

215 ILCS 125/4-9.2 Continuation of group HMO coverage after termination of employee or membership.

Sec. 4-9.2. Continuation of group HMO coverage after termination of employee or membership.

A group contract delivered, issued for delivery, renewed, or amended in this State that covers employees or members for health care services shall provide that employees or members whose coverage under the group contract would otherwise terminate because of termination of employment or membership or because of a reduction in hours below the minimum required by the group contract shall be entitled to continue their coverage under that group contract, for themselves and their eligible dependents, subject to all of the group contract's terms and conditions applicable to those forms of coverage and to the following conditions:

(1) Continuation shall only be available to an employee or member who has been continuously covered under the group contract (and for similar benefits under any group contract that it replaced) during the entire 3 month period ending with the termination of employment or membership or reduction in hours below the minimum required by the group contract. With respect to an employee or member who is involuntarily terminated between September 1, 2008 and December 31, 2009, continuation shall be available if the employee or member was covered under the group contract the day prior to such termination.

(2) Continuation shall not be available for any enrollee who is covered by Medicare, except for those individuals who have been covered under a group Medicare supplement policy. Continuation shall not be available for any enrollee who is covered by any other insured or uninsured plan that provides hospital, surgical, or medical coverage for individuals in a group and under which the enrollee was not covered immediately before termination or reduction in hours below the minimum required by the group contract or who exercises his or her conversion privilege under the group policy.

(3) Continuation need not include dental, vision care, prescription drug, or similar supplementary benefits that are provided under the group contract in addition to its basic health care services.

(4) Within 10 days after the employee's or member's termination or reduction in hours below the minimum required by the group contract, written notice of continuation shall be presented to the employee or member by the employer. If the employee or member is unavailable, written notice shall be mailed by the employer to the last known address of the employee or member within 10 days after the employee's or member's termination or reduction in hours below the minimum required by the group plan. The employer shall also send a copy of the notice to the HMO. An employee or member who wishes continuation of coverage must request continuation in writing within the 30 day period following the later of

(i) the date of termination or reduction in hours below the minimum required by the group contract or

(ii) the date the employee is presented or mailed written notice of the right of continuation by either the employer or the group policyholder.

In no event, however, shall the employee or member elect continuation more than 60 days after the date of termination or reduction in hours below the minimum required by the group contract.

Written notice of continuation presented to the employee or member by the policyholder, or mailed by the policyholder to the last known address of the employee, shall constitute the giving of notice for the purpose of this paragraph.

The HMO shall not deny coverage to the employee or member due to the employer's failure to provide notice pursuant to this Section to the employee or member. Until January 1, 2010, in the event the employee or member contacts the HMO regarding continuation rights and advises that notice has not

been provided by the employer or group policyholder, the HMO shall provide a written explanation to the employee or member of the employee's or member's continuation rights pursuant to this Section.

(4a) Unless contrary to the provisions of, or any rules promulgated pursuant to, Section 3001(a)(7) of Title III of Division B of the federal American Recovery and Reinvestment Act of 2009, with respect to employees or members of health plans that are subject solely to State continuation coverage and who are terminated or whose reduction in hours below the minimum required by the group occurs between the effective date of this amendatory Act of the 96th General Assembly and December 31, 2009, the notice requirements of this Section are not satisfied unless notice is presented or mailed to the employee or member by the HMO informing the employee or member of the availability of premium reduction with respect to such coverage under the federal American Recovery and Reinvestment Act of 2009. Such written notice shall conform to all applicable requirements set forth in Section 3001(a)(7) of Title III of Division B of the federal American Recovery and Reinvestment Act of 2009. The Department shall publish models for the notification that shall be provided by HMOs pursuant to this paragraph (4a).

(4b) Unless contrary to the provisions of, or any rules promulgated pursuant to, Section 3001(a)(7) of Title III of Division B of the federal American Recovery and Reinvestment Act of 2009, with respect to employees or members of health plans that are subject solely to State continuation coverage who were terminated or whose reduction in hours below the minimum required by the group occurred between September 1, 2008, and the effective date of this amendatory Act of the 96th General Assembly and who have an election of continuation of coverage pursuant to this Section in effect, notice shall be presented or mailed to the employee or member by the HMO informing the employee or member of the availability of premium reduction with respect to such coverage under the federal American Recovery and Reinvestment Act of 2009. Such written notice shall conform to all applicable requirements set forth in Section 3001(a)(7) of Title III of Division B of the federal American Recovery and Reinvestment Act of 2009 and shall be presented or mailed to the employee or member within 14 days of the effective date of this amendatory Act of the 96th General Assembly. The Department shall publish models for the notification that shall be provided by HMOs pursuant to this paragraph (4b).

(5) An employee or member electing continuation must pay to the group policyholder or his employer, on a monthly basis in advance, the total amount of premium required by the HMO, including that portion of the premium contributed by the policyholder or employer, if any, but not more than the group rate for the coverage being continued with appropriate reduction in premium for any supplementary benefits that have been discontinued under paragraph (3) of this Section. The premium rate required by the HMO shall be the applicable premium required on the due date of each payment.

(6) Continuation of coverage under the group contract for any person shall terminate when the person becomes eligible for Medicare or is covered by any other insured or uninsured plan that provides hospital, surgical, or medical coverage for individuals in a group and under which the person was not covered immediately before termination or reduction in hours below the minimum required by the group contract as provided in paragraph (2) of this Section or, if earlier, at the first to occur of the following:

(a) The expiration of 12 months after the employee's or member's coverage because of termination of employment or membership or reduction in hours below the minimum required by the group contract.

(b) If the employee or member fails to make timely payment of a required contribution, the end of the period for which contributions were made.

(c) The date on which the group contract is terminated or, in the case of an employee, the date his or her employer terminates participation under the group contract. If, however, this paragraph applies and the coverage ceasing by reason of termination is replaced by similar coverage under another group contract, then

(i) the employee or member shall have the right to become covered under the replacement group contract for the balance of the period that he or she would have remained covered under the prior

group contract in accordance with paragraph (6) had a termination described in this item (c) not occurred and

(ii) the prior group contract shall continue to provide benefits to the extent of its accrued liabilities and extensions of benefits as if the replacement had not occurred.

(7) A notification of the continuation privilege shall be included in each evidence of coverage.

(8) Continuation shall not be available for any employee who was discharged because of the commission of a felony in connection with his or her work, or because of theft in connection with his or her work, for which the employer was in no way responsible if the employee (i) admitted to committing the felony or theft or (ii) was convicted or placed under supervision by a court of competent jurisdiction.

(9) An employee or member without an election of continuation of coverage pursuant to this Section in effect on the effective date of this amendatory Act of the 96th General Assembly may elect continuation pursuant to this paragraph (9) if the employee or member: (i) would be an assistance eligible individual as defined in Section 3001(a)(3) of Title III of Division B of the federal American Recovery and Reinvestment Act of 2009 if such an election were in effect and (ii) at the time of termination was eligible for continuation pursuant to paragraphs (1) and (2) of this Section.

Unless contrary to the provisions of, or any rules promulgated pursuant to, Section 3001(a)(7) of Title III of Division B of the federal American Recovery and Reinvestment Act of 2009, written notice of continuation pursuant to this paragraph (9) shall be presented to the employee or member by the HMO or mailed by the HMO to the last known address of the employee or member within 30 days after the effective date of this amendatory Act of the 96th General Assembly. The written notice shall conform to all applicable requirements set forth in Section 3001(a)(7) of Title III of Division B of the federal American Recovery and Reinvestment Act of 2009. The Department shall publish models for the notification that shall be provided by HMOs pursuant to this paragraph (9).

An employee or member electing continuation of coverage under this paragraph (9) must request such continuation in writing within 60 days after the date the employee or member receives written notice of the right of continuation by the HMO.

Continuation of coverage elected pursuant to this paragraph (9) shall commence with the first period of coverage beginning on or after February 17, 2009, the effective date of the federal American Recovery and Reinvestment Act of 2009, and shall not extend beyond the period of continuation that would have been required if the coverage had been elected pursuant to paragraph (4) of this Section.

With respect to an employee or member who elects continuation of coverage under this paragraph (9), the period beginning on the date of the employee or member's involuntary termination of employment and ending on the date of the first period of coverage on or after February 17, 2009 shall be disregarded for purposes of determining the 63-day period referred to in Section 20 of the Illinois Health Insurance Portability and Accountability Act.

The requirements of this amendatory Act of 1992 shall apply to any group contract, as defined in this Section, delivered or issued for delivery on or after 180 days following the effective date of this amendatory Act of 1992.

(Source: P.A. 93-477, eff. 1-1-04; P.A. 96-0013, eff. 6-18-09.)