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

202

Third Extraordinary Session

I N S E N A T E

June 24, 2009

Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the insurance law, in relation to extending state continuation benefits from eighteen months to thirty-six months

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

Section 1. Paragraphs 4 and 6 of subsection (m) of section 3221 of the insurance law, paragraph 4 as amended by chapter 501 of the laws of 1992, subparagraph D of paragraph 4 as amended by chapter 661 of the laws of 1997, paragraph 6 as added by chapter 210 of the laws of 1987, are amended to read as follows:

(4) Subject to paragraph one of this subsection, continuation of benefits under the group policy for any person shall terminate at the first to occur of the following:

(A) The date [eighteen] THIRTY-SIX months after the date the employee's or member's benefits under the policy would otherwise have terminated because of termination of employment or membership; or

(B) The end of the period for which premium payments were made, if the employee or member fails to make timely payment of a required premium payment; or

(C) In the case of an eligible dependent of an employee or member, the date thirty-six months after the date such person's benefits under the policy would otherwise have terminated by reason of:

(i) the death of the employee or member;

(ii) the divorce or legal separation of the employee or member from his or her spouse;

(iii) the employee or member becoming entitled to benefits under title XVIII of the United States Social Security Act (Medicare); or

(iv) a dependent child ceasing to be a dependent child under the generally applicable requirements of the policy; or

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

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(D) [In the case of an employee or member who is determined, under title II or title XVI of the Social Security Act, to have been disabled at the time of termination of employment or membership or at any time during the first sixty days of continuation of coverage, the date twenty-nine months after the date the employee's or member's benefits under the policy would otherwise have terminated because of termination of employment or membership; provided, however, that if such employee or member is no longer disabled, the benefits provided in this subparagraph shall terminate the later of (i) the date provided by subparagraph (A) of this paragraph, or (ii) the month that begins more than thirty-one days after the date of the final determination under title II or title XVI of the United States Social Security Act that the employee or member is no longer disabled; or

(E)] The date on which the group policy is terminated or, in the case of an employee, the date his employer terminates participation under the group policy. However, if this clause applies and the coverage ceasing by reason of such termination is replaced by similar coverage under another group policy, the following shall apply:

(i) The employee or member shall have the right to become covered under that other group policy, for the balance of the period that he would have remained covered under the prior group policy in accordance with this subparagraph had a termination described in this subparagraph not occurred, and

(ii) The minimum level of benefits to be provided by the other group policy shall be the applicable level of benefits of the prior group policy reduced by any benefits payable under that prior group policy, and

(iii) The prior group policy shall continue to provide benefits to the extent of its accrued liabilities and extension of benefits as if the replacement had not occurred.

(6) This subsection shall not be applicable where a continuation benefit is available to the employee or member pursuant to Chapter 18 of the Employee Retirement Income Security Act, 29 U.S.C. S 1161 et seq or Chapter 6A of the Public Health Service Act, 42 U.S.C. S 300 bb - 1 et seq. HOWEVER, A GROUP POLICY SHALL OFFER AN INSURED WHO HAS EXHAUSTED CONTINUATION COVERAGE PURSUANT TO CHAPTER 18 OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT, 29 U.S.C. S 1161 ET SEQ. OR CHAPTER 6A OF THE PUBLIC HEALTH SERVICE ACT, 42 U.S.C. S 300 BB - 1 ET SEQ. THE OPPORTUNITY TO CONTINUE COVERAGE FOR UP TO THIRTY-SIX MONTHS FROM THE DATE THE EMPLOYEE'S OR MEMBER'S CONTINUATION COVERAGE BEGAN, IF THE EMPLOYEE OR MEMBER IS ENTITLED TO LESS THAN THIRTY-SIX MONTHS OF CONTINUATION BENEFITS UNDER FEDERAL LAW.

S 2. Paragraph 4 of subsection (k) of section 4304 of the insurance law, as added by chapter 501 of the laws of 1992, subparagraph D as amended by chapter 661 of the laws of 1997, is amended and a new paragraph 5 is added to read as follows:

(4) Subject to paragraph one of this subsection, continuation of benefits under the group remittance contract for any person shall terminate at the first to occur of the following:

(A) The date [eighteen] THIRTY-SIX months after the date the employee's or member's benefits under the contract would otherwise have terminated because of termination of employment or membership; or

(B) The end of the period for which premium payments were made, if the employee or member fails to make timely payment of a required premium payment; or

(C) In the case of an eligible dependent of an employee or member, the date thirty-six months after the date such person's benefits under the contract would otherwise have terminated by reason of:

(i) the death of the employee or member;

(ii) the divorce or legal separation of the employee or member from his or her spouse;

(iii) the employee or member becoming entitled to benefits under title XVIII of the United States Social Security Act (Medicare); or

(iv) a dependent child ceasing to be a dependent child under the generally applicable requirements of the contract; or

(D) [In the case of an employee or member who is determined, under title II or title XVI of the Social Security Act, to have been disabled at the time of the termination of employment or membership or at any time during the first sixty days of continuation of coverage, the date twenty-nine months after the date the employee's or member's benefits under the contract would otherwise have terminated because of termination of employment or membership; provided, however, that if such employee or member is no longer disabled, the benefits provided in this subparagraph shall terminate the later of (i) the date provided by subparagraph (A) of this paragraph, or (ii) the month that begins more than thirty-one days after the date of the final determination under title II or title XVI of the United States Social Security Act that the employee or member is no longer disabled; or

(E)] The date on which the group remittance contract with that remitting agent is terminated or, in the case of an employee, the date his employer terminates participation under the group remittance contract. However, if this clause applies and the coverage ceasing by reason of such termination is replaced by similar coverage under another group or group remittance contract, the following shall apply:

(i) The employee or member shall have the right to become covered under that other group or group remittance contract, for the balance of the period that he would have remained covered under the prior group remittance contract in accordance with this subparagraph had a termination described in this subparagraph not occurred, and

(ii) The minimum level of benefits to be provided by the other group or group remittance contract shall be the applicable level of benefits of the prior group remittance contract reduced by any benefits payable under that prior group remittance contract, and

(iii) The prior group remittance contract shall continue to provide benefits to the extent of its accrued liabilities and extension of benefits as if the replacement had not occurred.

(5) A CONTRACT FOR WHICH PREMIUMS ARE PAID BY A REMITTING AGENT FOR A GROUP ISSUED BY A HOSPITAL SERVICE, HEALTH SERVICE OR MEDICAL EXPENSE INDEMNITY CORPORATION SHALL OFFER AN EMPLOYEE OR MEMBER WHO HAS EXHAUSTED CONTINUATION COVERAGE PURSUANT TO CHAPTER 18 OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT, 29 U.S.C. S 1161 ET SEQ. OR CHAPTER 6A OF THE PUBLIC HEALTH SERVICE ACT, 42 U.S.C. S 300 BB - 1 ET SEQ. THE OPPORTUNITY TO CONTINUE COVERAGE FOR UP TO THIRTY-SIX MONTHS FROM THE DATE THE EMPLOYEE'S OR MEMBER'S CONTINUATION COVERAGE BEGAN IF THE EMPLOYEE OR MEMBER IS ENTITLED TO LESS THAN THIRTY-SIX MONTHS OF CONTINUATION BENEFITS.

S 3. Paragraphs 4 and 7 of subsection (e) of section 4305 of the insurance law, paragraph 4 as amended by chapter 677 of the laws of 1993, subparagraph D of paragraph 4 as amended by chapter 661 of the laws of 1997, paragraph 7 as added by chapter 210 of the laws of 1987, are amended to read as follows:

(4) Subject to paragraph one of this subsection, continuation of benefits under the group contract for any person shall terminate at the first to occur of the following:

(A) The date [eighteen] THIRTY-SIX months after the date the employee's or member's benefits under the contract would otherwise have terminated because of termination of employment or membership; or

(B) The end of the period for which premium payments were made, if the employee or member fails to make timely payment of a required premium payment; or

(C) In the case of an eligible dependent of an employee or member, the date thirty-six months after the date such person's benefits under the contract would otherwise have terminated by reason of:

(i) the death of the employee or member;

(ii) the divorce or legal separation of the employee or member from his or her spouse;

(iii) the employee or member becoming entitled to benefits under title XVIII of the United States Social Security Act (Medicare); or

(iv) a dependent child ceasing to be a dependent child under the generally applicable requirements of the contract; or

(D) [In the case of an employee or member who is determined, under title II or title XVI of the Social Security Act, to have been disabled at the time of termination of employment or membership or at any time during the first sixty days of continuation of coverage, the date twenty-nine months after the date the employee's or member's benefits under the contract would otherwise have terminated because of termination of employment or membership; provided, however, that if such employee or member is no longer disabled, the benefits provided in this subparagraph shall terminate the later of (i) the date provided by subparagraph (A) of this paragraph, or (ii) the month that begins more than thirty-one days after the date of the final determination under title II or title XVI of the United States Social Security Act that the employee or member is no longer disabled; or

(E)] The date on which the group contract is terminated or, in the case of an employee, the date his employer terminated participation under the group contract. However, if this clause applies and the coverage ceasing by reason of such termination is replaced by similar coverage under another group contract, the following shall apply:

(i) The employee or member shall have the right to become covered under that other group contract, for the balance of the period that he would have remained covered under the prior group contract in accordance with this subparagraph had a termination described in this subparagraph not occurred, and

(ii) The minimum level of benefits to be provided by the other group contract shall be the applicable level of benefits of the prior group contract reduced by any benefits payable under the prior group contract, and

(iii) The prior group contract shall continue to provide benefits to the extent of its accrued liabilities and extensions of benefits as if the replacement had not occurred.

(7) This subsection shall not be applicable where a continuation benefit is available to the employee or member pursuant to Chapter 18 of the Employee Retirement Income Security Act, 29 U.S.C. S 1161 et seq or Chapter 6A of the Public Health Service Act, 42 U.S.C. S 300 bb - 1 et seq. HOWEVER, A GROUP CONTRACT SHALL OFFER AN EMPLOYEE OR MEMBER WHO HAS EXHAUSTED CONTINUATION COVERAGE PURSUANT TO CHAPTER 18 OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT, 29 U.S.C. S 1161 ET SEQ. OR

CHAPTER 6A OF THE PUBLIC HEALTH SERVICE ACT, 42 U.S.C. S 300 BB - 1 ET SEQ. THE OPPORTUNITY TO CONTINUE COVERAGE FOR UP TO THIRTY-SIX MONTHS FROM THE DATE THE EMPLOYEE'S OR MEMBER'S CONTINUATION COVERAGE BEGAN IF THE EMPLOYEE OR MEMBER IS ENTITLED TO LESS THAN THIRTY-SIX MONTHS OF CONTINUATION BENEFITS.

S 4. This act shall take effect on July 1, 2009 and shall apply to policies and contracts issued, renewed, modified, altered or amended on or after such date.