

5471

2009-2010 Regular Sessions

I N S E N A T E

May 8, 2009

Introduced by Sens. BRESLIN, DUANE, ESPADA, FOLEY, HASSELL-THOMPSON, KRUEGER, ONORATO, SAMPSON, STAVISKY, STEWART-COUSINS -- (at request of the Governor) -- 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 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:

1 Section 1. Paragraphs 4 and 6 of subsection (m) of section 3221 of the
2 insurance law, paragraph 4 as amended by chapter 501 of the laws of
3 1992, subparagraph D of paragraph 4 as amended by chapter 661 of the
4 laws of 1997, paragraph 6 as added by chapter 210 of the laws of 1987,
5 are amended to read as follows:

6 (4) Subject to paragraph one of this subsection, continuation of bene-
7 fits under the group policy for any person shall terminate at the first
8 to occur of the following:

9 (A) The date [eighteen] THIRTY-SIX months after the date the employ-
10 ee's or member's benefits under the policy would otherwise have termi-
11 nated because of termination of employment or membership; or

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

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

18 (i) the death of the employee or member;

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

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

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

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

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

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

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

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

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

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

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

49 (4) Subject to paragraph one of this subsection, continuation of bene-
50 fits under the group remittance contract for any person shall terminate
51 at the first to occur of the following:

52 (A) The date [eighteen] THIRTY-SIX months after the date the employ-
53 ee's or member's benefits under the contract would otherwise have termi-
54 nated because of termination of employment or membership; or

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

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

7 (i) the death of the employee or member;
8 (ii) the divorce or legal separation of the employee or member from
9 his or her spouse;

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

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

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

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

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

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

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

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

55 S 3. Paragraphs 4 and 7 of subsection (e) of section 4305 of the
56 insurance law, paragraph 4 as amended by chapter 677 of the laws of

1 1993, subparagraph D of paragraph 4 as amended by chapter 661 of the
2 laws of 1997, paragraph 7 as added by chapter 210 of the laws of 1987,
3 are amended to read as follows:

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

7 (A) The date [eighteen] THIRTY-SIX months after the date the employ-
8 ee's or member's benefits under the contract would otherwise have termi-
9 nated because of termination of employment or membership; or

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

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

16 (i) the death of the employee or member;

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

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

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

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

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

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

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

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

53 (7) This subsection shall not be applicable where a continuation bene-
54 fit is available to the employee or member pursuant to Chapter 18 of the
55 Employee Retirement Income Security Act, 29 U.S.C. S 1161 et seq or
56 Chapter 6A of the Public Health Service Act, 42 U.S.C. S 300 bb - 1 et

1 seq. HOWEVER, A GROUP CONTRACT SHALL OFFER AN EMPLOYEE OR MEMBER WHO
2 HAS EXHAUSTED CONTINUATION COVERAGE PURSUANT TO CHAPTER 18 OF THE
3 EMPLOYEE RETIREMENT INCOME SECURITY ACT, 29 U.S.C. S 1161 ET SEQ. OR
4 CHAPTER 6A OF THE PUBLIC HEALTH SERVICE ACT, 42 U.S.C. S 300 BB - 1 ET
5 SEQ. THE OPPORTUNITY TO CONTINUE COVERAGE FOR UP TO THIRTY-SIX MONTHS
6 FROM THE DATE THE EMPLOYEE'S OR MEMBER'S CONTINUATION COVERAGE BEGAN IF
7 THE EMPLOYEE OR MEMBER IS ENTITLED TO LESS THAN THIRTY-SIX MONTHS OF
8 CONTINUATION BENEFITS.

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