

## CHAPTER 162

AN ACT concerning small employer health benefits plans and amending P.L.1992, c.162.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. Section 11 of P.L.1992, c.162 (C.17B:27A-27) is amended to read as follows:

C.17B:27A-27 Continued coverage for certain terminated employees, dependents.

11. a. (1) Every policy or contract issued to a small employer in this State, including, but not limited to, policies or contracts which are subject to this act and which are delivered, issued, renewed, or continued on or after January 1, 1994, shall offer continued coverage under the plan to any employee whose employment was terminated for a reason other than for cause and to any employee covered by such plan whose hours of employment were reduced to less than 25 subsequent to the effective date of coverage for that employee.

(2) Every policy or contract issued to a small employer in this State, including, but not limited to, policies or contracts which are subject to P.L.1992, c.162 (C.17B:27A-17 et seq.) and which are delivered, issued, renewed, or continued on or after the effective date of P.L.2004, c.162, shall offer continued coverage under the plan to: (a) any spouse who is a qualified beneficiary under the plan by reason of being the spouse of a covered employee on the day before the qualifying event; (b) to any dependent child who is a qualified beneficiary under the plan by reason of being the dependent child of a covered employee on the day before the qualifying event, subject to the applicable terms of the plan; and (c) to any such spouse or dependent child who is a qualified beneficiary under the plan whenever that spouse or dependent child is no longer entitled to coverage under the plan by reason of the death of the employee or the divorce of the employee from the spouse.

(3) The employee, spouse or dependent child shall make a written election for continued coverage within 30 days of a qualifying event. For the purposes of this section, "qualifying event" shall mean: (a) the date of termination of employment; (b) the date on which a reduction in an employee's hours of employment becomes effective; (c) the date of death of the employee; (d) the date of the divorce of the employee from the employee's spouse; or (e) the date the dependent child ceases to be an eligible dependent.

(4) For the purposes of paragraphs (1) and (2) of this subsection a., the date on which a health benefits plan is continued shall be the anniversary date of the issuance of the plan.

b. Coverage continued pursuant to subsection a. of this section shall consist of coverage which is identical to the coverage provided under the policy or contract to similarly situated qualified beneficiaries. If coverage is modified under the policy or contract for any group of similarly situated qualified beneficiaries, this coverage shall also be modified in the same manner for persons who are qualified beneficiaries entitled pursuant to subsection a. of this section to continued coverage. Continuation of coverage may not be conditioned upon, or discriminate on the basis of, lack of evidence of insurability.

c. The health benefits plan may require payment of a premium by the employee, spouse or dependent child for any period of continuation coverage as provided for in this section, except that the premium shall not exceed 102%, or 150% in the case of continuation of coverage pursuant to paragraph (2) of subsection g. of this section, of the applicable premium paid for similarly situated beneficiaries under the health benefits plan for a specified period, and may, at the election of the payor, be made in monthly installments. No premium payment shall be due before the 30th day after the day on which the covered employee made the initial election for continued coverage.

d. Coverage continued pursuant to this section shall continue until the earlier of the following:

(1) The date upon which the employer under whose health benefits plan coverage is continued ceases to provide any health benefits plan to any employee or other qualified beneficiary;

(2) The date on which the continued coverage ceases under the health benefits plan by reason of a failure to make timely payment of any premium required under the plan by the former employee, spouse, or dependent child having the continued coverage. The payment of any premium shall be considered to be timely if made within 30 days after the due date or within such longer period as may be provided for by the policy or contract; or

(3) The date after the date of election on which the qualified beneficiary first becomes:

(a) Covered under any other health benefits plan, as an employee or otherwise, which does not contain a provision which limits or excludes coverage with respect to any preexisting condition of a covered employee or any spouse or dependent child who is included under the coverage provided the covered employee, for such period of the limitation or exclusion; or

(b) Entitled to benefits under Title XVIII of the Social Security Act, Pub.L.89-97 (42 U.S.C.s.1395 et seq.).

e. Notice shall be provided to employees in the certificate of coverage prepared for employees by the carrier on or about the commencement of coverage and by the small employer at the time of the qualifying event as to their continuation rights under the plan. A qualified beneficiary may elect continuation coverage offered pursuant to this section no later than 30 days after the qualifying event. For the purposes of this section, "qualified beneficiary" means any person covered under a small employer group policy who has a qualifying event.

f. The provisions of this section shall not apply to any person who is a qualified beneficiary for the purposes of continuation of coverage as provided in accordance with section 10002 of Title X of Pub.L.99-272 (29 U.S.C.s.1161 et seq.).

g. Continuation of coverage provided for under this section shall not exceed 18 months from the qualifying event, except that:

(1) In the case of a spouse or dependent child who is a qualified beneficiary, continuation of coverage shall extend until the date 36 months after the date the spouse's or dependent child's benefits under the policy or contract would otherwise have terminated by reason of the death of the employee, the divorce of the employee from the spouse or a dependent child ceasing to be a dependent child under the applicable provisions of the policy or contract; and

(2) In the case of an employee who is determined to have been disabled under Title II or XVI of the Social Security Act (42 U.S.C.ss.401-433 or 42 U.S.C.ss.1381-1383) at the time of termination of employment or at any time during the first 60 days of continuation of coverage, 29 months after the date benefits under the policy or contract would have terminated pursuant to paragraph (1) of subsection a. of this section; provided, however, that if the employee is no longer disabled, continuation of coverage shall terminate on the later date of 18 months or the month that begins more than 31 days after the date of final determination under Title II or Title XVI of the Social Security Act (42 U.S.C.ss.401-433 or 42 U.S.C.ss.1381-1383) that the employee is no longer disabled. The employee shall provide notification of the disability determination under Title II or XVI of the Social Security Act (42 U.S.C.ss.401-433 or 42 U.S.C.ss.1381-1383) to the carrier within 60 days of the date of that determination, and within 18 months of the date benefits under the policy or contract would have terminated pursuant to paragraph (1) of subsection a. of this section

2. This act shall take effect on the 90th day after enactment.

Approved December 7, 2004.