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Pet Insurance (C) Working Group

Virtual Meeting

July 29, 2021

The Pet Insurance (C) Working Group of the Property and Casualty Insurance (C) Committee met July 29, 2021. The following Working Group members participated: Don Beatty, Chair, Jessica Baggarley, and Phyllis Oates (VA); Andrew Gulcher (CA); Katie Hegland (AK); Jimmy Harris (AR); Kristin Fabian (CT); Warren Byrd (LA); Sheri Cullen (MA); Rasheda Chairs and Linas Glemza (MD); Jo LeDuc and Patrick Lennon (MO); Michael McKenney (PA); Matt Gendron (RI); Jamie Gile, Mary Block, and Anna Van Fleet (VT); and David Forte and Eric Slavich (WA). Also participating were: Linda Grant (IN); Heather Droge, Tate Flott, and Shannon Lloyd (KS); Brock Bubar and Sandra Darby (ME); Christine Peters (MN); Chris Aufenthie, Chrystal Bartuska, and Ross Hartley (ND); Maggie Dell (SD); and Jody Ullman (WI).

1. Adopted its July 22 Minutes

The Working Group met July 22 to discuss language on waiting periods, free look periods, and wellness plans in the draft Pet Insurance Model Act.

Mr. Byrd made a motion, seconded by Mr. Forte, to adopt the Working Group’s July 22 minutes (Attachment -). The motion passed unanimously.

1. Discussed Adding Wellness Plans Language to the Draft Pet Insurance Model Act

Mr. Beatty said Washington submitted comments to add language to Section 7 regarding wellness programs. Mr. Forte said the name of the section should be changed to Policy Conditions in order to address policy issues beyond pre-existing conditions and waiting periods. He said there are five issues that he would like to see addressed in this section. He said those issues are: 1) the overlap between insurance policies and certain wellness programs, 2) prescriptive and wellness elements that are included within an insurance policy, 3) insurance companies marketing supplemental wellness programs that are not part of the insurance policy, 4) non-insurance entities providing wellness programs, and 5) insurance policy eligibility for consumers being contingent on participation in a partnering wellness program. Mr. Forte said Washington is proposing a definition in Section 3 of “wellness program” in an attempt to separate insurance from non-insurance wellness products. He said Washington is proposing three new subsections in Section 7 that would read: (C) A pet insurer must not require a veterinary examination of the covered pet for the insured to have their policy renewed; (D) If a pet insurer includes any prescriptive, wellness, or non-insurance benefits in the policy form, then it is made part of the policy contract and must follow all applicable laws and regulations in the insurance code; and (E) An insured’s eligibility to purchase a pet insurance policy must not be based on participation, or lack of participation, in a separate wellness program.

Birny Birnbaum (Center for Economic Justice – CEJ) said regulators should focus on what is and is not insurance and this issue could be solved by a clearer definition of pet insurance. He said the comments submitted by CEJ and Center for Insurance Research (CIR) give a new proposed definition of pet insurance. Mr. Forte said the concern with this definition is that it expands the definition of insurance to include things that Washington would not view as insurance such as maintenance and preventative care. Mr. Birnbaum said the definition should be broad to provide uniformity across the states and to give consumers what they would expect from an insurance policy.

Isham Jones (American Veterinary Medical Association – AVMA) asked if the list of services in Washington’s proposed definition of wellness program is meant to be a finite list. Mr. Forte said the list was not meant to be finite.

Mr. McKenney said there are currently many wellness programs that are not written by an insurance company that should not now be classified as insurance. He said he does support the language proposed by Washington with the exception of the last sentence in the definition of wellness program. Mr. Forte said the intent of that sentence is important to determine if a product aligns with a state’s insurance code, but that the sentence could be re-worded. Mr. McKenney asked for clarification on the term “determinable contingency.” Mr. Gendron said at least 15 states use this term as a statutory trigger for insurance. He said it would make sense to have that term in the definition, but also add in a term to refer to the two-party contracts between a veterinarian and consumer that are not considered insurance. Mr. Forte said if the term adds confusion for certain states then the term can be removed from the definition. Mr. Birnbaum said the type of two-party contracts being discussed is referred to as a fee waiver. He said language addressing this exists in Model #632-1 Travel Insurance Model Act, and this working group should not try to re-invent the wheel but instead look to Model #632-1 for this language.

Mr. McKenney made a motion, seconded by Mr. Forte, to rename Section 7 to “Policy Conditions” and adopt subsections 7C, 7D, and 7E as proposed by Washington. The motion passed unanimously.

Mr. Beatty said in June, the North American Pet Health Insurance Association (NAPHIA) had submitted comments to add a new section to the model to address the sales practices of wellness programs. He said Mr. Forte had submitted a modified version of those comments for consideration to the working group. Mr. Forte said Washington removed sections of the language that directed what wellness programs could do, and focused on what insurance entities can do with insurance policies. He said this language will help a consumer understand what is part of the insurance policy when a policy and wellness program are marketed together. Cari Lee (NAPHIA) said this language is supported by NAPHIA. Mr. Birnbaum said he would not support this language.

Mr. Gendron said he does not agree with the proposed language. He said in part A, the structure and design of many wellness programs sold along side insurance policies is that of an insurance product because it indemnifies costs that are incurred at 3rd party vendors. He said in part B, he does not have regulatory authority to take action against companies selling a non-insurance wellness product. He said he does not support language that would add anything to existing rules of the Unfair Trade Practices Act. Mr. McKenney said in Pennsylvania’s Unfair Insurance Practices Act there is reference to anything of value in an insurance policy, so there is an overlap with non-insurance benefits.

Mr. Forte made a motion, seconded by Mr. Byrd, to include the proposed language as a new section in the model. The motion passed, with Rhode Island opposing.

Having no further business, the Pet Insurance (C) Working Group adjourned.

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