicuously state "that the insurer will pay on behalf of the motor vehicle service contract provider all sums which the provider is legally obligated to pay in the performance of its contractual obligations under the motor vehicle service contracts issued or sold by the provider." Neb.Rev.Stat. §44-3523(1) (Reissue 2010). Unless the program directly obligates an automobile dealer to perform under the MVSC:

- The Policy must completely and fully reimburse the provider for all repair costs incurred under the MVSC from the first dollar of coverage;
- The provider shall not assume any portion of direct or first-dollar liability for repairs under a MVSC;
- The Policy shall not require or allow a provider to assume any portion of direct or first dollar liability for repairs under the MVSC;
- The Policy shall not include any provision whereby the insurer provides coverage in excess of reserves held by a provider or only in the even of the provider's insolvency or default;
- All unearned premium reserves and claim reserve funds must be established as liabilities on the books of the insurer in accordance with statutory accounting practices.

See Neb.Rev.Stat. §44-3523(2) (Reissue 2010).

Conspicuous Disclosures

The Nebraska Motor Vehicle Service Contract Reimbursement Insurance Act requires certain disclosures be stated "conspicuously" on the MVSC. These disclosures include:

- That the obligations of the motor vehicle service contract provider to the service contract holder are covered under the motor vehicle service contract reimbursement insurance policy.
- The name and address of the issuer of the Policy.
- The existence of a deductible, if any.

See Neb.Rev.Stat. §44-3522 (Reissue 2010) and 210 Neb. Admin. R. & Regs. 58-006.

The Department considers conspicuous terms to include the following:

- 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
- 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.

See 210 Neb. Admin. R & Regs. 58-003.01B. MVSC filings will only be accepted for filing if the required disclosures are conspicuous.

Multiple Program Names

It has come to the attention of the Department that forms accepted for filing are being subsequently altered to reflect multiple program names or marketing names. This is a change in the filing, and the Department must be notified of such changes prior to use of the altered form. It is the responsibility of the entity filing the form to notify the Department of any changes in the filing.

If the only change to the form is a change in program or marketing name, it is not necessary to submit a new form filing. Prior to using the altered form, submit a letter to the Department:

- ✓ verifying that the form is already properly filed;
- ✓ providing the date the form was accepted for filing by the Department;
- ✓ verifying that there is no change in the language content of the form;
- ✓ listing all program or marketing names which will appear on the MVSC.

If the change to the form includes any change to the language content of the form, a new filing is required.

Questions regarding this bulletin should be directed to the Department's legal division at 402-471-2201.



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