

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

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

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AMENDING THE ACT OF MAY 17, 1921 (P.L.682, NO.284), ENTITLED "AN ACT RELATING TO INSURANCE; AMENDING, REVISING, AND CONSOLIDATING THE LAW PROVIDING FOR THE INCORPORATION OF INSURANCE COMPANIES, AND THE REGULATION, SUPERVISION, AND PROTECTION OF HOME AND FOREIGN INSURANCE COMPANIES, LLOYDS ASSOCIATIONS, RECIPROCAL AND INTER-INSURANCE EXCHANGES, AND FIRE INSURANCE RATING BUREAUS, AND THE REGULATION AND

SUPERVISION OF INSURANCE CARRIED BY SUCH COMPANIES, ASSOCIATIONS, AND EXCHANGES, INCLUDING INSURANCE CARRIED BY THE STATE WORKMEN'S INSURANCE FUND; PROVIDING PENALTIES; AND REPEALING EXISTING LAWS," IN HEALTH AND ACCIDENT INSURANCE, PROVIDING FOR GROUP HEALTH POLICIES TO CONTINUE FOR PERIOD OF TIME AFTER TERMINATION OF EMPLOYMENT OR MEMBERSHIP IN HEALTH MAINTENANCE ORGANIZATIONS.

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

~~Section 1. Short title.~~

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~~This act shall be known and may be cited as the Mini-COBRA Small Employer Group Health Plan and Premium Assistance Act.~~

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

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

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

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

~~(3) Unemployed individuals who are involuntarily terminated from their jobs have access to COBRA, however,~~

~~many find that the premium for COBRA is too expensive and are unable to afford the premium.~~

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

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

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

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

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~~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~~

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

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

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

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

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

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

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

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

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

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

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

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

~~(6) A Civilian Health and Medical Program of the~~

~~Uniformed Services (CHAMPUS) supplement policy.~~

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

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

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

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

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

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

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

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

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

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

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

~~"Qualifying event." With respect to any covered employee,~~

~~any of the following events which, but for the continuation of coverage required under this act, would result in the loss of coverage of an eligible dependent:~~

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

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

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

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

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

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

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

~~Section 4. Certain group policies.~~

~~A group policy delivered or issued for delivery in this~~

~~Commonwealth on or after the effective date of this act by an insurer which insures employees or members and their eligible dependents for hospital, surgical or major medical insurance shall provide that covered employees or eligible dependents whose coverage under the group policy would otherwise terminate because of a qualifying event shall be entitled to continue their hospital, surgical or major medical coverage under that group policy subject to the following terms and conditions:~~

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

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

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

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~~Medicare;~~

~~(ii) fails to verify that he is ineligible for employer-based group health insurance as an eligible~~

~~dependent; or~~

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

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

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

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

~~(iii) Each covered employee or eligible dependent shall notify the administrator or its designee of the~~

~~covered employee's or eligible dependent's election of continuation coverage under this act within 60 days after the date of notice under subparagraph (ii). The coverage~~

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

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

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

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

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

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

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~~as long as scheduled payments have been made.~~

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

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

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

~~(iii) the date on which the group policy is~~

~~terminated. A covered employee or eligible dependent shall provide written notice to the administrator or its designee within 14 days if under paragraph (2) the coverage is not available.~~

~~Section 5. Conversion policy.~~

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

~~Section 6. Prohibition.~~

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

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

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~~In the case of a qualifying event consisting of the involuntary termination of the covered employee's employment occurring on or after September 1, 2008, and before January 1, 2010, or other date as specified by amendment or modification of section 3001 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5, 123 Stat. 115) or successor legislation,~~

~~a covered employee or eligible dependent shall be entitled to an election period and premium assistance as provided for by the American Recovery and Reinvestment Act of 2009, under the procedures and requirements set forth in that act.~~

~~Section 8. Applicability.~~

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

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

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

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

~~Section 9. Regulations.~~

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

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

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

~~Section 20. Effective date.~~

~~This act shall take effect immediately.~~

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

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

(1) CONTINUATION SHALL ONLY BE AVAILABLE TO A COVERED EMPLOYEE OR ELIGIBLE DEPENDENT WHO HAS BEEN CONTINUOUSLY INSURED UNDER A GROUP POLICY OR FOR SIMILAR BENEFITS UNDER ANY GROUP POLICY WHICH IT REPLACED, DURING THE ENTIRE THREE-MONTH PERIOD

ENDING WITH SUCH TERMINATION. IF EMPLOYMENT IS REINSTATED DURING  
THE CONTINUATION PERIOD, THEN COVERAGE UNDER THE GROUP POLICY  
MUST BE REINSTATED FOR THE COVERED EMPLOYEE AND ANY ELIGIBLE  
DEPENDENTS WHO WERE COVERED UNDER CONTINUATION.

(2) CONTINUATION SHALL NOT BE AVAILABLE FOR ANY PERSON

COVERED UNDER THE GROUP POLICY WHO:

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(I) IS COVERED OR IS ELIGIBLE FOR COVERAGE UNDER MEDICARE;

(II) FAILS TO VERIFY THAT HE IS INELIGIBLE FOR EMPLOYER-  
BASED GROUP HEALTH INSURANCE AS AN ELIGIBLE DEPENDENT; OR

(III) IS OR COULD BE COVERED BY ANY OTHER INSURED OR  
UNINSURED ARRANGEMENT WHICH PROVIDES HOSPITAL, SURGICAL OR MAJOR  
MEDICAL COVERAGE FOR INDIVIDUALS IN A GROUP AND UNDER WHICH THE  
PERSON WAS NOT COVERED IMMEDIATELY PRIOR TO SUCH TERMINATION,  
EXCLUDING THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED UNDER THE  
ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE "PUBLIC  
WELFARE CODE," THE CHILDREN'S HEALTH CARE PROGRAM ESTABLISHED  
UNDER ARTICLE XXIII OR THE ADULT BASIC COVERAGE INSURANCE  
PROGRAM ESTABLISHED UNDER CHAPTER 13 OF THE ACT OF JUNE 26, 2001  
(P.L.755, NO.77), KNOWN AS THE "TOBACCO SETTLEMENT ACT," AND ANY  
SUCCESSORS THERETO.

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

(4) (I) THE GROUP POLICY SHALL PROVIDE NOTICE TO THE

POLICYHOLDER OF THE RIGHTS PROVIDED UNDER THIS SECTION. UNLESS  
ALREADY PROVIDED IN THE GROUP POLICY, AN INSURER WHO HAS ISSUED  
A GROUP POLICY IN EFFECT AS OF THE EFFECTIVE DATE OF THIS  
SECTION SHALL PROVIDE SUCH NOTICE TO THE POLICYHOLDER WITHIN 45  
DAYS OF THE EFFECTIVE DATE.

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

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

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

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

(V) EXCEPT AS OTHERWISE SPECIFIED IN AN ELECTION, ANY  
ELECTION OF CONTINUATION COVERAGE BY AN ELIGIBLE DEPENDENT SHALL

BE DEEMED TO INCLUDE AN ELECTION OF CONTINUATION COVERAGE ON  
BEHALF OF ANY OTHER ELIGIBLE DEPENDENT WHO WOULD LOSE COVERAGE  
UNDER THE PLAN BY REASON OF THE QUALIFYING EVENT.

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

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

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

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

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OCCUR OF THE FOLLOWING:

(A) THE DATE NINE MONTHS AFTER THE DATE THE COVERED  
EMPLOYEE'S OR ELIGIBLE DEPENDENT'S COVERAGE UNDER THE GROUP WOULD

HAVE TERMINATED BECAUSE OF A QUALIFYING EVENT;

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

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

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

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

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

(D) IN THE CASE OF A QUALIFYING EVENT CONSISTING OF THE INVOLUNTARY TERMINATION OF THE COVERED EMPLOYEE'S EMPLOYMENT OCCURRING ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION AND BEFORE JANUARY 1, 2010, OR SUCH OTHER DATE AS SPECIFIED BY ANY AMENDMENT TO OR SUCCESSOR OF SECTION 3001 OF DIVISION B, TITLE III OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

(PUBLIC LAW 111-5, 123 STAT. 115), A COVERED EMPLOYEE OR ELIGIBLE  
DEPENDENT SHALL BE ENTITLED TO PREMIUM ASSISTANCE AS PROVIDED IN  
SECTION 3001 OF DIVISION B, TITLE III OF THE AMERICAN RECOVERY

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

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

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

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

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

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

(1) "ADMINISTRATOR" MEANS THE PERSON SPECIFICALLY DESIGNATED

BY AN EMPLOYER BY WRITTEN AGREEMENT TO MANAGE THE ADMINISTRATION  
OF A GROUP POLICY ISSUED TO AN EMPLOYER OR, IF AN ADMINISTRATOR  
IS NOT SO DESIGNATED, THE EMPLOYER.

(2) "COVERED EMPLOYEE" MEANS 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. § 401(C)(1)). SUCH TERM INCLUDES  
EMPLOYEES AND MEMBERS AS THOSE TERMS ARE USED IN SECTION 621.2.

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(3) "ELIGIBLE DEPENDENT" MEANS:

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

(A) AS THE SPOUSE OF THE COVERED EMPLOYEE; OR

(B) AS THE DEPENDENT CHILD OF THE EMPLOYEE.

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

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

(A) AS THE SPOUSE OF THE COVERED EMPLOYEE;

(B) AS THE DEPENDENT CHILD OF THE EMPLOYEE; OR

(C) AS THE SURVIVING SPOUSE OF THE COVERED EMPLOYEE.

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

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

(I) AN ACCIDENT ONLY POLICY.

(II) A CREDIT ONLY POLICY.

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

(IV) A SPECIFIED DISEASE POLICY.

(V) A MEDICARE SUPPLEMENT POLICY.

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

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(VII) A FIXED INDEMNITY POLICY.

(VIII) A DENTAL ONLY POLICY.

(IX) A VISION ONLY POLICY.

(X) A WORKERS' COMPENSATION POLICY.

(XI) AN AUTOMOBILE MEDICAL PAYMENT POLICY UNDER 75 PA.C.S.

(RELATING TO VEHICLES).

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

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

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

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

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

(I) THE DEATH OF A COVERED EMPLOYEE.

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

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

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

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

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

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