

2736

2009-2010 Regular Sessions

I N S E N A T E

February 27, 2009

Introduced by Sens. LARKIN, BONACIC, HANNON, LEIBELL, MORAHAN, SALAND, SEWARD, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring accident and health insurers and non-profit health plans to provide coverage of unmarried children until age twenty-six and directing the superintendent of insurance to order a study thereof; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. Paragraph 4 of subsection (a) of section 3216 of the insur-
2 ance law, as amended by section 65-d of part A of chapter 58 of the laws
3 of 2007, is amended to read as follows:
4 (4) "Dependent children" (A) shall include any children under a speci-
5 fied age which shall not exceed age nineteen except:
6 (i) Any unmarried dependent child, regardless of age, who is incapable
7 of self-sustaining employment by reason of mental illness, developmental
8 disability, or mental retardation as defined in the mental hygiene law,
9 or physical handicap and who became so incapable prior to the age at
10 which dependent coverage would otherwise terminate, shall be included in
11 coverage subject to any pre-existing conditions limitation applicable to
12 other dependents.
13 (ii) Any unmarried student at an accredited institution of learning
14 may be considered a dependent child until attaining age twenty-three.
15 (B) may include[, at the option of the insurer,] AND EACH INSURER
16 SHALL OFFER COVERAGE FOR any unmarried child OVER THE AGE OF NINETEEN
17 until attaining age [twenty-five] TWENTY-SIX.
18 S 2. Paragraph 3 of subsection (c) of section 3216 of the insurance
19 law is amended to read as follows:
20 (3) It purports to insure only one person, except that a policy may
21 insure, originally or by subsequent amendment, members of a family, as

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

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1 defined herein, upon the application of an adult member of the family
2 who shall be deemed the policyholder, AND, AT THE OPTION OF THE INSURED,
3 SHALL INCLUDE DEPENDENT CHILDREN AS DEFINED IN SUBPARAGRAPH (B) OF PARA-
4 GRAPH FOUR OF SUBSECTION (A) OF THIS SECTION. IN ANY CASE IN WHICH
5 COVERAGE OF SUCH DEPENDENT CHILDREN IS PROVIDED, THE COST OF SUCH COVER-
6 AGE SHALL BE PAID FOR BY THE POLICYHOLDER.

7 S 3. Section 3221 of the insurance law is amended by adding a new
8 subsection (a-1) to read as follows:

9 (A-1) AN INSURER SHALL OFFER COVERAGE TO ANY UNMARRIED CHILD OF AN
10 INSURED WHEN SUCH CHILD IS OVER THE AGE OF NINETEEN AND HAS NOT ATTAINED
11 THE AGE OF TWENTY-SIX. PROVIDED, THAT SUCH COVERAGE SHALL NOT LIMIT OR
12 OTHERWISE QUALIFY ANY COVERAGE PROVIDED BY THE INSURER TO DEPENDENT
13 CHILDREN AS DEFINED IN SUBPARAGRAPH (A) OF PARAGRAPH FOUR OF SUBSECTION
14 (A) OF SECTION THREE THOUSAND TWO HUNDRED SIXTEEN OF THIS ARTICLE.
15 PROVIDED, FURTHER, THAT, SHOULD COVERAGE OF DEPENDENT CHILDREN, AS
16 DEFINED IN SUBPARAGRAPH (B) OF PARAGRAPH FOUR OF SUBSECTION (A) OF
17 SECTION THREE THOUSAND TWO HUNDRED SIXTEEN OF THIS ARTICLE, BE PROVIDED,
18 THE COST OF SUCH COVERAGE SHALL BE PAID FOR BY THE EMPLOYER OR PERSON IN
19 WHOSE NAME SUCH POLICY IS ISSUED; PROVIDED THAT SUCH EMPLOYER OR PERSON
20 MAY REQUIRE SUCH MEMBER OF AN INSURED GROUP TO PAY PART OR ALL OF THE
21 POLICY RIDER COST.

22 S 4. Paragraph 7 of subsection (a) of section 3221 of the insurance
23 law is amended to read as follows:

24 (7) The ages, to which the insurance provided therein shall be limit-
25 ed; and the ages, for which additional restrictions are placed on bene-
26 fits, and the additional restrictions placed on the benefits at such
27 ages. PROVIDED THAT, AT THE OPTION OF THE INSURED, INSURANCE COVERAGE
28 SHALL BE PROVIDED FOR DEPENDENT CHILDREN AS DEFINED IN SUBPARAGRAPH (B)
29 OF PARAGRAPH FOUR OF SUBSECTION (A) OF SECTION THREE THOUSAND TWO
30 HUNDRED SIXTEEN OF THIS ARTICLE. IN ANY CASE IN WHICH COVERAGE OF SUCH
31 DEPENDENT CHILDREN IS PROVIDED, THE COST OF SUCH COVERAGE SHALL BE PAID
32 FOR BY THE EMPLOYER OR PERSON IN WHOSE NAME SUCH POLICY IS ISSUED;
33 PROVIDED THAT SUCH EMPLOYER OR PERSON MAY REQUIRE SUCH MEMBER OF AN
34 INSURED GROUP TO PAY PART OR ALL OF THE POLICY RIDER COST.

35 S 5. The insurance law is amended by adding a new section 4302-a to
36 read as follows:

37 S 4302-A. COVERAGE OF CHILDREN. A CONTRACT ISSUED BY A MEDICAL INDEM-
38 NITY CORPORATION OR HEALTH SERVICE CORPORATION SHALL, AT THE OPTION OF
39 THE HOLDER OF SUCH CONTRACT OR PERSONS HOLDING INDIVIDUAL CONTRACTS,
40 PROVIDE COVERAGE TO ANY UNMARRIED CHILD OF A COVERED INDIVIDUAL FROM AGE
41 NINETEEN UNTIL AGE TWENTY-SIX. PROVIDED, THAT SUCH COVERAGE SHALL NOT
42 LIMIT OR OTHERWISE QUALIFY ANY COVERAGE PROVIDED BY SUCH CORPORATION TO
43 DEPENDENT CHILDREN AS DEFINED IN SUBPARAGRAPH (A) OF PARAGRAPH FOUR OF
44 SUBSECTION (A) OF SECTION THREE THOUSAND TWO HUNDRED SIXTEEN OF THIS
45 CHAPTER. IN ANY CASE IN WHICH COVERAGE OF DEPENDENT CHILDREN, AS DEFINED
46 IN SUBPARAGRAPH (B) OF PARAGRAPH FOUR OF SUBSECTION (A) OF SECTION THREE
47 THOUSAND TWO HUNDRED SIXTEEN OF THIS CHAPTER, IS PROVIDED, THE COST OF
48 SUCH COVERAGE SHALL BE PAID FOR BY THE CONTRACT HOLDER OR PERSON IN
49 WHOSE NAME SUCH CONTRACT IS ISSUED; PROVIDED THAT SUCH HOLDER OR PERSON
50 MAY REQUIRE THE COVERED PERSON TO PAY PART OR ALL OF THE CONTRACT RIDER
51 COST.

52 S 6. Paragraph 1 of subsection (d) of section 4304 of the insurance
53 law, as amended by section 65-e of part A of chapter 58 of the laws of
54 2007, is amended to read as follows:

55 (1) No contract issued pursuant to this section shall entitle more
56 than one person to benefits except that a contract issued and marked as

1 a "family contract" may provide that benefits will be furnished to a
2 husband and wife, or husband, wife and their dependent child or chil-
3 dren, or any child or children not over nineteen years of age, provided
4 that an unmarried student at an accredited institution of learning may
5 be considered a dependent until he becomes twenty-three years of age,
6 provided that the coverage of any such "family contract" [may] SHALL
7 include, at the option of the insurer, any unmarried child FROM THE AGE
8 OF NINETEEN until attaining age [twenty-five] TWENTY-SIX, and provided
9 also that the coverage of any such "family contract" shall include any
10 other unmarried child, regardless of age, who is incapable of self-sus-
11 taining employment by reason of mental illness, developmental disabili-
12 ty, mental retardation, as defined in the mental hygiene law, or phys-
13 ical handicap and who became so incapable prior to attainment of the age
14 at which dependent coverage would otherwise terminate, so that such
15 child may be considered a dependent. Notwithstanding any rule, regu-
16 lation or law to the contrary, any "family contract" shall provide that
17 coverage of newborn infants, including newly born infants adopted by the
18 insured or subscriber if such insured or subscriber takes physical
19 custody of the infant upon such infant's release from the hospital and
20 files a petition pursuant to section one hundred fifteen-c of the domes-
21 tic relations law within thirty days of birth; and provided further that
22 no notice of revocation to the adoption has been filed pursuant to
23 section one hundred fifteen-b of the domestic relations law and consent
24 to the adoption has not been revoked, shall be effective from the moment
25 of birth for injury or sickness including the necessary care and treat-
26 ment of medically diagnosed congenital defects and birth abnormalities
27 including premature birth, except that in cases of adoption, coverage of
28 the initial hospital stay shall not be required where a birth parent has
29 insurance coverage available for the infant's care. This provision
30 regarding coverage of newborn infants shall not apply to two person
31 coverage. In the case of individual or two person coverages the corpo-
32 ration must also permit the person to whom the policy is issued to elect
33 such coverage of newborn infants from the moment of birth. If notifica-
34 tion and/or payment of an additional premium or contribution is required
35 to make coverage effective for a newborn infant, the coverage may
36 provide that such notice and/or payment be made within no less than
37 thirty days of the day of birth to make coverage effective from the
38 moment of birth. This election shall not be required in the case of
39 student insurance or where the group remitting agent's plan does not
40 provide coverage for dependent children. IN ANY CASE IN WHICH COVERAGE
41 OF DEPENDENT CHILDREN, AS DEFINED IN SUBPARAGRAPH (B) OF PARAGRAPH FOUR
42 OF SUBSECTION (A) OF SECTION THREE THOUSAND TWO HUNDRED SIXTEEN OF THIS
43 CHAPTER, IS PROVIDED, THE COST OF SUCH COVERAGE SHALL BE PAID FOR BY THE
44 CONTRACT HOLDER OR PERSON IN WHOSE NAME SUCH CONTRACT IS ISSUED;
45 PROVIDED THAT SUCH HOLDER OR PERSON MAY REQUIRE THE COVERED PERSON TO
46 PAY PART OR ALL OF THE CONTRACT RIDER COST.

47 S 7. The insurance law is amended by adding a new section 215 to read
48 as follows:

49 S 215. STUDY OF COVERAGE OF DEPENDENT CHILDREN. THE SUPERINTENDENT
50 SHALL ORDER A STUDY OF THE UTILIZATION TRENDS AND EXPERIENCE AND THE
51 RATE AND PREMIUM IMPACT TO HEALTH INSURANCE CONSUMERS OF THE ADDITIONAL
52 INSURANCE COVERAGE OF DEPENDENT CHILDREN REQUIRED BY THE CHAPTER OF THE
53 LAWS OF TWO THOUSAND NINE WHICH ADDED THIS SECTION. SUCH STUDY SHALL BE
54 PERFORMED BY A MEMBER OF THE AMERICAN ACADEMY OF ACTUARIES. THE STUDY
55 SHALL BE COMPLETED AND A REPORT SUBMITTED ON OR BEFORE SEPTEMBER FIRST,

1 TWO THOUSAND TWELVE TO THE GOVERNOR, THE SUPERINTENDENT, THE TEMPORARY
2 PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY.

3 S 8. This act shall take effect January 1, 2010 and shall apply to
4 policies and contracts issued, renewed, modified, altered or amended on
5 or after such effective date; provided, that this act shall expire and
6 be deemed repealed December 31, 2013.