



## 96TH GENERAL ASSEMBLY

### State of Illinois

### 2009 and 2010

#### HB2325

Introduced 2/18/2009, by Rep. Karen May

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/367e

from Ch. 73, par. 979e

215 ILCS 125/4-9.2

from Ch. 111 1/2, par. 1409.2-2

Amends the Illinois Insurance Code. Provides that an employee or member is eligible for continuing coverage under a group insurance policy for up to 18 months (instead of 9 months) after the date the employee's or member's insurance under the policy would have terminated because of termination of employment or membership or reduction in employment hours. Provides that the employer must give written notice of the employee's option to elect continuation coverage to the employee within 10 days after the employee's termination or reduction in hours and to the insurer. Provides that an employee or member who wishes continuation of coverage must make the request in writing within a 30 day (instead of ten-day) period. Provides that in the event the employer fails or refuses to provide notice of continuation rights to the employee or member, the insurer is required to mail notice of the continuation rights to the employee or member at the employee's last known address. Provides that any employer who fails to provide the notice required by the Act is guilty of a petty offense and shall be fined \$500. Amends the Health Maintenance Organization Act to incorporate the written notice, penalty, and condition of termination provisions as they relate to continuation of group HMO coverage after termination of employment or membership. Effective immediately.

LRB096 09782 RPM 19945 b

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by  
5 changing Section 367e as follows:

6 (215 ILCS 5/367e) (from Ch. 73, par. 979e)

7 Sec. 367e. Continuation of Group Hospital, Surgical and  
8 Major Medical Coverage After Termination of Employment or  
9 Membership. A group policy delivered, issued for delivery,  
10 renewed or amended in this state which insures employees or  
11 members for hospital, surgical or major medical insurance on an  
12 expense incurred or service basis, other than for specific  
13 diseases or for accidental injuries only, shall provide that  
14 employees or members whose insurance under the group policy  
15 would otherwise terminate because of termination of employment  
16 or membership or because of a reduction in hours below the  
17 minimum required by the group plan shall be entitled to  
18 continue their hospital, surgical and major medical insurance  
19 under that group policy, for themselves and their eligible  
20 dependents, subject to all of the group policy's terms and  
21 conditions applicable to those forms of insurance and to the  
22 following conditions:

23 1. Continuation shall only be available to an employee

1 or member who has been continuously insured under the group  
2 policy (and for similar benefits under any group policy  
3 which it replaced) during the entire 3 months period ending  
4 with such termination or reduction in hours below the  
5 minimum required by the group plan.

6 2. Continuation shall not be available for any person  
7 who is covered by Medicare, except for those individuals  
8 who have been covered under a group Medicare supplement  
9 policy. Neither shall continuation be available for any  
10 person who is covered by any other insured or uninsured  
11 plan which provides hospital, surgical or medical coverage  
12 for individuals in a group and under which the person was  
13 not covered immediately prior to such termination or  
14 reduction in hours below the minimum required by the group  
15 plan or who exercises his conversion privilege under the  
16 group policy.

17 3. Continuation need not include dental, vision care,  
18 prescription drug benefits, disability income, specified  
19 disease, or similar supplementary benefits which are  
20 provided under the group policy in addition to its  
21 hospital, surgical or major medical benefits.

22 4. Upon termination or reduction in hours below the  
23 minimum required by the group plan written notice of  
24 continuation shall be presented to the employee or member  
25 and the insurer by the employer or mailed by the employer  
26 to the last known address of the employee. This written

1 notice must be given directly to the employee or sent via  
2 certified mail within 10 days after the employee's  
3 termination or reduction in hours below the minimum  
4 required by the group plan. An employee or member who  
5 wishes continuation of coverage must request such  
6 continuation in writing within the 30 day ~~ten day~~ period  
7 following the later of: (i) the date of such termination or  
8 reduction in hours below the minimum required by the group  
9 plan, or (ii) the date the employee is given written notice  
10 of the right of continuation by either the employer, ~~or the~~  
11 group policyholder, or insurer. The written notice  
12 provided to an employee must include an explanation that  
13 his or her option for continuation coverage will expire  
14 within the 30 day period following the later of (i) the  
15 date of such termination of employment or reduction in  
16 hours below the minimum required by the group plan, or (ii)  
17 the date the employee is given written notice of the right  
18 of continuation by either the employer, group  
19 policyholder, or insurer. ~~In no event, however, may the~~  
20 ~~employee or member elect continuation more than 60 days~~  
21 ~~after the date of such termination or reduction in hours~~  
22 ~~below the minimum required by the group plan.~~ Written  
23 notice of continuation presented to the employee or member  
24 by the policyholder, or mailed by the policyholder to the  
25 last known address of the employee, shall constitute the  
26 giving of notice for the purpose of this provision.

1           In the event the employer fails or refuses to provide  
2           notice of continuation rights to the employee or member,  
3           the insurer is required to mail notice of the continuation  
4           rights to the employee or member at the last known address  
5           of the employee. In the event the employee or member  
6           contacts the insurer regarding continuation rights and  
7           advises that notice has not been provided by the employer  
8           or group policyholder, the insurer shall mail out notice to  
9           that individual. An employee or member shall have 30 days  
10           from receipt of the notice to elect continuation.

11           Any employer who fails to provide the notice required  
12           in this subsection 4. is guilty of a petty offense and  
13           shall be fined \$500.

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

25           6. Continuation of insurance under the group policy for  
26           any person shall terminate when he becomes eligible for

1 Medicare or is covered by any other insured or uninsured  
2 plan which provides hospital, surgical or medical coverage  
3 for individuals in a group and under which the person was  
4 not covered immediately prior to such termination or  
5 reduction in hours below the minimum required by the group  
6 plan as provided in condition 2 above or, if earlier, at  
7 the first to occur of the following:

8 (a) The date 18 9 months after the date the  
9 employee's or member's insurance under the policy  
10 would otherwise have terminated because of termination  
11 of employment or membership or reduction in hours below  
12 the minimum required by the group plan.

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

16 (c) The date on which the group policy is  
17 terminated or, in the case of an employee, the date his  
18 employer terminates participation under the group  
19 policy. However, if this (c) applies and the coverage  
20 ceasing by reason of such termination is replaced by  
21 similar coverage under another group policy, the  
22 following shall apply:

23 (i) The employee or member shall have the right  
24 to become covered under that other group policy,  
25 for the balance of the period that he would have  
26 remained covered under the prior group policy in

1           accordance with condition 6 had a termination  
2           described in this (c) not occurred.

3                   (ii) The prior group policy shall continue to  
4           provide benefits to the extent of its accrued  
5           liabilities and extensions of benefits as if the  
6           replacement had not occurred.

7           7. A notification of the continuation privilege shall  
8           be included in each certificate of coverage.

9           8. Continuation shall not be available for any employee  
10          who was discharged because of the commission of a felony in  
11          connection with his work, or because of theft in connection  
12          with his work, for which the employer was in no way  
13          responsible; provided the employee admitted his commission  
14          of the felony or theft or such act has resulted in a  
15          conviction or order of supervision by a court of competent  
16          jurisdiction.

17          The requirements of this amendatory Act of 1983 shall apply  
18          to any group policy as defined in this Section, delivered or  
19          issued for delivery on or after 180 days following the  
20          effective date of this amendatory Act of 1983.

21          The requirements of this amendatory Act of 1985 shall apply  
22          to any group policy as defined in this Section, delivered,  
23          issued for delivery, renewed or amended on or after 180 days  
24          following the effective date of this amendatory Act of 1985.

25          (Source: P.A. 93-477, eff. 1-1-04.)

1 Section 10. The Health Maintenance Organization Act is  
2 amended by changing Section 4-9.2 as follows:

3 (215 ILCS 125/4-9.2) (from Ch. 111 1/2, par. 1409.2-2)

4 Sec. 4-9.2. Continuation of group HMO coverage after  
5 termination of employee or membership. A group contract  
6 delivered, issued for delivery, renewed, or amended in this  
7 State that covers employees or members for health care services  
8 shall provide that employees or members whose coverage under  
9 the group contract would otherwise terminate because of  
10 termination of employment or membership or because of a  
11 reduction in hours below the minimum required by the group  
12 contract shall be entitled to continue their coverage under  
13 that group contract, for themselves and their eligible  
14 dependents, subject to all of the group contract's terms and  
15 conditions applicable to those forms of coverage and to the  
16 following conditions:

17 (1) Continuation shall only be available to an employee  
18 or member who has been continuously covered under the group  
19 contract (and for similar benefits under any group contract  
20 that it replaced) during the entire 3 month period ending  
21 with the termination of employment or membership or  
22 reduction in hours below the minimum required by the group  
23 contract.

24 (2) Continuation shall not be available for any  
25 enrollee who is covered by Medicare, except for those



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

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

14 (4) Upon termination or reduction in hours below the  
15 minimum required by the group contract, written notice of  
16 continuation shall be presented to the employee or member  
17 and the HMO by the employer or mailed by the employer to  
18 the last known address of the employee. This written notice  
19 must be given directly to the employee or sent via  
20 certified mail within 10 days after the employee's  
21 termination or reduction in hours below the minimum  
22 required by the group plan. An employee or member who  
23 wishes continuation of coverage must request continuation  
24 in writing within the 30 ~~10~~ day period following the later  
25 of (i) the date of termination or reduction in hours below  
26 the minimum required by the group contract or (ii) the date

1 the employee is given written notice of the right of  
2 continuation by either the employer, ~~or the~~ group  
3 policyholder, or HMO. ~~In no event, however, shall the~~  
4 ~~employee or member elect continuation more than 60 days~~  
5 ~~after the date of termination or reduction in hours below~~  
6 ~~the minimum required by the group contract.~~ Written notice  
7 of continuation presented to the employee or member by the  
8 policyholder or HMO, or mailed by the policyholder or HMO  
9 to the last known address of the employee, shall constitute  
10 the giving of notice for the purpose of this paragraph.

11 The written notice provided to an employee must include  
12 an explanation that his or her option for continuation  
13 coverage will expire within the 30 day period following the  
14 later of (i) the date of such termination of employment or  
15 reduction in hours below the minimum required by the group  
16 plan, or (ii) the date the employee is given written notice  
17 of the right of continuation by either the employer, group  
18 policyholder, or HMO.

19 In the event the employer fails or refuses to provide  
20 notice of continuation rights to the employee or member,  
21 the HMO is required to mail notice of the continuation  
22 rights to the employee or member at the last known address  
23 of the employee. In the event the employee or member  
24 contacts the HMO regarding continuation rights and advises  
25 that notice has not been provided by the employer or group  
26 policyholder, the HMO shall mail out notice to that

1       individual. An employee or member shall have 30 days from  
2       receipt of the notice to elect continuation.

3       Any employer who fails to provide the notice required  
4       in this subsection (4) is guilty of a petty offense and  
5       shall be fined \$500.

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

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

26           (a) The expiration of 18 9 months after the

1 employee's or member's coverage because of termination  
2 of employment or membership or reduction in hours below  
3 the minimum required by the group contract.

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

7 (c) The date on which the group contract is  
8 terminated or, in the case of an employee, the date his  
9 or her employer terminates participation under the  
10 group contract. If, however, this paragraph applies  
11 and the coverage ceasing by reason of termination is  
12 replaced by similar coverage under another group  
13 contract, then (i) the employee or member shall have  
14 the right to become covered under the replacement group  
15 contract for the balance of the period that he or she  
16 would have remained covered under the prior group  
17 contract in accordance with paragraph (6) had a  
18 termination described in this item (c) not occurred and  
19 (ii) the prior group contract shall continue to provide  
20 benefits to the extent of its accrued liabilities and  
21 extensions of benefits as if the replacement had not  
22 occurred.

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

25 (8) Continuation shall not be available for any  
26 employee who was discharged because of the commission of a

1           felony in connection with his or her work, or because of  
2           theft in connection with his or her work, for which the  
3           employer was in no way responsible if the employee (i)  
4           admitted to committing the felony or theft or (ii) was  
5           convicted or placed under supervision by a court of  
6           competent jurisdiction.

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

11          (Source: P.A. 93-477, eff. 1-1-04.)

12          Section 99. Effective date. This Act takes effect upon  
13          becoming law.