

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 2026** Session of
2007

INTRODUCED BY PICKETT, BOYD, CUTLER, J. EVANS, KENNEY, KILLION, MUSTIO, REICHLEY, STERN, TURZAI, WATSON, MILNE, BAKER, R. STEVENSON, SCAVELLO, CAPPELLI, MOUL, GOODMAN, HERSHEY, HESS, SURRA, GEIST, SAYLOR, SIPTROTH, GINGRICH, CARROLL, HELM, WANSACZ, GRELL, MENSCH, MARSHALL, McILHATTAN, O'NEILL, RUBLEY, M. KELLER, SONNEY, MANDERINO, MOYER, LEACH, PHILLIPS, MAJOR, SCHRODER, YOUNGBLOOD, FLECK, HORNAMAN AND McILVAINE SMITH, DECEMBER 6, 2007

AS REPORTED FROM COMMITTEE ON INSURANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, FEBRUARY 12, 2008

AN ACT

1 Amending the act of May 17, 1921 (P.L.682, No.284), entitled "An
2 act relating to insurance; amending, revising, and
3 consolidating the law providing for the incorporation of
4 insurance companies, and the regulation, supervision, and
5 protection of home and foreign insurance companies, Lloyds
6 associations, reciprocal and inter-insurance exchanges, and
7 fire insurance rating bureaus, and the regulation and
8 supervision of insurance carried by such companies,
9 associations, and exchanges, including insurance carried by
10 the State Workmen's Insurance Fund; providing penalties; and
11 repealing existing laws," in health and accident insurance,
12 providing for group health policies to continue for period of
13 time after termination of employment or membership in health
14 maintenance organizations.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. The act of May 17, 1921 (P.L.682, No.284), known
18 as The Insurance Company Law of 1921, is amended by adding a
19 section to read:

20 Section 635.2. Mini-COBRA Small Employer Group Health

1 Policies.--(a) A group policy delivered or issued for delivery
2 in this Commonwealth after the effective date of this section by
3 an insurer which insures employes or members and their eligible
4 dependents for hospital, surgical or major medical insurance on <—
5 an expense incurred or service basis, other than for specific
6 diseases or for accidental injuries only, shall provide that
7 employes or members whose coverage under the group policy, which
8 includes coverage for their eligible dependents, would otherwise
9 terminate because of termination of employment or membership
10 SHALL PROVIDE THAT COVERED EMPLOYES OR ELIGIBLE DEPENDENTS WHOSE <—
11 COVERAGE UNDER THE GROUP POLICY WOULD OTHERWISE TERMINATE
12 BECAUSE OF A QUALIFYING EVENT shall be entitled to continue
13 their hospital, surgical or major medical coverage, <—
14 including coverage for their eligible dependents, under that group policy
15 subject to the following terms and conditions:
16 (1) Continuation shall only be available to an A COVERED <—
17 employe or member ELIGIBLE DEPENDENT who has been continuously <—
18 insured under the group policy, and for similar benefits under
19 any group policy which it replaced, during the entire three-
20 month period ending with such termination. If employment is
21 reinstated during the continuation period, then coverage under
22 the group policy must be reinstated for the employe and any <—
23 COVERED EMPLOYE AND ANY ELIGIBLE dependents who were covered <—
24 under continuation.
25 (2) Continuation shall not be available for any person
26 covered under the group policy who:
27 (i) is covered or is eligible for coverage under Medicare;
28 (ii) is covered or is eligible for coverage under Medicaid;
29 (iii) fails to verify that he is ineligible for employer-
30 based group health insurance as an eligible dependent; or

1 (iv) is or could be covered by any other insured or
2 uninsured arrangement which provides hospital, surgical or major
3 medical coverage for individuals in a group and under which the
4 person was not covered immediately prior to such termination, <—
5 EXCLUDING THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED UNDER THE
6 ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE "PUBLIC
7 WELFARE CODE."

8 (3) Continuation need not include dental, vision care or
9 prescription drug benefits or any other benefits provided under
10 the group policy in addition to its hospital, surgical or major
11 medical benefits, but continuation must include any benefits
12 mandated under this OR ANY OTHER act if those benefits are <—
13 provided under the group policy.

14 ~~(4) (i) The employe or member must request the continuation~~ <—
15 ~~in writing within thirty one days of the date coverage would~~
16 ~~otherwise terminate and~~

17 (4) (I) THE GROUP POLICY SHALL PROVIDE, AT THE TIME OF <—
18 COMMENCEMENT OF COVERAGE UNDER THE PLAN, WRITTEN NOTICE TO EACH
19 COVERED EMPLOYE AND ADULT ELIGIBLE DEPENDENT OF THE EMPLOYE, IF
20 ANY, OF THE RIGHTS PROVIDED UNDER THIS SECTION.

21 (II) THE EMPLOYER OF A COVERED EMPLOYE UNDER A PLAN MUST
22 NOTIFY THE ADMINISTRATOR OF A QUALIFYING EVENT WITHIN THIRTY
23 DAYS OF THE DATE OF THE QUALIFYING EVENT.

24 (III) EACH COVERED EMPLOYE OR ELIGIBLE DEPENDENT IS
25 RESPONSIBLE FOR NOTIFYING THE ADMINISTRATOR OF THE OCCURRENCE OF
26 ANY QUALIFYING EVENT WITHIN SIXTY DAYS AFTER THE DATE OF THE
27 QUALIFYING EVENT AND EACH ELIGIBLE DEPENDENT WHO IS DETERMINED,
28 UNDER TITLE II OR XVI OF THE SOCIAL SECURITY ACT (49 STAT. 620,
29 42 U.S.C. § 301 ET SEQ.), TO HAVE BEEN DISABLED AT ANY TIME
30 DURING THE FIRST SIXTY DAYS OF CONTINUATION COVERAGE UNDER THIS

1 SECTION IS RESPONSIBLE FOR NOTIFYING THE PLAN ADMINISTRATOR OF
2 SUCH DETERMINATION WITHIN SIXTY DAYS AFTER THE DATE OF THE
3 DETERMINATION AND FOR NOTIFYING THE PLAN ADMINISTRATOR WITHIN
4 THIRTY DAYS AFTER THE DATE OF ANY FINAL DETERMINATION UNDER
5 TITLE II OR XVI OF THE SOCIAL SECURITY ACT THAT THE ELIGIBLE
6 DEPENDENT IS NO LONGER DISABLED.

7 (IV) THE ADMINISTRATOR SHALL NOTIFY, (A) IN THE CASE OF A
8 QUALIFYING EVENT DESCRIBED IN SUBSECTION (E)(5)(I), (II), (IV)
9 OR (VI), ANY ELIGIBLE DEPENDENT WITH RESPECT TO SUCH EVENT, AND
10 (B) IN THE CASE OF A QUALIFYING EVENT DESCRIBED IN SUBPARAGRAPH
11 (III) OR (V) OF THE DEFINITION OF "QUALIFYING EVENT" IN
12 SUBSECTION (E) WHERE THE COVERED EMPLOYE NOTIFIES THE
13 ADMINISTRATOR UNDER SUBPARAGRAPH (III), ANY ELIGIBLE DEPENDENT
14 WITH RESPECT TO SUCH EVENT, OF SUCH DEPENDENT'S RIGHTS UNDER
15 THIS SECTION.

16 (V) FOR PURPOSES OF SUBPARAGRAPH (IV), ANY NOTIFICATION
17 SHALL BE MADE WITHIN FOURTEEN DAYS OF THE DATE ON WHICH THE
18 ADMINISTRATOR IS NOTIFIED UNDER SUBPARAGRAPH (II) OR (III),
19 WHICHEVER IS APPLICABLE, AND ANY SUCH NOTIFICATION TO AN
20 ELIGIBLE DEPENDENT WHO IS THE PARENT OR GUARDIAN OF ONE OR MORE
21 ELIGIBLE DEPENDENTS SHALL BE TREATED AS NOTIFICATION TO ALL
22 OTHER ELIGIBLE DEPENDENTS RESIDING WITH SUCH PARENT OR GUARDIAN
23 AT THE TIME SUCH NOTIFICATION IS MADE.

24 (VI) EXCEPT AS OTHERWISE SPECIFIED IN AN ELECTION, ANY
25 ELECTION OF CONTINUATION COVERAGE BY AN ELIGIBLE DEPENDENT SHALL
26 BE DEEMED TO INCLUDE AN ELECTION OF CONTINUATION COVERAGE ON
27 BEHALF OF ANY OTHER ELIGIBLE DEPENDENT WHO WOULD LOSE COVERAGE
28 UNDER THE PLAN BY REASON OF THE QUALIFYING EVENT. IF THERE IS A
29 CHOICE AMONG TYPES OF COVERAGE UNDER THE PLAN, EACH ELIGIBLE
30 DEPENDENT IS ENTITLED TO MAKE A SEPARATE SELECTION AMONG SUCH

1 TYPES OF COVERAGE.

2 (5) (I) THE COVERED EMPLOYE OR ELIGIBLE DEPENDENT
3 REQUESTING THE CONTINUATION OF COVERAGE must pay to the group
4 policyholder, on a monthly basis, the amount of contribution
5 required to continue the coverage.

6 (ii) The premium contribution may not be more than one
7 hundred ~~two~~ FIVE percent of the group rate of the insurance <—
8 being continued on the due date of each payment; but, if any
9 benefits are omitted as provided by paragraph (3), the premium
10 contribution shall be reduced accordingly.

11 (iii) Nothing in this section shall require the employer to
12 contribute to the deductible of the employe holding an HSA as
13 defined in the Internal Revenue Code of 1986 (Public Law 99-514,
14 26 U.S.C. § 223(d)) as a component of the group policy after the
15 termination date as long as scheduled payments have been made.

16 ~~(iv) The employe's or member's written request for~~ <—
17 ~~continuation, together with the first required premium~~
18 ~~contribution, must be given to the group policyholder within~~
19 ~~thirty one days of the date the coverage would otherwise~~
20 ~~terminate.~~

21 ~~(v) An employer shall notify its employes and members in~~
22 ~~writing of the duties of the employes and members under this~~
23 ~~section no later than the date on which coverage would otherwise~~
24 ~~terminate.~~

25 ~~(5) (6) Continuation of coverage under the group policy for~~ <—
26 ~~any covered person EMPLOYE OR ELIGIBLE DEPENDENT shall terminate~~ <—
27 ~~upon failure to satisfy paragraph (2) or, if earlier, at the~~
28 ~~first to occur of the following:~~

29 (i) the date nine months after the date the COVERED <—
30 employe's or member's ELIGIBLE DEPENDENT'S coverage under the <—

1 group would have terminated because of termination of employment <—
2 or membership A QUALIFYING EVENT; <—

3 (ii) if the employe or member fails to make timely payment
4 of a required premium contribution, the end of the period for
5 which contributions were made;

6 (iii) the date on which the group policy is terminated.

7 ~~(b) The spouse of an employe or member whose coverage under~~ <—
8 ~~the group policy would otherwise terminate due to dissolution of~~
9 ~~marriage or death of the employe or member shall have the same~~
10 ~~continuation privilege accorded under this section to the~~
11 ~~employe or member upon termination of employment or membership.~~

12 ~~(c) An~~ (B) A COVERED employe shall be entitled to obtain a <—
13 conversion policy as stated in section 1009-A 621.2. The right <—
14 to a converted policy pursuant to this act for an employe or <—
15 ~~member~~ A COVERED EMPLOYE OR ELIGIBLE DEPENDENT entitled to <—
16 continuation of coverage under this act shall commence upon
17 termination of the continued coverage provided for under this
18 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 OR INSURABILITY.

22 (d) This section shall only apply to those persons who
23 satisfy both of the following criteria:

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

29 (2) Persons, AND THE ELIGIBLE DEPENDENTS OF SUCH PERSONS, <—
30 who are employed by an employer that employs NORMALLY EMPLOYED <—

1 ~~between two and nineteen employes and the eligible dependents of~~ <—
2 ~~such persons~~ ON A TYPICAL BUSINESS DAY DURING THE PRECEDING <—
3 YEAR.

4 (E) FOR PURPOSES OF THIS SECTION, THE FOLLOWING WORDS AND <—
5 PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION
6 UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

7 (1) "COVERED EMPLOYEE" MEANS AN INDIVIDUAL WAS IS OR WAS
8 PROVIDED COVERAGE UNDER A GROUP POLICY BY VIRTUE OF THE
9 PERFORMANCE OF SERVICES BY THE INDIVIDUAL FOR ONE OR MORE
10 PERSONS MAINTAINING THE POLICY, INCLUDING AS AN EMPLOYEE DEFINED
11 IN SECTION 401(C)(1) OF THE INTERNAL REVENUE CODE OF 1986
12 (PUBLIC LAW 99-514, 26 U.S.C. § 1 ET SEQ.). SUCH TERM INCLUDES
13 EMPLOYES AND MEMBERS AS THOSE TERMS ARE USED IN SECTION 621.2.

14 (2) "ELECTION PERIOD" MEANS THE PERIOD WHICH:
15 (I) BEGINS NOT LATER THAN THE DATE ON WHICH COVERAGE
16 TERMINATES UNDER THE PLAN BY REASON OF A QUALIFYING EVENT;
17 (II) IS OF AT LEAST SIXTY DAYS' DURATION; AND
18 (III) ENDS NOT EARLIER THAN SIXTY DAYS AFTER THE LATER OF:
19 (A) THE DATE DESCRIBED IN SUBPARAGRAPH (I); OR
20 (B) IN THE CASE OF ANY ELIGIBLE DEPENDENT WHO RECEIVES
21 NOTICE UNDER SUBSECTION (A)(4)(IV), THE DATE OF SUCH NOTICE.

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

- 26 (I) AN ACCIDENT ONLY POLICY.
- 27 (II) A CREDIT ONLY POLICY.
- 28 (III) A LONG-TERM OR DISABILITY INCOME POLICY.
- 29 (IV) A SPECIFIED DISEASE POLICY.
- 30 (V) A MEDICARE SUPPLEMENT POLICY.

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

3 (VII) A FIXED INDEMNITY POLICY.

4 (VIII) A DENTAL ONLY POLICY.

5 (IX) A VISION ONLY POLICY.

6 (X) A WORKERS' COMPENSATION POLICY.

7 (XI) AN AUTOMOBILE MEDICAL PAYMENT POLICY UNDER 75 PA.C.S.
8 (RELATING TO VEHICLES).

9 (XII) ANY OTHER SIMILAR POLICIES PROVIDING FOR LIMITED
10 BENEFITS.

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

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

19 (II) THE ACT OF MAY 18, 1976 (P.L.123, NO.54), KNOWN AS THE
20 INDIVIDUAL ACCIDENT AND SICKNESS INSURANCE MINIMUM STANDARDS
21 ACT.

22 (III) 40 PA.C.S. CH. 61 (RELATING TO HOSPITAL PLAN
23 CORPORATIONS) OR 63 (RELATING TO PROFESSIONAL HEALTH SERVICES
24 PLAN CORPORATIONS).

25 (5) "QUALIFYING EVENT" MEANS, WITH RESPECT TO ANY COVERED
26 EMPLOYEE, ANY OF THE FOLLOWING EVENTS WHICH, BUT FOR THE
27 CONTINUATION OF COVERAGE REQUIRED UNDER THIS SECTION, WOULD
28 RESULT IN THE LOSS OF COVERAGE OF AN ELIGIBLE DEPENDENT:

29 (I) THE DEATH OF A COVERED EMPLOYEE.

30 (II) THE TERMINATION, OTHER THAN BY REASON OF SUCH EMPLOYEE'S

1 GROSS MISCONDUCT, OR REDUCTION OF HOURS OF THE COVERED EMPLOYEE'S
2 EMPLOYMENT.

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

5 (IV) THE COVERED EMPLOYEE BECOMING ENTITLED TO BENEFITS UNDER
6 TITLE XVIII OF THE SOCIAL SECURITY ACT (49 STAT. 620, 42 U.S.C.
7 § 301 ET SEQ.).

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

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

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

19 Section 2. This act shall take effect in 60 days.