

BILL TEXT:

STATE OF NEW YORK

6030

2009-2010 Regular Sessions

IN SENATE

June 21, 2009

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

AN ACT to amend the insurance law, in relation to the provision of health insurance coverage to the unmarried child of an insured through the age of twenty-nine years

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 insurance law is amended by adding a new subparagraph (C) to read as follows:

2
3 (C) In addition to the requirements of subparagraphs (A) and (B) of
4 this paragraph, every insurer issuing a policy pursuant to this section
5 that provides coverage for dependent children must make available and,
6 if requested by the policyholder, extend coverage under the policy to an
7 unmarried child through age twenty-nine, without regard to financial
8 dependence who is not insured by or eligible for coverage under an
9 employer sponsored health benefit plan covering them as an employee or
10 member, whether insured or self-insured, and who lives, works or resides
11 in New York state or the service area of the insurer. Such coverage
12 shall be made available at the inception of all new policies and at the
13 first anniversary date of a policy following the effective date of this
14 subparagraph. Written notice of the availability of such coverage shall
15 be delivered to the policyholder thirty days prior to the inception of
16 such group policy and thirty days prior to the first anniversary date
17 following the effective date of this subparagraph.

18 § 2. Section 3221 of the insurance law is amended by adding a new
19 subsection (r) to read as follows:

20 (r)(1) As used in this subsection, "dependent child" means an unmar-
21 ried child through age twenty-nine of an employee or member insured
22 under a group policy, regardless of financial dependence, who is not
23 insured by or eligible for coverage under any employee health benefit

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

LBD12119-01-9

1 plan as an employee or member, whether insured or self-insured, and who
2 lives, works or resides in New York state or the service area of the
3 insurer and who is not covered under title XVIII of the United States
4 Social Security Act (Medicare).

5 (2) In addition to the conversion privilege afforded by subsection (e)
6 of this section and the continuation privilege afforded by subsection
7 (m) of this section, every group policy delivered or issued for delivery
8 in this state that provides hospital, surgical or medical coverage for
9 other than specific diseases or accidents only, and which provides
10 dependent coverage that terminates at a specified age, shall, upon
11 application of the employee, member or dependent child, as set forth in
12 subparagraphs (B) or (C) of this paragraph, provide coverage to the
13 dependent child after that specified age and through age twenty-nine
14 without evidence of insurability, subject to all of the terms and condi-
15 tions of the group policy and the following:

16 (A) An employer shall not be required to pay all or part of the cost
17 of coverage for a dependent child provided pursuant to this subsection;

18 (B) An employee, member or dependent child who wishes to elect contin-
19 uation of coverage pursuant to this subsection shall request the contin-
20 uation in writing:

21 (i) within sixty days following the date coverage would otherwise
22 terminate due to reaching the specified age set forth in the group poli-
23 cy;

24 (ii) within sixty days after meeting the requirements for dependent
25 child status set forth in paragraph one of this subsection when coverage
26 for the dependent child previously terminated; or

27 (iii) during an annual thirty-day open enrollment period, as described
28 in the policy;

29 (C) For twelve months after the effective date of this subsection, an
30 employee, member or dependent child may elect prospective coverage under
31 this subsection for a dependent child whose coverage terminated under
32 the terms of the group policy prior to the initial effective date of
33 this subsection;

34 (D) An employee, member or dependent child electing continuation as
35 described in this subsection shall pay to the group policyholder or
36 employer, but not more frequently than on a monthly basis in advance,
37 the amount of the required premium payment on the due date of each
38 payment. The written election of continuation, together with the first
39 premium payment required to establish premium payment on a monthly basis
40 in advance, shall be given to the group policyholder or employer within
41 the time periods set forth in subparagraphs (B) and (C) of this para-
42 graph. Any premium received within the thirty-day period after the due
43 date shall be considered timely;

44 (E) For any dependent child electing coverage within sixty days of the
45 date the dependent child would otherwise lose coverage due to reaching a
46 specified age, the effective date of the continuation coverage shall be
47 the date coverage would have otherwise terminated. For any dependent
48 child electing to resume coverage during an annual open enrollment peri-
49 od or during the twelve-month initial open enrollment period described
50 in subparagraph (C) of this paragraph, the effective date of the contin-
51 uation coverage shall be prospective no later than thirty days after the
52 election and payment of first premium;

53 (F) Coverage for a dependent child pursuant to this subsection shall
54 consist of coverage that is identical to the coverage provided to the
55 employee or member parent. If coverage is modified under the policy for

1 any group of similarly situated employees or members, then the coverage
2 shall also be modified in the same manner for any dependent child;

3 (G) Coverage shall terminate on the first to occur of the following:

4 (i) the date the dependent child no longer meets the requirements of
5 paragraph one of this subsection;

6 (ii) the end of the period for which premium payments were made, if
7 there is a failure to make payment of a required premium payment within
8 the period of grace described in subparagraph (D) of this paragraph; or

9 (iii) the date on which the group policy is terminated and not
10 replaced by coverage under another group policy; and

11 (H) The insurer shall provide written notification of the continuation
12 privilege described in this subsection and the time period in which to
13 request continuation to the employee or member:

14 (i) in each certificate of coverage;

15 (ii) at least sixty days prior to termination at the specified age as
16 provided in the policy; and

17 (iii) within thirty days of the effective date of this subsection,
18 with respect to information concerning a dependent child's opportunity,
19 for twelve months after the effective date of this subsection, to make a
20 written election to obtain coverage under a policy pursuant to subpara-
21 graph (C) of this paragraph.

22 (3)(A) Insurers shall submit such reports as may be requested by the
23 superintendent to evaluate the effectiveness of coverage pursuant to
24 this subsection including, but not limited to, quarterly enrollment
25 reports.

26 (B) The superintendent may promulgate regulations to ensure the order-
27 ly implementation and operation of the continuation coverage provided
28 pursuant to this subsection, including premium rate adjustments.

29 § 3. Paragraph 1 of subsection (f) of section 4235 of the insurance
30 law, as amended by chapter 593 of the laws of 2000, is amended to read
31 as follows:

32 (1) (A) Any policy of group accident, group health or group accident
33 and health insurance may include provisions for the payment by the
34 insurer of benefits for expenses incurred on account of hospital,
35 medical or surgical care or physical and occupational therapy by
36 licensed physical and occupational therapists upon the prescription or
37 referral of a physician for the employee or other member of the insured
38 group, his spouse, his child or children, or other persons chiefly
39 dependent upon him for support and maintenance; provided that a policy
40 under which coverage of a dependent of an employee or other member of
41 the insured group terminates at a specified age shall not so terminate
42 with respect to an unmarried child who is incapable of self-sustaining
43 employment by reason of mental illness, developmental disability, mental
44 retardation, as defined in the mental hygiene law, or physical handicap
45 and who became so incapable prior to attainment of the age at which
46 dependent coverage would otherwise terminate and who is chiefly depend-
47 ent upon such employee or member for support and maintenance, while the
48 insurance of the employee or member remains in force and the dependent
49 remains in such condition, if the insured employee or member has within
50 thirty-one days of such dependent's attainment of the termination age
51 submitted proof of such dependent's incapacity as described herein.

52 (B) In addition to the requirements of subparagraph (A) of this para-
53 graph, every insurer issuing a group policy pursuant to this section
54 that provides coverage for dependent children, must make available and
55 if requested by the policyholder, extend coverage under the policy to an
56 unmarried child through age twenty-nine, without regard to financial

1 dependence who is not insured by or eligible for coverage under any
2 employer health benefit plan as an employee or member, whether insured
3 or self-insured, and who lives, works or resides in New York state or
4 the service area of the insurer. Such coverage shall be made available
5 at the inception of all new policies and with respect to all other poli-
6 cies at any anniversary date. Written notice of the availability of such
7 coverage shall be delivered to the policyholder prior to the inception
8 of such group policy and annually thereafter.

9 § 4. Paragraph 1 of subsection (d) of section 4304 of the insurance
10 law, as amended by section 65-e of part A of chapter 58 of the laws of
11 2007, is amended to read as follows:

12 (1) (A) No contract issued pursuant to this section shall entitle more
13 than one person to benefits except that a contract issued and marked as
14 a "family contract" may provide that benefits will be furnished to a
15 husband and wife, or husband, wife and their dependent child or chil-
16 dren, or any child or children not over nineteen years of age, provided
17 that an unmarried student at an accredited institution of learning may
18 be considered a dependent until he becomes twenty-three years of age,
19 provided that the coverage of any such "family contract" may include, at
20 the option of the insurer, any unmarried child until attaining age twen-
21 ty-five, and provided also that the coverage of any such "family
22 contract" shall include any other unmarried child, regardless of age,
23 who is incapable of self-sustaining employment by reason of mental
24 illness, developmental disability, mental retardation, as defined in the
25 mental hygiene law, or physical handicap and who became so incapable
26 prior to attainment of the age at which dependent coverage would other-
27 wise terminate, so that such child may be considered a dependent.

28 (B) In addition to the requirements of subparagraph (A) of this para-
29 graph, every corporation issuing a contract that provides coverage for
30 dependent children must make available and if requested by the contract-
31 holder, extend coverage under the contract to an unmarried child through
32 age twenty-nine, without regard to financial dependence who is not
33 insured by or eligible for coverage under any employee health benefit
34 plan as an employee or member, whether insured or self-insured, and who
35 lives, works or resides in New York state or the service area of the
36 corporation. Such coverage shall be made available at the inception of
37 all new contracts, at the first anniversary date of a policy following
38 the effective date of this subparagraph, and for group remittance
39 contracts at any anniversary date. Written notice of the availability of
40 such coverage shall be delivered to the contractholder prior to the
41 inception of such group contract, thirty days prior to the first anni-
42 versary date of a policy following the effective date of this subpara-
43 graph, and for group remittance contracts annually thereafter.

44 (C) Notwithstanding any rule, regulation or law to the contrary, any
45 "family contract" shall provide that coverage of newborn infants,
46 including newly born infants adopted by the insured or subscriber if
47 such insured or subscriber takes physical custody of the infant upon
48 such infant's release from the hospital and files a petition pursuant to
49 section one hundred fifteen-c of the domestic relations law within thir-
50 ty days of birth; and provided further that no notice of revocation to
51 the adoption has been filed pursuant to section one hundred fifteen-b of
52 the domestic relations law and consent to the adoption has not been
53 revoked, shall be effective from the moment of birth for injury or sick-
54 ness including the necessary care and treatment of medically diagnosed
55 congenital defects and birth abnormalities including premature birth,
56 except that in cases of adoption, coverage of the initial hospital stay

1 shall not be required where a birth parent has insurance coverage avail-
2 able for the infant's care. This provision regarding coverage of newborn
3 infants shall not apply to two person coverage. In the case of individ-
4 ual or two person coverages the corporation must also permit the person
5 to whom the policy is issued to elect such coverage of newborn infants
6 from the moment of birth. If notification and/or payment of an addi-
7 tional premium or contribution is required to make coverage effective
8 for a newborn infant, the coverage may provide that such notice and/or
9 payment be made within no less than thirty days of the day of birth to
10 make coverage effective from the moment of birth. This election shall
11 not be required in the case of student insurance or where the group
12 remitting agent's plan does not provide coverage for dependent children.

13 § 5. Section 4304 of the insurance law is amended by adding a new
14 subsection (m) to read as follows:

15 (m)(1) As used in this subsection, "dependent child" means an unmar-
16 ried child through age twenty-nine of an employee or member insured
17 under a group remittance contract, regardless of financial dependence,
18 who is not insured by or eligible for coverage under any employee health
19 benefit plan, whether insured or self-insured, and who lives, works or
20 resides in New York state or the service area of the corporation and who
21 is not covered under title XVIII of the United States Social Security
22 Act (Medicare).

23 (2) In addition to the conversion privilege afforded by subsection (e)
24 of this section and the continuation privilege afforded by subsections
25 (e) and (k) of this section, a hospital service, health service or
26 medical expense corporation or health maintenance organization that
27 provides coverage for which the premiums are paid by the remitting agent
28 of a group that provides dependent coverage that terminates at a speci-
29 fied age shall, upon application of the employee, member or dependent
30 child, as set forth in subparagraph (B) or (C) of this paragraph,
31 provide coverage to the dependent child after that specified age and
32 through age twenty-nine without evidence of insurability, subject to all
33 of the terms and conditions of the group remittance contract and the
34 following:

35 (A) An employer shall not be required to pay all or part of the cost
36 of coverage for a dependent child provided pursuant to this subsection;

37 (B) An employee, member or dependent child who wishes to elect contin-
38 uation of coverage pursuant to this subsection shall request the contin-
39 uation in writing:

40 (i) within sixty days following the date coverage would otherwise
41 terminate due to reaching the specified age set forth in the group
42 contract;

43 (ii) within sixty days after meeting the requirements for dependent
44 child status set forth in paragraph one of this subsection when coverage
45 for the dependent child previously terminated; or

46 (iii) during an annual thirty-day open enrollment period as described
47 in the contract.

48 (C) For twelve months after the effective date of this subsection, an
49 employee, member or dependent child may elect prospective continuation
50 coverage under this subsection for a dependent child whose coverage
51 terminated under the terms of the group remittance contract prior to the
52 initial effective date of this subsection;

53 (D) An employee, member or dependent child electing continuation as
54 described in this subsection shall pay to the group remitting agent or
55 employer, but not more frequently than on a monthly basis in advance,
56 the amount of the required premium payment on the due date of each

1 payment. The written election of continuation, together with the first
2 premium payment required to establish premium payment on a monthly basis
3 in advance, shall be given to the group remitting agent or employer
4 within the time periods set forth in subparagraphs (B) and (C) of this
5 paragraph. Any premium received within the thirty-day period after the
6 due date shall be considered timely;

7 (E) For any dependent child electing coverage within sixty days of the
8 date the dependent child would otherwise lose coverage due to reaching a
9 specified age, the effective date of the continuation coverage shall be
10 the date coverage would have otherwise terminated. For any dependent
11 child electing to resume coverage during an annual open enrollment period
12 or during the twelve-month initial open enrollment period described
13 in subparagraph (C) of this paragraph, the effective date of the contin-
14 uation coverage shall be prospective no later than thirty days after the
15 election and payment of first premium;

16 (F) Coverage for a dependent child pursuant to this subsection shall
17 consist of coverage that is identical to the coverage provided to the
18 employee or member parent. If coverage is modified under the contract
19 for any group of similarly situated employees or members, then the
20 coverage shall also be modified in the same manner for any dependent
21 child;

22 (G) Coverage shall terminate on the first to occur of the following:

23 (i) the date the dependent child no longer meets the requirements of
24 paragraph one of this subsection;

25 (ii) the end of the period for which premium payments were made, if
26 there is a failure to make payment of a required premium payment within
27 the period of grace described in subparagraph (D) of this paragraph; or

28 (iii) the date on which the group remittance contract is terminated
29 and not replaced by coverage under another group or group remittance
30 contract; and

31 (H) The corporation or health maintenance organization shall provide
32 written notification of the continuation privilege described in this
33 subsection and the time period in which to request continuation to the
34 employee or member;

35 (i) in each certificate of coverage;

36 (ii) at least sixty days prior to termination at the specified age as
37 provided in the contract;

38 (iii) within thirty days of the effective date of this subsection,
39 with respect to information concerning a dependent child's opportunity,
40 for twelve months after the effective date of this subsection, to make a
41 written election to obtain coverage under a contract pursuant to subpar-
42 agraph (C) of this paragraph.

43 (3)(A) Corporations and health maintenance organizations shall submit
44 such reports as may be requested by the superintendent to evaluate the
45 effectiveness of coverage pursuant to this subsection including, but not
46 limited to, quarterly enrollment reports.

47 (B) The superintendent may promulgate regulations to ensure the order-
48 ly implementation and operation of the continuation coverage provided
49 pursuant to this subsection, including premium rate adjustments.

50 § 6. Paragraph 1 of subsection (c) of section 4305 of the insurance
51 law, as amended by chapter 312 of the laws of 2002, is amended to read
52 as follows:

53 (1)(A) Any such contract may provide that benefits will be furnished
54 to a member of a covered group, for himself, his spouse, his child or
55 children, or other persons chiefly dependent upon him for support and
56 maintenance; provided that a contract under which coverage of a depend-
S. 6030

1 ent of a member terminates at a specified age shall, with respect to an
2 unmarried child who is incapable of self-sustaining employment by reason
3 of mental illness, developmental disability, mental retardation, as
4 defined in the mental hygiene law, or physical handicap and who became
5 so incapable prior to attainment of the age at which dependent coverage
6 would otherwise terminate and who is chiefly dependent upon such member
7 for support and maintenance, not so terminate while the contract remains
8 in force and the dependent remains in such condition, if the member has
9 within thirty-one days of such dependent's attainment of the termination
10 age submitted proof of such dependent's incapacity as described herein.

11 **(B) In addition to the requirements of subparagraph (A) of this para-**
12 **graph, every corporation issuing a group contract pursuant to this**
13 **section that provides coverage for dependent children, must make avail-**
14 **able and if requested by the contractholder, extend coverage under that**
15 **contract to an unmarried child through age twenty-nine, without regard**
16 **to financial dependence who is not insured by or eligible for coverage**
17 **under any employee health benefit plan as an employee or member, whether**
18 **insured or self-insured, and who lives, works or resides in New York**
19 **state or the service area of the corporation. Such coverage shall be**
20 **made available at the inception of all new contracts and with respect to**
21 **all other contracts at any anniversary date. Written notice of the**
22 **availability of such coverage shall be delivered to the contractholder**
23 **prior to the inception of such group contract and annually thereafter.**

24 **(C)** Notwithstanding any rule, regulation or law to the contrary, any
25 contract under which a member elects coverage for himself, his spouse,
26 his children or other persons chiefly dependent upon him for support and
27 maintenance shall provide that coverage of newborn infants, including
28 newly born infants adopted by the insured or subscriber if such insured
29 or subscriber takes physical custody of the infant upon such infant's
30 release from the hospital and files a petition pursuant to section one
31 hundred fifteen-c of the domestic relations law within thirty days of
32 birth; and provided further that no notice of revocation to the adoption
33 has been filed pursuant to section one hundred fifteen-b of the domestic
34 relations law and consent to the adoption has not been revoked, shall be
35 effective from the moment of birth for injury or sickness including the
36 necessary care and treatment of medically diagnosed congenital defects
37 and birth abnormalities including premature birth, except that in cases
38 of adoption, coverage of the initial hospital stay shall not be required
39 where a birth parent has insurance coverage available for the infant's
40 care. This provision regarding coverage of newborn infants shall not
41 apply to two person coverage. In the case of individual or two person
42 coverages the corporation must also permit the person to whom the
43 certificate is issued to elect such coverage of newborn infants from the
44 moment of birth. If notification and/or payment of an additional premium
45 or contribution is required to make coverage effective for a newborn
46 infant, the coverage may provide that such notice and/or payment be made
47 within no less than thirty days of the day of birth to make coverage
48 effective from the moment of birth. This election shall not be required
49 in the case of student insurance or where the group's plan does not
50 provide coverage for dependent children.

51 § 7. Section 4305 of the insurance law is amended by adding a new
52 subsection (1) to read as follows:

53 **(1)(1) As used in this subsection, "dependent child" means an unmar-**
54 **ried child through age twenty-nine of an employee or member insured**
55 **under a group contract, regardless of financial dependence, who is not**
56 **insured by or eligible for coverage under any employee health benefit**

1 plan, whether insured or self-insured, and who lives, works or resides
2 in New York state or the service area of the corporation and who is not
3 covered under title XVIII of the United States Social Security Act
4 (Medicare).

5 (2) In addition to the conversion privilege afforded by subsection (d)
6 of this section and the continuation privilege afforded by subsection
7 (e) of this section, a hospital service, health service or medical
8 expense corporation or health maintenance organization that provides
9 group coverage under which dependent coverage terminates at a specified
10 age shall, upon application of the employee, member or dependent child,
11 as set forth in subparagraph (B) or (C) of this paragraph, provide
12 coverage to the dependent child after that specified age and through age
13 twenty-nine without evidence of insurability, subject to all of the
14 terms and conditions of the group contract and the following:

15 (A) An employer shall not be required to pay all or part of the cost
16 of coverage for a dependent child provided pursuant to this subsection;

17 (B) An employee, member or dependent child who wishes to elect contin-
18 uation of coverage pursuant to this subsection shall request the contin-
19 uation in writing:

20 (i) within sixty days following the date coverage would otherwise
21 terminate due to reaching the specified age set forth in the group
22 contract;

23 (ii) within sixty days after meeting the requirements for dependent
24 child status set forth in paragraph one of this subsection when coverage
25 for the dependent child previously terminated; or

26 (iii) during an annual thirty-day open enrollment period, as described
27 in the contract;

28 (C) For twelve months after the effective date of this subsection, an
29 employee, member or dependent child may elect prospective continuation
30 coverage under this subsection for a dependent child whose coverage
31 terminated under the terms of the group contract prior to the effective
32 date of this subsection;

33 (D) An employee, member or dependent child electing continuation as
34 described in this subsection shall pay to the group contractholder or
35 employer, but not more frequently than on a monthly basis in advance,
36 the amount of the required premium payment on the due date of each
37 payment. The written election of continuation, together with the first
38 premium payment required to establish premium payment on a monthly basis
39 in advance, shall be given to the group contractholder or employer with-
40 in the time periods set forth in subparagraphs (B) and (C) of this para-
41 graph. Any premium received within the thirty-day period after the due
42 date shall be considered timely;

43 (E) For any dependent child electing coverage within sixty days of the
44 date the dependent child would otherwise lose coverage due to reaching a
45 specified age, the effective date of the continuation coverage shall be
46 the date coverage would have otherwise terminated. For any dependent
47 child electing to resume coverage during an annual open enrollment peri-
48 od or during the twelve-month initial open enrollment period described
49 in subparagraph (C) of this paragraph, the effective date of the contin-
50 uation coverage shall be prospective no later than thirty days after the
51 election and payment of first premium;

52 (F) Coverage for a dependent child pursuant to this subsection shall
53 consist of coverage that is identical to the coverage provided to the
54 employee or member parent. If coverage is modified under the contract
55 for any group of similarly situated employees or members, then the

1 coverage shall also be modified in the same manner for any dependent
2 child;
3 (G) Coverage shall terminate on the first to occur of the following:
4 (i) the date the dependent child no longer meets the requirements of
5 paragraph one of this subsection;
6 (ii) the end of the period for which premium payments were made, if
7 there is a failure to make payment of a required premium payment within
8 the period of grace described in subparagraph (D) of this paragraph; or
9 (iii) the date on which the group contract is terminated and not
10 replaced by coverage under another group contract; and
11 (H) The corporation or health maintenance organization shall provide
12 written notification of the continuation privilege described in this
13 subsection and the time period in which to request continuation to the
14 employee or member:
15 (i) in each certificate of coverage;
16 (ii) at least sixty days prior to termination at the specified age as
17 provided in the contract;
18 (iii) within thirty days of the effective date of this subsection,
19 with respect to information concerning a dependent child's opportunity,
20 for twelve months after the effective date of this subsection, to make a
21 written election to obtain coverage under a contract pursuant to subpar-
22 agraph (C) of this paragraph.
23 (3)(A) Corporations and health maintenance organizations shall submit
24 such reports as may be requested by the superintendent to evaluate the
25 effectiveness of coverage pursuant to this subsection including, but not
26 limited to, quarterly enrollment reports.
27 (B) The superintendent may promulgate regulations to ensure the order-
28 ly implementation and operation of the continuation coverage provided
29 pursuant to this subsection, including premium rate adjustments.
30 § 8. This act shall take effect September 1, 2009 and shall apply to
31 contracts issued, renewed, modified, altered or amended on or after such
32 date.
