

Nebraska Department of Insurance
Guidance Document
IGD - - C7

Title: Motor Vehicle Service Contracts

Issue Date: October 20, 2022

Previously: Issued as CB-106, October 9, 2012

Notice: This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

The Nebraska Motor Vehicle Service Contract Reimbursement Insurance Act (Act) creates the requirements for all motor vehicle service contracts (MVSCs) issued, sold, or offered in Nebraska by a provider, including an automobile dealer or an administrator. This act was amended in 2012, 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 guidance document addresses questions regarding the expanded definition of MVSC, filing requirements, first dollar coverage, conspicuous disclosures, and multiple program names.

Expanded Definition of MVSC

The definition of MVSC was expanded in 2012 to include contracts that provide for tire/wheel repair, replacement necessitated by road hazards, paint less dent removal, windshield repair key/keyfob replacement, or the payment of incidental costs as the result of a failure of a vehicle protection product to perform. The law now includes these contracts 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 Nebraska Department of Insurance (NDOI) before the MVSC may be issued, sold, or offered for sale in Nebraska. Specifically, an MVSC provider is responsible for filing with the NDOI a correct copy of the MVSC form, the corresponding motor vehicle service contract reimbursement policy, and a Notice of Filing form. The NDOI provides the Notice of Filing form which is available at www.doi.nebraska.gov. Insurers must submit these filings to the NDOI via SERFF.

Reimbursement Insurance Policy

The 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 definition of a “motor vehicle service contract reimbursement insurance policy” was amended by Nebraska law, effective January 1, 2021. The Policy must conspicuously state “that the insurer will either reimburse or pay on behalf of the motor vehicle service contract

provider any covered sums the provider is legally obligated to pay, or, in the event of the provider's nonperformance, will provide the service that the provider is legally obligated to perform according to the provider's contractual obligations under the motor vehicle service contracts issued or sold by the provider in this state." unless the program directly obligates an automobile dealer to perform under the MVSC:

- In the event covered service is not provided by the motor vehicle service contract provider within sixty days of proof of loss by the service contract holder, the service contract holder is entitled to apply directly to the insurer providing the MVSC reimbursement insurance policy.
- The Policy must completely and fully reimburse or pay on behalf of the provider all repair costs incurred under the MVSC.
- Insurers must establish all unearned premium reserves and claim reserve funds as liabilities on their books following statutory accounting practices.

See NEB.REV.STAT § 44-3523(2) and (3) (Reissue 2021).

Conspicuous Disclosures

The 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 NDOI 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 unnecessary to submit a new form filing. Before using the altered form, submit a letter to the NDOI :

- verifying that the form is already adequately filed;

- providing the date, the form was accepted for filing by the NDOI ;
- verifying that there is no change in the language content of the form;
- List all program or marketing names that will appear on the MVSC.

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

Questions regarding this guidance document should be directed to the Department's Legal division at 402-471-2201.