

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1089 Session of 2009

INTRODUCED BY MATZIE, MIRABITO, DeLUCA, D. COSTA, BARRAR, BELFANTI, BRENNAN, BRIGGS, CALTAGIRONE, DALEY, FREEMAN, GEORGE, GIBBONS, HALUSKA, HORNAMAN, HOUGHTON, JOSEPHS, KORTZ, LONGIETTI, MAHONEY, MANN, McGEEHAN, MELIO, MILNE, MUNDY, M. O'BRIEN, PASHINSKI, QUINN, READSHAW, SIPTROTH, SOLOBAY, STURLA, SWANGER, J. TAYLOR, VULAKOVICH, WHITE, McILVAINE SMITH, PETRARCA, EVERETT, FRANKEL, MANDERINO, MURT, K. SMITH, WHEATLEY AND GALLOWAY, MARCH 24, 2009

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 21, 2009

AN ACT

1 ~~Providing for group health policies to continue for period of~~ ←
2 ~~time after termination of employment or membership in health-~~
3 ~~maintenance organizations.~~ ←

4 AMENDING THE ACT OF MAY 17, 1921 (P.L.682, NO.284), ENTITLED "AN
5 ACT RELATING TO INSURANCE; AMENDING, REVISING, AND
6 CONSOLIDATING THE LAW PROVIDING FOR THE INCORPORATION OF
7 INSURANCE COMPANIES, AND THE REGULATION, SUPERVISION, AND
8 PROTECTION OF HOME AND FOREIGN INSURANCE COMPANIES, LLOYDS
9 ASSOCIATIONS, RECIPROCAL AND INTER-INSURANCE EXCHANGES, AND
10 FIRE INSURANCE RATING BUREAUS, AND THE REGULATION AND
11 SUPERVISION OF INSURANCE CARRIED BY SUCH COMPANIES,
12 ASSOCIATIONS, AND EXCHANGES, INCLUDING INSURANCE CARRIED BY
13 THE STATE WORKMEN'S INSURANCE FUND; PROVIDING PENALTIES; AND
14 REPEALING EXISTING LAWS," IN HEALTH AND ACCIDENT INSURANCE,
15 PROVIDING FOR GROUP HEALTH POLICIES TO CONTINUE FOR PERIOD OF
16 TIME AFTER TERMINATION OF EMPLOYMENT OR MEMBERSHIP IN HEALTH
17 MAINTENANCE ORGANIZATIONS.

18 The General Assembly of the Commonwealth of Pennsylvania

19 hereby enacts as follows:

20 ~~Section 1. Short title.~~ ←

21 ~~This act shall be known and may be cited as the Mini COBRA~~

22 ~~Small Employer Group Health Plan and Premium Assistance Act.~~

1 ~~Section 2. Legislative finds and declarations.~~

2 ~~The General Assembly finds and declares as follows:~~

3 ~~(1) A major crisis exists in this Commonwealth because~~
4 ~~of the continuing escalation of costs for health care~~
5 ~~insurance, accompanied by an increase in unemployment.~~
6 ~~Because of these factors, an increasingly large number of~~
7 ~~Pennsylvania citizens have severely limited access to~~
8 ~~appropriate and timely health care.~~

9 ~~(2) According to a recent survey by the Insurance~~
10 ~~Department, more than 1,000,000 Commonwealth citizens are~~
11 ~~without insurance and this figure can be expected to grow in~~
12 ~~the short term.~~

13 ~~(3) Unemployed individuals who are involuntarily~~
14 ~~terminated from their jobs have access to COBRA, however,~~
15 ~~many find that the premium for COBRA is too expensive and are~~
16 ~~unable to afford the premium.~~

17 ~~(4) Both the President and Congress have recognized this~~
18 ~~problem in the American Recovery and Reinvestment Act of 2009~~
19 ~~(Public Law 111-5, 123 Stat. 115).~~

20 ~~(5) Division B of the American Recovery and Reinvestment~~
21 ~~Act of 2009, entitled Tax, Unemployment, Health, State Fiscal~~
22 ~~Relief, and Other Provisions provides premium assistance for~~
23 ~~COBRA benefits to assist eligible individuals who timely~~
24 ~~elect to participate in the premium assistance program.~~

25 ~~(6) The premium assistance program provides relief in~~
26 ~~the form of paying 65% of the normal COBRA premiums available~~
27 ~~under COBRA coverage, including coverage subject to State~~
28 ~~continuation laws or mini COBRA laws.~~

29 ~~(7) It is therefore declared the policy of the~~
30 ~~Commonwealth to enact a mini COBRA bill providing~~

~~Commonwealth citizens the opportunity to take full advantage of the Federal premium assistance program so the cost of health insurance coverage for the unemployed can be minimized when possible, and which will survive beyond the temporary relief provided in the Federal act.~~

~~Section 3. Definitions.~~

~~The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:~~

~~"Administrator." The person specifically designated by the employer by written agreement to manage the administration of the group policy issued to the employer or, if an administrator is not so designated, the employer will be deemed the administrator for purposes of this section.~~

~~"Covered employee." An individual who is or was provided coverage under a group policy by virtue of the performance of services by the individual for one or more persons maintaining the policy, including as an employee defined in section 401(c)(1) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.). The term includes employees and members as those terms are used in section 621.2 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.~~

~~"Eligible dependent."~~

~~(1) Regarding a covered employee under a group health plan, an individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan as the:~~

~~(i) spouse of the covered employee; or~~

~~(ii) dependent child of the employee.~~

~~The term shall include a child who is born to or placed for~~

1 ~~adoption with the covered employee during the period of~~
2 ~~continuation coverage under this section.~~

3 ~~(2) In the case of a qualifying event as defined in this~~
4 ~~section, the term "eligible dependent" includes a covered~~
5 ~~employee.~~

6 ~~(3) In the case of a qualifying event as defined in this~~
7 ~~section, the term "eligible dependent" includes a covered~~
8 ~~employee who had retired on or before the date of substantial~~
9 ~~elimination of coverage and any other individual who, on the~~
10 ~~day before such qualifying event, is a beneficiary under the~~
11 ~~plan as the:~~

12 ~~(i) spouse of the covered employee;~~

13 ~~(ii) dependent child of the covered employee; or~~

14 ~~(iii) surviving spouse of the covered employee.~~

15 ~~"Group policy." Any group health insurance policy,~~
16 ~~subscriber contract, certificate or plan which provides health~~
17 ~~or sickness and accident coverage which is offered by an~~
18 ~~insurer. The term shall not include any of the following:~~

19 ~~(1) An accident only policy.~~

20 ~~(2) A credit only policy.~~

21 ~~(3) A long term or disability income policy.~~

22 ~~(4) A specified disease policy.~~

23 ~~(5) A Medicare supplement policy.~~

24 ~~(6) A Civilian Health and Medical Program of the~~
25 ~~Uniformed Services (CHAMPUS) supplement policy.~~

26 ~~(7) A fixed indemnity policy.~~

27 ~~(8) A dental only policy.~~

28 ~~(9) A vision only policy.~~

29 ~~(10) A workers' compensation policy.~~

30 ~~(11) An automobile medical payment policy under 75-~~

1 ~~Pa.C.S. (relating to vehicles).~~

2 ~~(12) Any other similar policies providing for limited~~
3 ~~benefits.~~

4 ~~"Insurer." A company or health insurance entity licensed in~~
5 ~~this Commonwealth to issue any health, sickness or accident~~
6 ~~policy or subscriber contract or certificate or plan that~~
7 ~~provides medical or health care coverage by a health care~~
8 ~~facility or licensed health care provider that is offered or~~
9 ~~governed under this act or any of the following:~~

10 ~~(1) The act of December 29, 1972 (P.L.1701, No.364),~~
11 ~~known as the Health Maintenance Organization Act.~~

12 ~~(2) 40 Pa.C.S. Ch. 61 (relating to hospital plan~~
13 ~~corporations) or 63 (relating to professional health services~~
14 ~~plan corporations).~~

15 ~~(3) Article XXIV of the act of May 17, 1921 (P.L.682,~~
16 ~~No.284), known as The Insurance Company Law of 1921.~~

17 ~~"Qualifying event." With respect to any covered employee,~~
18 ~~any of the following events which, but for the continuation of~~
19 ~~coverage required under this act, would result in the loss of~~
20 ~~coverage of an eligible dependent:~~

21 ~~(1) The death of a covered employee.~~

22 ~~(2) The termination, other than by reason of the~~
23 ~~employee's gross misconduct, or reduction of hours of the~~
24 ~~covered employee's employment.~~

25 ~~(3) The divorce or legal separation of the covered~~
26 ~~employee from an eligible dependent.~~

27 ~~(4) The covered employee becoming entitled to benefits~~
28 ~~under Title XVIII of the Social Security Act (49 Stat. 620,~~
29 ~~42 U.S.C. § 301 et seq.).~~

30 ~~(5) A dependent child ceasing to be a dependent child~~

1 ~~under the generally applicable requirements of the plan.~~

2 ~~(6) A proceeding in a case under 11 U.S.C. (relating to~~
3 ~~bankruptcy), with respect to the employer from whose~~
4 ~~employment the covered employee retired at any time. In the~~
5 ~~case of an event described in this definition, a loss of~~
6 ~~coverage includes a substantial elimination of coverage with~~
7 ~~respect to an eligible dependent within one year before or~~
8 ~~after the date of commencement of the proceeding.~~

9 ~~Section 4. Certain group policies.~~

10 ~~A group policy delivered or issued for delivery in this~~
11 ~~Commonwealth on or after the effective date of this act by an~~
12 ~~insurer which insures employees or members and their eligible~~
13 ~~dependents for hospital, surgical or major medical insurance~~
14 ~~shall provide that covered employees or eligible dependents~~
15 ~~whose coverage under the group policy would otherwise terminate~~
16 ~~because of a qualifying event shall be entitled to continue~~
17 ~~their hospital, surgical or major medical coverage under that~~
18 ~~group policy subject to the following terms and conditions:~~

19 ~~(1) Continuation shall only be available to a covered~~
20 ~~employee or eligible dependent who has been continuously~~
21 ~~insured under the group policy, and for similar benefits~~
22 ~~under any group policy which it replaced, during the entire~~
23 ~~three month period ending with the termination. If employment~~
24 ~~is reinstated during the continuation period, then coverage~~
25 ~~under the group policy must be reinstated for the covered~~
26 ~~employee and any eligible dependents who were covered under~~
27 ~~continuation.~~

28 ~~(2) Continuation shall not be available for any person~~
29 ~~covered under the group policy who:~~

30 ~~(i) is covered or is eligible for coverage under~~

1 Medicare;

2 ~~(ii) fails to verify that he is ineligible for~~
3 ~~employer based group health insurance as an eligible~~
4 ~~dependent; or~~

5 ~~(iii) is or could be covered by any other insured or~~
6 ~~uninsured arrangement which provides hospital, surgical~~
7 ~~or major medical coverage for individuals in a group and~~
8 ~~under which the person was not covered immediately prior~~
9 ~~to the termination, excluding the medical assistance~~
10 ~~program established under the act of June 13, 1967~~
11 ~~(P.L.31, No.21), known as the Public Welfare Code, or~~
12 ~~other government health benefit program.~~

13 ~~(3) Continuation need not include dental, vision care or~~
14 ~~prescription drug benefits or any other benefits provided~~
15 ~~under the group policy in addition to its hospital, surgical~~
16 ~~or major medical benefits, but continuation must include any~~
17 ~~benefits mandated under this or any other act if those~~
18 ~~benefits are provided under the group policy.~~

19 ~~(4) (i) The group policy shall provide notice to each~~
20 ~~covered employee of the rights provided under this act.~~

21 ~~(ii) The employer of a covered employee under a~~
22 ~~group policy must notify the administrator or its~~
23 ~~designee, the covered employee and the insurer of a~~
24 ~~qualifying event within 30 days of the date of the~~
25 ~~qualifying event.~~

26 ~~(iii) Each covered employee or eligible dependent~~
27 ~~shall notify the administrator or its designee of the~~
28 ~~covered employee's or eligible dependent's election of~~
29 ~~continuation coverage under this act within 60 days after~~
30 ~~the date of notice under subparagraph (ii). The coverage~~

1 ~~shall be effective as of the date of the qualifying~~
2 ~~event.~~

3 ~~(iv) The administrator or its designee notified~~
4 ~~under subparagraph (ii) shall notify the insurer within~~
5 ~~14 days of the covered employee's or eligible dependent's~~
6 ~~election.~~

7 ~~(v) Except as otherwise specified in an election,~~
8 ~~any election of continuation coverage by an eligible~~
9 ~~dependent shall be deemed to include an election of~~
10 ~~continuation coverage on behalf of any other eligible~~
11 ~~dependent who would lose coverage under the plan by~~
12 ~~reason of the qualifying event. If there is a choice~~
13 ~~among types of coverage under the plan, each eligible~~
14 ~~dependent is entitled to make a separate selection among~~
15 ~~the types of coverage.~~

16 ~~(5) (i) The covered employee or eligible dependent~~
17 ~~requesting the continuation of coverage must pay to the~~
18 ~~group policyholder, on a monthly basis, the amount of~~
19 ~~contribution required to continue the coverage for the~~
20 ~~covered employee or eligible dependent.~~

21 ~~(ii) The premium contribution may not be more than~~
22 ~~102% of the group rate of the insurance being continued~~
23 ~~on the due date of each payment; but, if any benefits are~~
24 ~~omitted as provided by paragraph (3), the premium~~
25 ~~contribution shall be reduced accordingly.~~

26 ~~(iii) Nothing in this act shall require the employer~~
27 ~~to contribute to the deductible of the employee holding a~~
28 ~~health savings account as defined in the Internal Revenue~~
29 ~~Code of 1986 (Public Law 99 514, 26 U.S.C. § 223(d)) as a~~
30 ~~component of the group policy after the termination date~~

1 as long as scheduled payments have been made.

2 ~~(6) Continuation of coverage under the group policy for~~
3 ~~any covered employee or eligible dependent shall terminate~~
4 ~~upon failure to satisfy paragraph (2) or, if earlier, at the~~
5 ~~first to occur of the following:~~

6 ~~(i) the date nine months after the date the covered~~
7 ~~employee's or eligible dependent's coverage under the~~
8 ~~group would have terminated because of a qualifying~~
9 ~~event;~~

10 ~~(ii) if the employee or member fails to make timely~~
11 ~~payment of a required premium contribution, the end of~~
12 ~~the period for which contributions were made; or~~

13 ~~(iii) the date on which the group policy is~~
14 ~~terminated. A covered employee or eligible dependent~~
15 ~~shall provide written notice to the administrator or its~~
16 ~~designee within 14 days if under paragraph (2) the~~
17 ~~coverage is not available.~~

18 ~~Section 5. Conversion policy.~~

19 ~~A covered employee shall be entitled to obtain a conversion~~
20 ~~policy as stated in section 621.2 of the act of May 17, 1921~~
21 ~~(P.L.682, No.284), known as The Insurance Company Law of 1921.~~
22 ~~The right to a converted policy pursuant to this act for a~~
23 ~~covered employee or eligible dependent entitled to continuation~~
24 ~~of coverage under this act shall commence upon termination of~~
25 ~~the continued coverage provided for under this act.~~

26 ~~Section 6. Prohibition.~~

27 ~~Coverage as required by this act may not be conditioned upon,~~
28 ~~or discriminated on, the basis of lack of evidence or~~
29 ~~insurability.~~

30 ~~Section 7. Election period and premium assistance.~~

1 ~~In the case of a qualifying event consisting of the~~
2 ~~involuntary termination of the covered employee's employment~~
3 ~~occurring on or after September 1, 2008, and before January 1,~~
4 ~~2010, or other date as specified by amendment or modification of~~
5 ~~section 3001 of the American Recovery and Reinvestment Act of~~
6 ~~2009 (Public Law 111-5, 123 Stat. 115) or successor legislation,~~
7 ~~a covered employee or eligible dependent shall be entitled to an~~
8 ~~election period and premium assistance as provided for by the~~
9 ~~American Recovery and Reinvestment Act of 2009, under the~~
10 ~~procedures and requirements set forth in that act.~~

11 ~~Section 8. Applicability.~~

12 ~~(a) Criteria. This act shall only apply to those persons~~
13 ~~who satisfy both of the following criteria:~~

14 ~~(1) Persons who are not subject to the continuation and~~
15 ~~conversion provisions set forth in Title 1, Subtitle B, Part~~
16 ~~6 of the Employee Retirement Income Security Act of 1974~~
17 ~~(Public Law 93-406, 88 Stat. 829) or Title XXII of the Public~~
18 ~~Health Service Act (58 Stat. 682, 42 U.S.C. § 201 et seq.).~~

19 ~~(2) Persons, and the eligible dependents of the persons,~~
20 ~~who are employed by an employer that normally employed~~
21 ~~between two and nineteen employees on a typical business day~~
22 ~~during the preceding year.~~

23 ~~(b) Assistance eligible individuals. This act shall apply~~
24 ~~to assistance eligible individuals as defined in section 3001(a)~~
25 ~~(3) of the American Recovery and Reinvestment Act of 2009~~
26 ~~(Public Law 111-5, 123 Stat. 115).~~

27 ~~Section 9. Regulations.~~

28 ~~The Insurance Department may promulgate regulations as~~
29 ~~necessary for the implementation and administration of this act.~~

30 ~~Section 10. Effect of expiration of certain premium benefits.~~

1 ~~This act shall remain in effect after the expiration of~~
2 ~~premium assistance for COBRA benefits provided for in the~~
3 ~~American Recovery and Reinvestment Act of 2009 (Public Law~~
4 ~~111-5, 123 Stat. 115).~~

5 ~~Section 20. Effective date.~~

6 ~~This act shall take effect immediately.~~

7 SECTION 1. THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN ←
8 AS THE INSURANCE COMPANY LAW OF 1921, IS AMENDED BY ADDING A
9 SECTION TO READ:

10 SECTION 635.4. MINI-COBRA SMALL EMPLOYER GROUP HEALTH
11 POLICIES.-- (A) A GROUP POLICY IN EFFECT OR DELIVERED OR ISSUED
12 FOR DELIVERY IN THIS COMMONWEALTH ON OR AFTER THE EFFECTIVE DATE
13 OF THIS SECTION BY AN INSURER WHICH INSURES EMPLOYEES AND THEIR
14 ELIGIBLE DEPENDENTS FOR HOSPITAL, SURGICAL OR MAJOR MEDICAL
15 INSURANCE SHALL PROVIDE THAT COVERED EMPLOYEES OR ELIGIBLE
16 DEPENDENTS WHOSE COVERAGE UNDER THE GROUP POLICY WOULD OTHERWISE
17 TERMINATE BECAUSE OF A QUALIFYING EVENT SHALL BE ENTITLED TO
18 CONTINUE THEIR HOSPITAL, SURGICAL OR MAJOR MEDICAL COVERAGE
19 UNDER THAT GROUP POLICY SUBJECT TO THE FOLLOWING TERMS AND
20 CONDITIONS:

21 (1) CONTINUATION SHALL ONLY BE AVAILABLE TO A COVERED
22 EMPLOYEE OR ELIGIBLE DEPENDENT WHO HAS BEEN CONTINUOUSLY INSURED
23 UNDER A GROUP POLICY OR FOR SIMILAR BENEFITS UNDER ANY GROUP
24 POLICY WHICH IT REPLACED, DURING THE ENTIRE THREE-MONTH PERIOD
25 ENDING WITH SUCH TERMINATION. IF EMPLOYMENT IS REINSTATED DURING
26 THE CONTINUATION PERIOD, THEN COVERAGE UNDER THE GROUP POLICY
27 MUST BE REINSTATED FOR THE COVERED EMPLOYEE AND ANY ELIGIBLE
28 DEPENDENTS WHO WERE COVERED UNDER CONTINUATION.

29 (2) CONTINUATION SHALL NOT BE AVAILABLE FOR ANY PERSON
30 COVERED UNDER THE GROUP POLICY WHO:

1 (I) IS COVERED OR IS ELIGIBLE FOR COVERAGE UNDER MEDICARE;
2 (II) FAILS TO VERIFY THAT HE IS INELIGIBLE FOR EMPLOYER-
3 BASED GROUP HEALTH INSURANCE AS AN ELIGIBLE DEPENDENT; OR
4 (III) IS OR COULD BE COVERED BY ANY OTHER INSURED OR
5 UNINSURED ARRANGEMENT WHICH PROVIDES HOSPITAL, SURGICAL OR MAJOR
6 MEDICAL COVERAGE FOR INDIVIDUALS IN A GROUP AND UNDER WHICH THE
7 PERSON WAS NOT COVERED IMMEDIATELY PRIOR TO SUCH TERMINATION,
8 EXCLUDING THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED UNDER THE
9 ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE "PUBLIC
10 WELFARE CODE," THE CHILDREN'S HEALTH CARE PROGRAM ESTABLISHED
11 UNDER ARTICLE XXIII OR THE ADULT BASIC COVERAGE INSURANCE
12 PROGRAM ESTABLISHED UNDER CHAPTER 13 OF THE ACT OF JUNE 26, 2001
13 (P.L.755, NO.77), KNOWN AS THE "TOBACCO SETTLEMENT ACT," AND ANY
14 SUCCESSORS THERETO.

15 (3) CONTINUATION MUST INCLUDE ANY BENEFITS PROVIDED UNDER
16 THE GROUP POLICY.

17 (4) (I) THE GROUP POLICY SHALL PROVIDE NOTICE TO THE
18 POLICYHOLDER OF THE RIGHTS PROVIDED UNDER THIS SECTION. UNLESS
19 ALREADY PROVIDED IN THE GROUP POLICY, AN INSURER WHO HAS ISSUED
20 A GROUP POLICY IN EFFECT AS OF THE EFFECTIVE DATE OF THIS
21 SECTION SHALL PROVIDE SUCH NOTICE TO THE POLICYHOLDER WITHIN 45
22 DAYS OF THE EFFECTIVE DATE.

23 (II) THE EMPLOYER OF A COVERED EMPLOYEE UNDER A GROUP POLICY
24 MUST NOTIFY THE ADMINISTRATOR OR ITS DESIGNEE, THE COVERED
25 EMPLOYEE AND THE INSURER OF A QUALIFYING EVENT WITHIN THIRTY DAYS
26 OF THE QUALIFYING EVENT. NOTICE TO THE COVERED EMPLOYEE SHALL
27 INCLUDE NOTICE OF THE RIGHTS SET FORTH IN THIS SECTION.

28 (III) EACH COVERED EMPLOYEE OR ELIGIBLE DEPENDENT SHALL
29 NOTIFY THE ADMINISTRATOR OR ITS DESIGNEE OF ITS ELECTION OF
30 CONTINUATION COVERAGE UNDER THIS SECTION WITHIN THIRTY DAYS OF

1 NOTICE UNDER SUBPARAGRAPH (II). THE COVERAGE SHALL BE EFFECTIVE
2 AS OF THE DATE OF THE QUALIFYING EVENT AND SHALL BE THE SAME AS
3 THE COVERAGE IN EFFECT AT THE TIME OF THE QUALIFYING EVENT OR
4 ANY REPLACEMENT COVERAGE.

5 (IV) AN ADMINISTRATOR OR ITS DESIGNEE NOTIFIED UNDER
6 SUBPARAGRAPH (III) OF AN ELECTION OF CONTINUATION COVERAGE SHALL
7 NOTIFY THE INSURER WITHIN FOURTEEN DAYS OF THE COVERED EMPLOYEE'S
8 OR ELIGIBLE DEPENDENT'S ELECTION.

9 (V) EXCEPT AS OTHERWISE SPECIFIED IN AN ELECTION, ANY
10 ELECTION OF CONTINUATION COVERAGE BY AN ELIGIBLE DEPENDENT SHALL
11 BE DEEMED TO INCLUDE AN ELECTION OF CONTINUATION COVERAGE ON
12 BEHALF OF ANY OTHER ELIGIBLE DEPENDENT WHO WOULD LOSE COVERAGE
13 UNDER THE PLAN BY REASON OF THE QUALIFYING EVENT.

14 (5) (I) THE COVERED EMPLOYEE OR ELIGIBLE DEPENDENT
15 REQUESTING THE CONTINUATION OF COVERAGE MUST PAY TO THE
16 ADMINISTRATOR OR ITS DESIGNEE, ON A MONTHLY BASIS, THE AMOUNT OF
17 CONTRIBUTION REQUIRED TO BE PAID BY THE COVERED EMPLOYEE OR
18 ELIGIBLE DEPENDENT TO CONTINUE THE COVERAGE.

19 (II) THE PREMIUM CONTRIBUTION MAY NOT BE MORE THAN ONE
20 HUNDRED FIVE PERCENT OF THE GROUP RATE OF THE INSURANCE BEING
21 CONTINUED ON THE DUE DATE OF EACH PAYMENT.

22 (III) NOTHING IN THIS SECTION SHALL REQUIRE THE EMPLOYER TO
23 CONTRIBUTE TO THE DEDUCTIBLE OF THE EMPLOYEE HOLDING A HEALTH
24 SAVINGS ACCOUNT AS DEFINED IN THE INTERNAL REVENUE CODE OF 1986
25 (PUBLIC LAW 99-514, 26 U.S.C. § 223(D)) OR OTHER MEDICAL
26 SPENDING ACCOUNT AS A COMPONENT OF THE GROUP POLICY AFTER THE
27 TERMINATION DATE AS LONG AS SCHEDULED PAYMENTS HAVE BEEN MADE.

28 (6) (I) CONTINUATION OF COVERAGE UNDER THE GROUP POLICY FOR
29 ANY COVERED EMPLOYEE OR ELIGIBLE DEPENDENT SHALL TERMINATE UPON
30 FAILURE TO SATISFY PARAGRAPH (2) OR, IF EARLIER, AT THE FIRST TO

1 OCCUR OF THE FOLLOWING:

2 (A) THE DATE NINE MONTHS AFTER THE DATE THE COVERED
3 EMPLOYEE'S OR ELIGIBLE DEPENDENT'S COVERAGE UNDER THE GROUP WOULD
4 HAVE TERMINATED BECAUSE OF A QUALIFYING EVENT;

5 (B) IF THE EMPLOYEE OR MEMBER FAILS TO MAKE TIMELY PAYMENT OF
6 A REQUIRED PREMIUM CONTRIBUTION, THE END OF THE PERIOD FOR WHICH
7 CONTRIBUTIONS WERE MADE;

8 (C) THE DATE ON WHICH THE GROUP POLICY IS TERMINATED.

9 (II) A COVERED EMPLOYEE OR ELIGIBLE DEPENDENT SHALL PROVIDE
10 WRITTEN NOTICE TO THE ADMINISTRATOR OR ITS DESIGNEE WITHIN
11 FOURTEEN DAYS IF, PURSUANT TO PARAGRAPH (2), COVERAGE SHOULD NOT
12 OCCUR.

13 (B) A COVERED EMPLOYEE SHALL BE ENTITLED TO OBTAIN A
14 CONVERSION POLICY AS STATED IN SECTION 621.2. THE RIGHT TO A
15 CONVERTED POLICY PURSUANT TO THIS ACT FOR A COVERED EMPLOYEE OR
16 ELIGIBLE DEPENDENT ENTITLED TO CONTINUATION OF COVERAGE UNDER
17 THIS ACT SHALL COMMENCE UPON TERMINATION OF THE CONTINUED
18 COVERAGE PROVIDED FOR UNDER THIS ACT.

19 (C) COVERAGE AS REQUIRED BY THIS SECTION MAY NOT BE
20 CONDITIONED UPON, OR DISCRIMINATED ON, THE BASIS OF LACK OF
21 EVIDENCE OF INSURABILITY.

22 (D) IN THE CASE OF A QUALIFYING EVENT CONSISTING OF THE
23 INVOLUNTARY TERMINATION OF THE COVERED EMPLOYEE'S EMPLOYMENT
24 OCCURRING ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION AND
25 BEFORE JANUARY 1, 2010, OR SUCH OTHER DATE AS SPECIFIED BY ANY
26 AMENDMENT TO OR SUCCESSOR OF SECTION 3001 OF DIVISION B, TITLE
27 III OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
28 (PUBLIC LAW 111-5, 123 STAT. 115), A COVERED EMPLOYEE OR ELIGIBLE
29 DEPENDENT SHALL BE ENTITLED TO PREMIUM ASSISTANCE AS PROVIDED IN
30 SECTION 3001 OF DIVISION B, TITLE III OF THE AMERICAN RECOVERY

1 AND REINVESTMENT ACT OF 2009, PURSUANT TO THE PROCEDURES AND
2 REQUIREMENTS SET FORTH THEREIN.

3 (E) THIS SECTION SHALL ONLY APPLY TO THOSE PERSONS WHO
4 SATISFY BOTH OF THE FOLLOWING CRITERIA:

5 (1) PERSONS WHO ARE NOT SUBJECT TO THE CONTINUATION AND
6 CONVERSION PROVISIONS SET FORTH IN TITLE 1, SUBTITLE B, PART 6
7 OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (PUBLIC
8 LAW 93-406, 29 U.S.C. § 1161 ET SEQ.) OR TITLE XXII OF THE
9 PUBLIC HEALTH SERVICE ACT PUBLIC LAW 99-272, 42 U.S.C. § 300BB-1
10 ET SEQ.).

11 (2) PERSONS, AND THE ELIGIBLE DEPENDENTS OF SUCH PERSONS,
12 WHO ARE EMPLOYED BY AN EMPLOYER THAT NORMALLY EMPLOYED BETWEEN
13 TWO AND NINETEEN EMPLOYEES ON A TYPICAL BUSINESS DAY DURING THE
14 PRECEDING YEAR.

15 (F) THE DEPARTMENT MAY PROMULGATE REGULATIONS AS NECESSARY
16 FOR THE IMPLEMENTATION AND ADMINISTRATION OF THIS SECTION.

17 (G) FOR PURPOSES OF THIS SECTION, THE FOLLOWING WORDS AND
18 PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION
19 UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

20 (1) "ADMINISTRATOR" MEANS THE PERSON SPECIFICALLY DESIGNATED
21 BY AN EMPLOYER BY WRITTEN AGREEMENT TO MANAGE THE ADMINISTRATION
22 OF A GROUP POLICY ISSUED TO AN EMPLOYER OR, IF AN ADMINISTRATOR
23 IS NOT SO DESIGNATED, THE EMPLOYER.

24 (2) "COVERED EMPLOYEE" MEANS AN INDIVIDUAL WHO IS OR WAS
25 PROVIDED COVERAGE UNDER A GROUP POLICY BY VIRTUE OF THE
26 PERFORMANCE OF SERVICES BY THE INDIVIDUAL FOR ONE OR MORE
27 PERSONS MAINTAINING THE POLICY, INCLUDING AS AN EMPLOYEE DEFINED
28 IN SECTION 401(C) (1) OF THE INTERNAL REVENUE CODE OF 1986
29 (PUBLIC LAW 99-514, 26 U.S.C. § 401(C) (1)). SUCH TERM INCLUDES
30 EMPLOYEES AND MEMBERS AS THOSE TERMS ARE USED IN SECTION 621.2.

1 (3) "ELIGIBLE DEPENDENT" MEANS:

2 (I) WITH RESPECT TO A COVERED EMPLOYE UNDER A GROUP HEALTH
3 PLAN, ANY OTHER INDIVIDUAL WHO ON THE DAY BEFORE THE QUALIFYING
4 EVENT FOR THAT EMPLOYE IS A BENEFICIARY UNDER THE PLAN:

5 (A) AS THE SPOUSE OF THE COVERED EMPLOYE; OR

6 (B) AS THE DEPENDENT CHILD OF THE EMPLOYE.

7 (II) IN THE CASE OF A QUALIFYING EVENT DESCRIBED IN
8 PARAGRAPH (6) (II), THE TERM INCLUDES A COVERED EMPLOYE.

9 (III) IN THE CASE OF A QUALIFYING EVENT DESCRIBED IN
10 PARAGRAPH (6) (VI), THE TERM INCLUDES A COVERED EMPLOYE WHO HAD
11 RETIRED ON OR BEFORE THE DATE OF SUBSTANTIAL ELIMINATION OF
12 COVERAGE AND ANY OTHER INDIVIDUAL WHO, ON THE DAY BEFORE SUCH
13 QUALIFYING EVENT, IS A BENEFICIARY UNDER THE PLAN:

14 (A) AS THE SPOUSE OF THE COVERED EMPLOYE;

15 (B) AS THE DEPENDENT CHILD OF THE EMPLOYE; OR

16 (C) AS THE SURVIVING SPOUSE OF THE COVERED EMPLOYE.

17 THE TERM SHALL ALSO INCLUDE A CHILD WHO IS BORN TO OR PLACED
18 FOR ADOPTION WITH A COVERED EMPLOYE DURING THE PERIOD OF
19 CONTINUATION COVERAGE UNDER THIS SECTION.

20 (4) "GROUP POLICY" MEANS ANY GROUP HEALTH INSURANCE POLICY,
21 SUBSCRIBER CONTRACT, CERTIFICATE OR PLAN WHICH PROVIDES HEALTH
22 OR SICKNESS AND ACCIDENT COVERAGE WHICH IS OFFERED BY AN
23 INSURER. THE TERM SHALL NOT INCLUDE ANY OF THE FOLLOWING:

24 (I) AN ACCIDENT ONLY POLICY.

25 (II) A CREDIT ONLY POLICY.

26 (III) A LONG-TERM CARE OR DISABILITY INCOME POLICY.

27 (IV) A SPECIFIED DISEASE POLICY.

28 (V) A MEDICARE SUPPLEMENT POLICY.

29 (VI) A CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED
30 SERVICES (CHAMPUS) SUPPLEMENT POLICY.

- 1 (VII) A FIXED INDEMNITY POLICY.
2 (VIII) A DENTAL ONLY POLICY.
3 (IX) A VISION ONLY POLICY.
4 (X) A WORKERS' COMPENSATION POLICY.
5 (XI) AN AUTOMOBILE MEDICAL PAYMENT POLICY UNDER 75 PA.C.S.
6 (RELATING TO VEHICLES).
7 (XII) ANY OTHER SIMILAR POLICIES PROVIDING FOR LIMITED
8 BENEFITS.

9 (5) "INSURER" MEANS A COMPANY OR HEALTH INSURANCE ENTITY
10 LICENSED IN THIS COMMONWEALTH TO ISSUE ANY HEALTH, SICKNESS OR
11 ACCIDENT POLICY OR SUBSCRIBER CONTRACT OR CERTIFICATE OR PLAN
12 THAT PROVIDES MEDICAL OR HEALTH CARE COVERAGE BY A HEALTH CARE
13 FACILITY OR LICENSED HEALTH CARE PROVIDER THAT IS OFFERED OR
14 GOVERNED UNDER ARTICLE XXIV OR OTHER PROVISION OF THIS ACT OR
15 ANY OF THE FOLLOWING:

16 (I) THE ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364), KNOWN
17 AS THE "HEALTH MAINTENANCE ORGANIZATION ACT."

18 (II) 40 PA.C.S. CH. 61 (RELATING TO HOSPITAL PLAN
19 CORPORATIONS) OR 63 (RELATING TO PROFESSIONAL HEALTH SERVICES
20 PLAN CORPORATIONS).

21 (6) "QUALIFYING EVENT" MEANS, WITH RESPECT TO ANY COVERED
22 EMPLOYEE, ANY OF THE FOLLOWING EVENTS WHICH, BUT FOR THE
23 CONTINUATION OF COVERAGE REQUIRED UNDER THIS SECTION, WOULD
24 RESULT IN THE LOSS OF COVERAGE OF AN ELIGIBLE DEPENDENT:

25 (I) THE DEATH OF A COVERED EMPLOYEE.

26 (II) THE TERMINATION, OTHER THAN BY REASON OF SUCH EMPLOYEE'S
27 GROSS MISCONDUCT, OR REDUCTION OF HOURS OF THE COVERED EMPLOYEE'S
28 EMPLOYMENT.

29 (III) THE DIVORCE OR LEGAL SEPARATION OF THE COVERED EMPLOYEE
30 FROM AN ELIGIBLE DEPENDENT.

1 (IV) THE COVERED EMPLOYEE BECOMING ENTITLED TO BENEFITS UNDER
2 TITLE XVIII OF THE SOCIAL SECURITY ACT (49 STAT. 620, 42 U.S.C.
3 § 1395 ET SEQ.).

4 (V) A DEPENDENT CHILD CEASING TO BE A DEPENDENT CHILD UNDER
5 THE GENERALLY APPLICABLE REQUIREMENTS OF THE PLAN.

6 (VI) A PROCEEDING IN A CASE UNDER 11 U.S.C. (RELATING TO
7 BANKRUPTCY), WITH RESPECT TO THE EMPLOYER FROM WHOSE EMPLOYMENT
8 THE COVERED EMPLOYEE RETIRED AT ANY TIME. IN THE CASE OF AN EVENT
9 DESCRIBED IN THIS SUBPARAGRAPH, A LOSS OF COVERAGE INCLUDES A
10 SUBSTANTIAL ELIMINATION OF COVERAGE WITH RESPECT TO AN ELIGIBLE
11 DEPENDENT WITHIN ONE YEAR BEFORE OR AFTER THE DATE OF
12 COMMENCEMENT OF THE PROCEEDING.

13 SECTION 2. THIS ACT SHALL TAKE EFFECT IN 30 DAYS.