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

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:

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 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,] AND EACH INSURER SHALL OFFER COVERAGE FOR any unmarried child OVER THE AGE OF NINETEEN until attaining age [twenty-five] TWENTY-SIX.

S 2. Paragraph 3 of subsection (c) of section 3216 of the insurance law is amended to read as follows:

(3) It purports to insure only one person, except that a policy may 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.

LBD09815-01-9

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

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

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

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

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

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

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

S 6. 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:

(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 provide that benefits will be furnished to a husband and wife, or husband, wife and their dependent child or children, or any child or children not over nineteen 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, provided that the coverage of any such "family contract" [may] SHALL include, at the option of the insurer, any unmarried child FROM THE AGE OF NINETEEN until attaining age [twenty-five] TWENTY-SIX, 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. IN ANY CASE IN WHICH COVERAGE OF DEPENDENT CHILDREN, AS DEFINED IN SUBPARAGRAPH (B) OF PARAGRAPH FOUR OF SUBSECTION (A) OF SECTION THREE THOUSAND TWO HUNDRED SIXTEEN OF THIS CHAPTER, IS PROVIDED, THE COST OF SUCH COVERAGE SHALL BE PAID FOR BY THE CONTRACT HOLDER OR PERSON IN WHOSE NAME SUCH CONTRACT IS ISSUED; PROVIDED THAT SUCH HOLDER OR PERSON MAY REQUIRE THE COVERED PERSON TO PAY PART OR ALL OF THE CONTRACT RIDER COST.

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

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

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

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