S T A T E   O F   N E W   Y O R K

S. 1186 A. 3486

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

January 27, 2009

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

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to health insurance benefits for dependent children

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph 4 of subsection (a) of section 3216 of the insurance law, as amended by section 65-d of part A of chapter 58 of the laws of 2007, is amended to read as follows:

(4) "Dependent children" (A) shall include any [children under a specified age which shall not exceed age nineteen] UNMARRIED DEPENDENT CHILD UP TO AT LEAST TWENTY-FIVE YEARS OF AGE WHO IS NOT ELIGIBLE FOR COVERAGE UNDER A POLICY OF ACCIDENT AND HEALTH INSURANCE OFFERED THROUGH HIS OR HER EMPLOYER except:

[(i)] Any unmarried dependent child, regardless of age, who is incapable of self-sustaining employment by reason of mental illness, developmental disability, or mental retardation as defined in the mental hygiene law, or physical handicap and who became so incapable prior to the age at which dependent coverage would otherwise terminate, shall be included in coverage subject to any pre-existing conditions limitation applicable to other dependents.

[(ii) Any unmarried student at an accredited institution of learning may be considered a dependent child until attaining age twenty-three.]

(B) may include, at the option of the insurer, any unmarried child until attaining age twenty-five.

S 2. Paragraph 1 of subsection (d) of section 4304 of the insurance law, as amended by section 65-e of part A of chapter 58 of the laws of 2007, is amended to read as follows:

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

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(1) No contract issued pursuant to this section shall entitle more than one person to benefits except that a contract issued and marked as a "family contract" [may] SHALL provide that benefits will be furnished to a husband and wife, or husband, wife and their dependent child or children, or any UNMARRIED child or children [not over nineteen] UP TO AT LEAST TWENTY-FIVE years of age, [provided that an unmarried student at an accredited institution of learning may be considered a dependent until he becomes twenty-three years of age,] WHO IS NOT ELIGIBLE FOR COVERAGE UNDER A POLICY OF ACCIDENT AND HEALTH INSURANCE OFFERED THROUGH HIS OR HER EMPLOYER, provided that the coverage of any such "family contract" may include, at the option of the insurer, any unmarried child until attaining age twenty-five, and provided also that the coverage of any such "family contract" shall include any other unmarried child, regardless of age, who is incapable of self-sustaining employment by reason of mental illness, developmental disability, mental retardation, as defined in the mental hygiene law, or physical handicap and who became so incapable prior to attainment of the age at which dependent coverage would otherwise terminate, so that such child may be considered a dependent. Notwithstanding any rule, regulation or law to the contrary, any "family contract" shall provide that coverage of newborn infants, including newly born infants adopted by the insured or subscriber if such insured or subscriber takes physical custody of the infant upon such infant's release from the hospital and files a petition pursuant to section one hundred fifteen-c of the domestic relations law within thirty days of birth; and provided further that no notice of revocation to the adoption has been filed pursuant to section one hundred fifteen-b of the domestic relations law and consent to the adoption has not been revoked, shall be effective from the moment of birth for injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities including premature birth, except that in cases of adoption, coverage of the initial hospital stay shall not be required where a birth parent has insurance coverage available for the infant's care. This provision regarding coverage of newborn infants shall not apply to two person coverage. In the case of individual or two person coverages the corporation must also permit the person to whom the policy is issued to elect such coverage of newborn infants from the moment of birth. If notification and/or payment of an additional premium or contribution is required to make coverage effective for a newborn infant, the coverage may provide that such notice and/or payment be made within no less than thirty days of the day of birth to make coverage effective from the moment of birth. This election shall not be required in the case of student insurance or where the group remitting agent's plan does not provide coverage for dependent children.

S 3. Paragraph 1 of subsection (c) of section 4305 of the insurance law, as amended by chapter 312 of the laws of 2002, is amended to read as follows:

(1) Any such contract may provide that benefits will be furnished to a member of a covered group, for himself, his spouse, his child or children, or other persons chiefly dependent upon him for support and maintenance; provided that a contract under which coverage of a dependent of a member terminates at a specified age, WHICH SHALL NOT BE LESS THAN TWENTY-FIVE YEARS FOR AN UNMARRIED DEPENDENT CHILD WHO IS NOT ELIGIBLE FOR COVERAGE BY A POLICY OF ACCIDENT AND HEALTH INSURANCE OFFERED BY HIS OR HER EMPLOYER, shall, with respect to an unmarried child who is incapable of self-sustaining employment by reason of mental illness, devel-

opmental disability, mental retardation, as defined in the mental hygiene law, or physical handicap and who became so incapable prior to attainment of the age at which dependent coverage would otherwise terminate and who is chiefly dependent upon such member for support and maintenance, not so terminate while the contract remains in force and the dependent remains in such condition, if the member has within thirty-one days of such dependent's attainment of the termination age submitted proof of such dependent's incapacity as described herein. Notwithstanding any rule, regulation or law to the contrary, any contract under which a member elects coverage for himself, his spouse, his children or other persons chiefly dependent upon him for support and maintenance shall provide that coverage of newborn infants, including newly born infants adopted by the insured or subscriber if such insured or subscriber takes physical custody of the infant upon such infant's release from the hospital and files a petition pursuant to section one hundred fifteen-c of the domestic relations law within thirty days of birth; and provided further that no notice of revocation to the adoption has been filed pursuant to section one hundred fifteen-b of the domestic relations law and consent to the adoption has not been revoked, shall be effective from the moment of birth for injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities including premature birth, except that in cases of adoption, coverage of the initial hospital stay shall not be required where a birth parent has insurance coverage available for the infant's care. This provision regarding coverage of newborn infants shall not apply to two person coverage. In the case of individual or two person coverages the corporation must also permit the person to whom the certificate is issued to elect such coverage of newborn infants from the moment of birth. If notification and/or payment of an additional premium or contribution is required to make coverage effective for a newborn infant, the coverage may provide that such notice and/or payment be made within no less than thirty days of the day of birth to make coverage effective from the moment of birth. This election shall not be required in the case of student insurance or where the group's plan does not provide coverage for dependent children.

S 4. This act shall take effect immediately and shall apply to policies issued, renewed, modified or amended on and after such date.