

CHAPTER 120**(HB 352)**

AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.18-110 is amended to read as follows:

- (1) As used in this section:
 - (a) "Group policy" means group health insurance policies as defined in KRS 304.18-020 and blanket health insurance policies which the commissioner, in his discretion, designates as subject to this section, which:
 1. Affect the rights of a Kentucky insured and bear a reasonable relation to Kentucky, regardless of whether delivered or issued for delivery in Kentucky;
 2. Provide hospital or surgical expenses benefits, other than for a specific disease or accidental injury only; and
 3. Are delivered, issued for delivery, or renewed after July 15, 1986;
 - (b) "Medicare" means Title XVIII of the United States Social Security Act as amended or superseded.
- (2) Persons insured under group policies have the right upon termination of group membership to continue coverage for themselves and their dependents upon meeting the following conditions:
 - (a) The group member has been covered by the group policy or any group policy it replaced for at least three (3) months; and
 - (b) Notice is given to the insurer and payment of the group rate is made to the insurer within thirty-one (31) days after notice pursuant to subsection (9){(10)} of this section.
- (3) Continued group health insurance coverage shall terminate on the earlier of:
 - (a) The date eighteen (18) months after the date on which the group coverage would otherwise have terminated because of termination of group membership;
 - (b) If the group member fails to make timely payment of premium to the insurance company, the end of the period for which premium payment was made; or
 - (c) The date the group policy is terminated and is not replaced by another group policy within thirty-one (31) days. ~~In the case of replacement coverage as provided in subsection (4) of this section, the replaced policy and insurer shall terminate continued group health coverage in the same manner that coverage is terminated for active employees.~~
- (4) ***If a group policy is replaced, persons under the continued group health insurance shall remain under such coverage under the replaced policy until it terminates in accordance with subsection (3) of this section.*** ~~If an employer's group policy is terminated and replaced by a new group policy, subject to the termination provisions contained in subsection (3) of this section, persons under continued group health insurance coverage under the replaced policy at the time of replacement shall be offered continued group health insurance coverage under the subsequent group policy under rules that are no less favorable to the person under~~

~~continued group coverage than are available to similarly situated eligible employees. This subsection shall not be construed to prevent a change in group health coverage so long as the change does not directly discriminate against persons under continued group coverage and continues on the basis of health status related factors.~~

~~(5) Nothing in subsection (4) of this section shall be construed to begin a new eighteen (18) months period of continued group health insurance coverage eligibility under paragraph (a) of subsection (3) of this section. This eligibility shall be a continuous period of eighteen (18) consecutive months.~~

(5)~~(6)~~ Group members have the right upon termination of coverage under a group policy for any reason to have a conversion health insurance policy providing substantially similar benefits issued to the group member by the insurer upon meeting the following conditions:

- (a) The group member has been covered by the group policy or any policy it replaced for at least three (3) months;
- (b) The group member must make written application to the insurer for conversion health insurance coverage not later than thirty-one (31) days after notice pursuant to subsection ~~(9)~~~~(10)~~ of this section; and
- (c) The group member must pay the monthly, quarterly, semiannual, or annual premium, at the option of the applicant, to the insurer not later than thirty-one (31) days after notice pursuant to subsection ~~(9)~~~~(10)~~ of this section.

~~(6)~~~~(7)~~ Terms of conversion health insurance coverage:

- (a) Conversion health insurance coverage shall be available without evidence of insurability and shall contain no pre-existing condition limitations;
- (b) The premium for conversion health insurance coverage shall be according to the insurer's table of premium rates in effect on the latter of:
 1. The effective date of the converted policy; or
 2. The date of application when the premium rate applies to the class of risk to which the covered persons belong, to their ages, and to the form and amount of insurance provided;
- (c) The conversion health insurance policy shall cover the group member and eligible dependents covered by the group policy on the date coverage under the group policy terminated;
- (d) The effective date of the conversion health insurance policy shall be the date of termination of coverage under the group policy; and
- (e) The conversion health insurance policy shall provide benefits substantially similar to those provided by the group policy, but not less than the minimum standards set forth in KRS 304.18-120.

~~(7)~~~~(8)~~ The right to continue group health insurance coverage and the right to conversion health insurance coverage shall also be available:

- (a) To the surviving spouse, at the death of the group member, with respect to the spouse and such children whose coverage under the group policy would terminate or terminates by reason of the death of the group member;

- (b) To a child solely with respect to himself upon termination of membership in the group or his coverage by reason of operation of the limiting age of coverage under the group policy while covered as a dependent thereunder; or
 - (c) To a former spouse for himself and such children of whom he is awarded custody when coverage under the group policy would terminate or terminates by reason of termination of dependency as defined in the group policy and resulting from an order dissolving the marriage entered by a court of competent jurisdiction.
- ~~(8)~~~~(9)~~ Continuation of group health insurance coverage or conversion health insurance coverage need not be granted in the following situations:
- (a) The applicant is or could be covered by Medicare;
 - (b) The applicant is or could be covered by another group coverage (insured or uninsured) or, in the case of conversion health insurance coverage, the applicant is covered by substantially similar benefits by another individual hospital, surgical, or medical expenses insurance policy; or
 - (c) In the case of conversion health insurance coverage, the issuance of conversion health insurance coverage would cause the applicant to be overinsured according to the insurer's standards, taking into account that the applicant is or could be covered by similar benefits pursuant to or in accordance with the requirements of any statute and the individual coverage described in paragraph (b) of this subsection.
- ~~(9)~~~~(10)~~ Notice of the right to continue group health insurance coverage and the right to conversion health insurance coverage shall be given as follows:
- (a)
 - 1. For group policies delivered, issued for delivery, or renewed after July 15, 1986, the insurer shall give written notice of the right to continue group health insurance coverage and the right to conversion health insurance coverage to any group member entitled to continue coverage or to conversion coverage under this section upon notice from the group policyholder that the group member has terminated membership in the group or upon termination of continued group health insurance coverage. The thirty-one (31) day period of subsections (2)(b) and ~~(5)~~~~(6)~~(b) of this section shall not begin to run until the notice required by this paragraph is mailed or delivered to the last known address of the group member; and
 - 2. Upon replacement of a group policy, the replacing insurer shall determine if there are group members who were covered under the previous group policy who are not covered under the replacing group policy. The replacing insurer shall by writing notify the insurer which issued the previous group policy of such lack of coverage and the insurer which issued the previous group policy shall issue the notice required by paragraph (a) of this subsection;
 - (b) If a group member becomes entitled to obtain continued health insurance coverage or conversion health insurance coverage pursuant to this section and if such group member has not been given written notice of these rights pursuant to this subsection, such group member shall have an additional period within which to exercise continuation or conversion rights as follows:
 - 1. The additional period shall expire fifteen (15) days after the group member is given notice, but in no event shall the additional period extend beyond sixty (60)

days after the expiration of the thirty-one (31) day period following termination from the group or termination of group coverage;

2. Written notice delivered or mailed to the last known address of the group member shall constitute the giving of notice for the purpose of this paragraph; and
3. If a group member makes application and pays the premium for continued health insurance coverage or conversion health insurance coverage within the additional period allowed by this paragraph, the effective date of continued health insurance coverage shall be the date of termination from the group and the effective date of conversion health insurance coverage shall be the date of termination of group health insurance coverage.

~~(10)~~~~(11)~~ Before a group policy may be replaced, the employer shall give at least thirty (30) days written notice by certified mail to any employee covered under the replaced policy who will not be covered under the new policy.

Approved March 19, 2001