

Twentieth Extraordinary Session

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

November 10, 2009

IN SENATE -- Introduced by Sen. BRESLIN -- (at request of the Governor)
-- read twice and ordered printed, and when printed to be committed to
the Committee on Rules

IN ASSEMBLY -- Introduced by COMMITTEE ON RULES -- (at request of M. of
A. Peoples-Stokes, Morelle) -- (at request of the Governor) -- read
once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to establishing a special
enrollment period for certain employees and members applying for
continuation of health insurance coverage; to amend chapter 236 of the
laws of 2009, amending the insurance law relating to extending state
continuation benefits from eighteen months to thirty-six months, in
relation to the application thereof; and providing for the repeal of
certain provisions upon the expiration thereof

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

1 Section 1. Subsection (m) of section 3221 of the insurance law is
2 amended by adding a new paragraph 8 to read as follows:
3 (8)(A) AN EMPLOYEE OR MEMBER WHOSE CONTINUATION COVERAGE PURSUANT TO
4 THIS SUBSECTION OR CHAPTER 18 OF THE EMPLOYEE RETIREMENT INCOME SECURITY
5 ACT, 29 U.S.C. S 1161 ET SEQ. OR CHAPTER 6A OF THE PUBLIC HEALTH SERVICE
6 ACT, 42 U.S.C. S 300 BB - 1 ET SEQ., ESTABLISHED BY THE CONSOLIDATED
7 OMNIBUS RECONCILIATION ACT OF 1985, AS AMENDED, EXHAUSTED: (I) BETWEEN
8 THE FIRST OF JULY, TWO THOUSAND NINE AND THE FIRST OF NOVEMBER, TWO
9 THOUSAND NINE; AND (II) PRIOR TO THE GROUP CONTRACT'S RENEWAL, MODIFICA-
10 TION, ALTERATION OR AMENDMENT, SHALL BE ENTITLED TO A SPECIAL ENROLLMENT
11 PERIOD DURING WHICH THE EMPLOYEE OR MEMBER MAY EXTEND CONTINUATION
12 COVERAGE. THE SPECIAL ENROLLMENT PERIOD SHALL RUN FOR SIXTY DAYS
13 FOLLOWING RECEIPT OF NOTICE UNDER SUBPARAGRAPH (E) OF THIS PARAGRAPH OR
14 IF NOTICE IS NOT RECEIVED SIX MONTHS FROM THE LATER OF THE FIRST OF
15 NOVEMBER, TWO THOUSAND NINE OR THE EFFECTIVE DATE OF THIS PARAGRAPH.

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

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1 (B) COVERAGE ISSUED DURING THE SPECIAL ENROLLMENT PERIOD SET FORTH IN
2 SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL BE PROSPECTIVE AND SHALL TAKE
3 EFFECT NO LATER THAN THIRTY DAYS AFTER THE EMPLOYEE OR MEMBER ELECTS THE
4 EXTENSION AND PAYS THE FIRST PREMIUM.

5 (C) AN EMPLOYEE OR MEMBER WHO EXTENDS CONTINUATION COVERAGE DURING THE
6 SPECIAL ENROLLMENT PERIOD SET FORTH IN SUBPARAGRAPH (A) OF THIS PARA-
7 GRAPH SHALL BE ENTITLED TO CONTINUATION COVERAGE FOR UP TO A TOTAL OF
8 THIRTY-SIX MONTHS, INCLUSIVE OF ANY COVERAGE PERIOD EXHAUSTED UNDER THIS
9 SUBSECTION OR CHAPTER 18 OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT,
10 29 U.S.C. S 1161 ET SEQ. OR CHAPTER 6A OF THE PUBLIC HEALTH SERVICE ACT,
11 42 U.S.C. S 300 BB - 1 ET SEQ., ESTABLISHED BY THE CONSOLIDATED OMNIBUS
12 RECONCILIATION ACT OF 1985, AS AMENDED.

13 (D) ANY GAP IN COVERAGE BETWEEN THE FIRST OF JULY, TWO THOUSAND NINE
14 THROUGH THE EFFECTIVE DATE OF THE COVERAGE ISSUED DURING THE SPECIAL
15 ENROLLMENT PERIOD SET FORTH IN SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL
16 NOT REDUCE THE THIRTY-SIX MONTH PERIOD OF CONTINUATION COVERAGE TO WHICH
17 AN EMPLOYEE OR MEMBER IS ENTITLED UNDER THIS SUBSECTION, AND SHALL BE
18 DISREGARDED FOR PURPOSES OF DETERMINING THE SIXTY-THREE DAY PERIOD TO
19 WHICH SECTION THREE THOUSAND TWO HUNDRED THIRTY-TWO OF THIS ARTICLE
20 REFERS.

21 (E) WITHIN THIRTY DAYS OF THE EFFECTIVE DATE OF THIS PARAGRAPH, AN
22 INSURER SHALL MAKE REASONABLE EFFORTS TO PROVIDE WRITTEN NOTIFICATION OF
23 THE SPECIAL ENROLLMENT PERIOD SET FORTH IN SUBPARAGRAPH (A) OF THIS
24 PARAGRAPH TO ALL GROUP POLICYHOLDERS AND FORMER EMPLOYEES OR MEMBERS
25 ENTITLED TO THE SPECIAL ENROLLMENT PERIOD.

26 S 2. Paragraph 5 of subsection (k) of section 4304 of the insurance
27 law, as added by chapter 236 of the laws of 2009, is renumbered para-
28 graph 6 and a new paragraph 7 is added to read as follows:

29 (7)(A) AN EMPLOYEE OR MEMBER WHOSE CONTINUATION COVERAGE PURSUANT TO
30 THIS SUBSECTION OR CHAPTER 18 OF THE EMPLOYEE RETIREMENT INCOME SECURITY
31 ACT, 29 U.S.C. S 1161 ET SEQ. OR CHAPTER 6A OF THE PUBLIC HEALTH SERVICE
32 ACT, 42 U.S.C. S 300 BB - 1 ET SEQ., ESTABLISHED BY THE CONSOLIDATED
33 OMNIBUS RECONCILIATION ACT OF 1985, AS AMENDED, EXHAUSTED: (I) BETWEEN
34 THE FIRST OF JULY, TWO THOUSAND NINE AND THE FIRST OF NOVEMBER, TWO
35 THOUSAND NINE; AND (II) PRIOR TO THE GROUP CONTRACT'S RENEWAL, MODIFICA-
36 TION, ALTERATION OR AMENDMENT, SHALL BE ENTITLED TO A SPECIAL ENROLLMENT
37 PERIOD DURING WHICH THE EMPLOYEE OR MEMBER MAY EXTEND CONTINUATION
38 COVERAGE. THE SPECIAL ENROLLMENT PERIOD SHALL RUN FOR SIXTY DAYS FOLLOW-
39 ING RECEIPT OF NOTICE UNDER SUBPARAGRAPH (E) OF THIS PARAGRAPH OR IF
40 NOTICE IS NOT RECEIVED SIX MONTHS FROM THE LATER OF THE FIRST OF NOVEM-
41 BER, TWO THOUSAND NINE OR THE EFFECTIVE DATE OF THIS PARAGRAPH.

42 (B) COVERAGE ISSUED DURING THE SPECIAL ENROLLMENT PERIOD SET FORTH IN
43 SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL BE PROSPECTIVE, AND SHALL TAKE
44 EFFECT NO LATER THAN THIRTY DAYS AFTER THE EMPLOYEE OR MEMBER ELECTS THE
45 EXTENSION AND PAYS THE FIRST PREMIUM.

46 (C) AN EMPLOYEE OR MEMBER WHO EXTENDS CONTINUATION COVERAGE DURING THE
47 SPECIAL ENROLLMENT PERIOD SET FORTH IN SUBPARAGRAPH (A) OF THIS PARA-
48 GRAPH SHALL BE ENTITLED TO CONTINUATION COVERAGE FOR UP TO A TOTAL OF
49 THIRTY-SIX MONTHS, INCLUSIVE OF ANY COVERAGE PERIOD EXHAUSTED UNDER THIS
50 SUBSECTION OR CHAPTER 18 OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT,
51 29 U.S.C. S 1161 ET SEQ. OR CHAPTER 6A OF THE PUBLIC HEALTH SERVICE ACT,
52 42 U.S.C. S 300 BB - 1 ET SEQ., ESTABLISHED BY THE CONSOLIDATED OMNIBUS
53 RECONCILIATION ACT OF 1985, AS AMENDED.

54 (D) ANY GAP IN COVERAGE BETWEEN THE FIRST OF JULY, TWO THOUSAND NINE
55 THROUGH THE EFFECTIVE DATE OF THE COVERAGE ISSUED DURING THE SPECIAL
56 ENROLLMENT PERIOD SET FORTH IN SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL

1 NOT REDUCE THE THIRTY-SIX MONTH TOTAL PERIOD OF CONTINUATION COVERAGE TO
2 WHICH AN EMPLOYEE OR MEMBER IS ENTITLED UNDER THIS SUBSECTION, AND SHALL
3 BE DISREGARDED FOR PURPOSES OF DETERMINING THE SIXTY-THREE DAY PERIOD TO
4 WHICH SECTION FOUR THOUSAND THREE HUNDRED EIGHTEEN OF THIS ARTICLE
5 REFERS.

6 (E) WITHIN THIRTY DAYS OF THE EFFECTIVE DATE OF THIS PARAGRAPH, A
7 CORPORATION SHALL MAKE REASONABLE EFFORTS TO PROVIDE WRITTEN NOTIFICA-
8 TION OF THE SPECIAL ENROLLMENT PERIOD SET FORTH IN SUBPARAGRAPH (A) OF
9 THIS PARAGRAPH TO ALL GROUP REMITTING AGENTS AND FORMER EMPLOYEES OR
10 MEMBERS ENTITLED TO THE SPECIAL ENROLLMENT PERIOD.

11 S 3. Subsection (e) of section 4305 of the insurance law is amended by
12 adding a new paragraph 9 to read as follows:

13 (9)(A) AN EMPLOYEE OR MEMBER WHOSE CONTINUATION COVERAGE PURSUANT TO
14 THIS SUBSECTION OR CHAPTER 18 OF THE EMPLOYEE RETIREMENT INCOME SECURITY
15 ACT, 29 U.S.C. S 1161 ET SEQ. OR CHAPTER 6A OF THE PUBLIC HEALTH SERVICE
16 ACT, 42 U.S.C. S 300 BB - 1 ET SEQ., ESTABLISHED BY THE CONSOLIDATED
17 OMNIBUS RECONCILIATION ACT OF 1985, AS AMENDED, EXHAUSTED: (I) BETWEEN
18 THE FIRST OF JULY, TWO THOUSAND NINE AND THE FIRST OF NOVEMBER, TWO
19 THOUSAND NINE; AND (II) PRIOR TO THE GROUP CONTRACT'S RENEWAL, MODIFICA-
20 TION, ALTERATION OR AMENDMENT, SHALL BE ENTITLED TO A SPECIAL ENROLLMENT
21 PERIOD DURING WHICH THE EMPLOYEE OR MEMBER MAY EXTEND CONTINUATION
22 COVERAGE. THE SPECIAL ENROLLMENT PERIOD SHALL RUN FOR SIXTY DAYS
23 FOLLOWING RECEIPT OF NOTICE UNDER SUBPARAGRAPH (E) OF THIS PARAGRAPH OR
24 IF NOTICE IS NOT RECEIVED SIX MONTHS FROM THE LATER OF THE FIRST OF
25 NOVEMBER, TWO THOUSAND NINE OR THE EFFECTIVE DATE OF THIS PARAGRAPH.

26 (B) COVERAGE ISSUED DURING THE SPECIAL ENROLLMENT PERIOD SET FORTH IN
27 SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL BE PROSPECTIVE, AND SHALL TAKE
28 EFFECT NO LATER THAN THIRTY DAYS AFTER THE EMPLOYEE OR MEMBER ELECTS THE
29 EXTENSION AND PAYS THE FIRST PREMIUM.

30 (C) AN EMPLOYEE OR MEMBER WHO EXTENDS CONTINUATION COVERAGE DURING THE
31 SPECIAL ENROLLMENT PERIOD SET FORTH IN SUBPARAGRAPH (A) OF THIS PARA-
32 GRAPH SHALL BE ENTITLED TO CONTINUATION COVERAGE FOR UP TO A TOTAL OF
33 THIRTY-SIX MONTHS, INCLUSIVE OF ANY COVERAGE PERIOD EXHAUSTED UNDER THIS
34 SUBSECTION OR CHAPTER 18 OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT,
35 29 U.S.C. S 1161 ET SEQ. OR CHAPTER 6A OF THE PUBLIC HEALTH SERVICE ACT,
36 42 U.S.C. S 300 BB - 1 ET SEQ., ESTABLISHED BY THE CONSOLIDATED OMNIBUS
37 RECONCILIATION ACT OF 1985, AS AMENDED.

38 (D) ANY GAP IN COVERAGE BETWEEN THE FIRST OF JULY, TWO THOUSAND NINE
39 AND THE EFFECTIVE DATE OF THE COVERAGE ISSUED DURING THE SPECIAL ENROLL-
40 MENT PERIOD SET FORTH IN SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL NOT
41 REDUCE THE THIRTY-SIX MONTH PERIOD OF CONTINUATION COVERAGE TO WHICH AN
42 EMPLOYEE OR MEMBER IS ENTITLED UNDER THIS SUBSECTION, AND SHALL BE
43 DISREGARDED FOR PURPOSES OF DETERMINING THE SIXTY-THREE DAY PERIOD TO
44 WHICH SECTION FOUR THOUSAND THREE HUNDRED EIGHTEEN OF THIS ARTICLE
45 REFERS.

46 (E) WITHIN THIRTY DAYS OF THE EFFECTIVE DATE OF THIS PARAGRAPH, THE
47 CORPORATION SHALL MAKE REASONABLE EFFORTS TO PROVIDE WRITTEN NOTIFICA-
48 TION OF THE SPECIAL ENROLLMENT PERIOD SET FORTH IN SUBPARAGRAPH (A) OF
49 THIS PARAGRAPH TO ALL GROUP CONTRACT HOLDERS AND FORMER EMPLOYEES OR
50 MEMBERS ENTITLED TO THE SPECIAL ENROLLMENT PERIOD.

51 S 4. Section 4 of chapter 236 of the laws of 2009, amending the insur-
52 ance law relating to extending state continuation benefits from eighteen
53 months to thirty-six months, is amended to read as follows:

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

1 or after such date] BETWEEN JULY 1, 2009 AND OCTOBER 31, 2009, AND SHALL
2 APPLY TO ALL POLICIES AND CONTRACTS ON AND AFTER NOVEMBER 1, 2009.
3 S 5. This act shall take effect immediately; provided, that:
4 (a) sections one, two and three of this act shall expire and be deemed
5 repealed July 1, 2010; and
6 (b) section four of this act shall be deemed to have been in full
7 force and effect on and after July 1, 2009.