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State Continuation Coverage Extension to 36 Months

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On July 29, 2009, Governor David A. Paterson signed into law Chapter 236 of the Laws of 2009, which extends state continuation coverage to 36 months, regardless of the qualifying event. This extension will assist employees and their dependents who are eligible for federal COBRA coverage in fully insured products or New York State continuation coverage.

The federal Consolidated Omnibus Budget Reconciliation Act (COBRA) allows employees who work for employers with 20 or more employees to continue their current group health insurance once they leave employment or have a reduction in hours that makes them ineligible for employer-sponsored coverage. New York State continuation coverage, also known as "mini-COBRA," gives the same right to employees who work for employers with fewer than 20 employees.

Before the new state law went into effect, the length of time that a person could have state continuation coverage depended on why the person was losing coverage. Under the new law, all people eligible for state continuation coverage may continue their coverage for a total of 36 months, regardless of the reason for the coverage loss.

Under COBRA, if an employee loses coverage due to voluntary or involuntary termination of employment or reduction in hours, then coverage generally may be continued for up to 18 months from the date coverage would otherwise terminate. Under the new law, a person eligible for COBRA may elect 18 months of COBRA and 18 months of state continuation coverage, for a total of 36 months.

For more information, please see the [Frequently Asked Questions](#) below.

FREQUENTLY ASKED QUESTIONS

When does this law take effect?

The law affects policies or contracts issued, renewed, modified, altered or amended on or after July 1, 2009. For most policies, the new benefit will apply on the policy's annual renewal date. You can check with your insurer to determine the renewal date.

How will I receive notice about the extended state continuation benefit?

The law did not change any notice requirements. If you have a qualifying event such as job loss, you will receive notice from your employer or employer's benefits administrator. The notice will provide instructions on how to elect COBRA state continuation coverage.

Does this law change COBRA or state continuation coverage in any other way?

No. All current COBRA and mini-COBRA coverage laws will still apply. Also, health insurance benefits will remain the same. The only difference is that employees can continue their health insurance for up to 36 months rather than 18 months.

If I am entitled to federal COBRA, do I have additional continuation rights under New York law?

Yes. If you are eligible to continue health coverage under COBRA for 18 months, then you can continue coverage under state continuation coverage for an additional 18 months. Note, however, that you have up to a total of 36 months of coverage when combining the COBRA and state continuation benefits.

I am covered through a self-insured plan. Does this law apply to me?

No. The law only applies to fully insured plans.

Does the size of my employer affect the length of time of continuation coverage?

No. Former employees will be allowed to extend their health insurance from 18 months to 36 months, regardless if they worked for a small employer or large employer.

Will employers have to pay the cost of the additional coverage?

No. Employees will continue to pay the premium cost.

Does this extension of continuation coverage apply to Healthy NY?

Yes. The extension applies to Healthy NY group contracts.

Under the previous state continuation coverage laws, people determined to be disabled under Title II or Title XVI of the Social Security Act were entitled to 29 months of continuation coverage. Has this law changed?

Yes. People determined to be disabled under Title II or Title XVI of the Social Security Act are now entitled to up to 36 months of continuation coverage. There is no longer a specific section in the law pertaining to these people, because all eligible persons are entitled to continuation coverage for 36 months.

People who are disabled under Title II or Title XVI of the Social Security Act are eligible for up to 29 months of federal COBRA coverage, plus up to an additional 7 months of state continuation coverage, for up to a total of 36 months. Federal law states that these people are responsible for up to 102% of the premium for months 1 through 18 of coverage and up to 150% of the premium for months 19 through 29 of coverage. Under the new law, they would be responsible for up to 102% of the premium for months 30 through 36 of coverage.

Can the duration of state continuation coverage end earlier than 36 months?

Yes. The 36 month period may end sooner due to the following reasons: (1) timely premium payment is not made to the plan; (2) the employer ceases to maintain any group health plan (including successor plans); (3) the employee member is covered under any other group health plan that is not maintained by the employer, even if that other coverage is less comprehensive than COBRA or continuation coverage; or (4) the qualified beneficiary becomes entitled to Medicare benefits.

What if I need more information about this law?

Contact the Insurance Department's Consumer Services Bureau at (212) 480-6400 or 1-800-342-3736.

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COBRA and Premium Assistance - Information Index

New! Continuation Coverage Extension to 36 Months

On July 29, 2009, Governor Paterson signed into law Chapter 236 of the Laws of 2009, which improves access health insurance for New Yorkers by making state continuation coverage ("mini-COBRA") available for a total of 36 months. Under the law, people eligible for federal COBRA or state continuation coverage may receive a total of 36 months of coverage.

- ◇ [Summary of the Law and FAQs](#)
- ◇ [Text of the Bill \(PDF format\)](#)
- ◇ [Bill Memo \(PDF format\)](#)

COBRA and State Continuation Coverage

General Information About COBRA and State Continuation Coverage
Frequently asked questions about COBRA coverage in general

- ◇ [COBRA FAQs](#)

COBRA and State Continuation Coverage Premium Subsidy Pursuant to ARRA

COBRA and State Continuation Premium Assistance Information

Information about the COBRA and state continuation coverage 65% premium subsidy available to involuntarily terminated workers pursuant to the American Recovery and Reinvestment Act of 2009 (ARRA)

- ◇ [Premium Assistance Information](#)

Circular Letter 10 of 2009 Pertaining to COBRA and State Continuation Coverage Premium Assistance Pursuant to ARRA and State Law

Information about insurers' obligations under the American Recovery and Reinvestment Act of 2009 and Chapter 7 of the New York State Laws of 2009

- ◇ [Circular Letter 10 \(2009\)](#)

Model New York State Continuation Coverage Election Notice

Model notice that insurers may use to notify workers of the premium subsidy

- ◇ [Model Notice \(RTF/Word format\)](#)

State Continuation Assistance Program for Entertainment Workers

NYS Continuation Assistance Program for Entertainment Workers
Information about New York State's premium assistance subsidy for entertainment workers

◇ Assistance Program for Entertainment Workers

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SPONSORS MEMO:

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S5471

SPONSOR: BRESLIN

TITLE OF BILL:

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

PURPOSE:

This bill would help ensure continued access to group health insurance by extending the period of continuation coverage under a group contract or group remittance contract from 18 months to 36 months.

SUMMARY OF PROVISIONS:

Section 1 of the bill would amend Insurance Law § 3221 to require commercial insurers offering group policies to extend the period of state continuation coverage from 18 months to 36 months for employees or members. Section 1 of the bill would also allow an employee or member who has otherwise exhausted federal continuation benefits under the Consolidated Omnibus Budget Reconciliation Act ("COBRA") to maintain coverage for up to 36 months, if the employee or member is entitled to less than 36 months of federal COBRA benefits.

Section 2 of the bill would amend Insurance Law § 4304 to require not-for-profit corporations and health maintenance organizations ("HMOs") offering group remittance contracts to extend continuation benefits from 18 months to 36 months, under the same terms and conditions as commercial insurers.

Section 3 of the bill would amend Insurance Law § 4305 to require not-for-profit corporations and HMOs offering group contracts to extend continuation benefits from 18 months to 36 months, under the same terms and conditions as commercial insurers.

Section 4 of the bill would provide that the bill take effect on July 1, 2009 and apply to all contracts issued, renewed, modified, altered or amended on or after that date.

EXISTING LAW:

Insurance Law § 3221 (m) permits individuals covered under commercial group or blanket accident and health insurance policies that are not subject to federal COBRA law

to elect to participate in state continuation coverage in the event of job loss, reduction in work hours or loss of eligibility. Such individuals must elect state continuation coverage within 60 days of the event which qualifies them for coverage or within 60 days of receiving notice of the right to elect such coverage. There is no cost to the employer for continuation coverage. The former employee or member pays the full premium, which is capped at 102 percent of the group rate.

The period of continuation coverage for employees or members is limited to 18 months, at which time the former employee loses their right to continuation coverage. In cases where dependents lose coverage due to divorce, separation, or aging off a parent's policy, the period of continuation coverage is 36 months.

Insurance Law § 4304(k) sets forth provisions similar to those of Insurance Law § 3221 (m), permitting the election of state continuation coverage for group remittance contracts with a hospital service, health service or medical expense indemnity corporation.

Insurance Law § 4305(e) sets forth provisions similar to those of Insurance Law 3221 (m), permitting the election of state continuation coverage for group contracts with a hospital service, health service or medical expense indemnity corporation.

Chapter 18 of the Employee Retirement Income Security Act, 29 D.S.C. § 1161, et seq., provides for continuation coverage and additional standards for group health plans.

Chapter 6A of the Public Health Service Act, 42 D.S.C. § 300bb-1, et seq., provides for continuation coverage under State and local group health plans.

The American Recovery and Reinvestment Act of 2009 expanded access to federal COBRA and state continuation benefits for laid-off workers by providing a 9-month, 65% subsidy of premiums.

LEGISLATIVE HISTORY:

This is a new bill.

STATEMENT OF SUPPORT:

COBRA allows workers to continue their group health insurance coverage for 18 months if their employment is involuntarily terminated or if they lose their coverage due to a reduction in work hours. However, COBRA only applies to employers with 20 or more employees. To address this gap, the State's "Mini-COBRA" law requires small employers (with less than 20 employees) to offer an 18-month State health insurance continuation benefit similar to COBRA.

This bill would allow workers, regardless of the size of their employer, to extend their health insurance continuation benefit from 18 months to 36 months, at no direct cost to the State or employers. Currently, those who do not have access to group health

insurance (including those that exhaust their continuation benefits) must purchase coverage on an individual basis. New York's individual health insurance market is standardized, with very comprehensive benefits and prohibitively high premiums. Continuation coverage is available at an average cost of \$400 per month for single coverage. The average cost of individual health insurance coverage currently exceeds \$900 per month (higher in certain regions). While the Healthy NY program offers a less expensive option, it is not available to everyone due to eligibility requirements.

Current national unemployment rates are at a 24-year high. New York's unemployment rate was close to eight percent as of February 2009, up from six percent in November 2008, and climbing at a rate that exceeds the national average. An increasing number of workers are experiencing extended periods of job loss or being forced to work part-time. All of these factors contribute to a loss of group health insurance coverage. Also, as companies downsize, older workers are often offered early retirement options as an alternative to lay-offs. These individuals may not have retiree health benefits, and can be years away from Medicare. This bill extends a more affordable private health insurance option, at no direct cost to the State or employers. This bill would allow individuals to maintain their existing coverage for a longer period of time through continuation coverage. Without such option, many of these individuals would be uninsured after 18 months.

BUDGET IMPLICATIONS:

This bill will not have a material impact on State finances.

EFFECTIVE DATE:

The bill would take effect on July 1, 2009 and would apply to all contracts issued, renewed, modified, amended or altered on or after that date.