

New Jersey Extends Dependent Medical Coverage to Age 30

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On January 12, outgoing New Jersey Governor Richard Codey signed legislation (P.L. 2005, c.375) requiring insured medical plans in New Jersey to either extend dependent coverage until age 30 or, alternatively, adopt a complicated scheme permitting dependents who lose medical coverage before age 30 to elect to continue their benefits (in a COBRA-like fashion) until age 30.

The new law will apply to insurance contracts, policies or plans that are issued or renewed on or after May 12, 2006.

While the law states that it does not require employers to pay all or part of the cost of the extended coverage, employers will experience indirect costs through future premium increases. The law also imposes notice obligations on employers. This extension will not apply to self-insured medical plans, and it remains to be seen whether the indirect cost and employer involvement associated with the extended coverage will lead to litigation regarding whether ERISA preempts the legislation for insured plans.

Background

The law, which grew out of Senate Bill No. 2283 and Assembly Bill No. 3759, requires health insurers to provide an election for any dependent that “ages-out” of medical coverage before age 30. This election must be provided until the dependent’s 30th birthday, and even allows the dependent to regain coverage previously lost due to failure to meet the qualification requirements.

Qualification Requirements

In order to qualify for the coverage, an individual must be:

- Younger than 30 years of age;
- Unmarried;
- Without his or her own dependents (this will not apply to grandchildren or parents);
- A resident in New Jersey or enrolled as a full-time student; and
- Not covered under another group health plan or receiving Social Security benefits.

Election of Extended Coverage

Coverage can be elected by an individual within 30 days prior to “aging-out” of coverage, within 30 days after meeting the qualification requirements, or during a future enrollment period (provided the individual remains qualified or regains qualification under the law).

The coverage must be identical to that received prior to aging-out, cannot be conditioned on, or discriminate with regard to, any preexisting condition, and need not cover any services provided before May 12, 2006.

Cost of Coverage

The insurer can charge a premium to the individual or the named insured, and the premium can be up to 102% of the applicable portion of the premium previously charged under the contract. The premium will be established by regulation, but will generally consist of the difference between single employee and employee plus one (or family) coverage. While this is similar to COBRA premiums, note that many employers charge a single employee rate for dependents under COBRA which may exceed the permitted New Jersey premium. The payor is allowed to pay premiums on a monthly basis.

End of Coverage

Coverage ends when the individual fails to meet the law’s qualification requirements, fails to make a timely premium payment (defined as 30 days), or the insured (the parent) loses coverage under the policy.

If an individual loses coverage under the law because of failure to meet the qualification requirements, the individual can elect back into the coverage at a subsequent open enrollment period if he or she regains qualification under the law (such as by divorcing a spouse, moving back to New Jersey, starting school or losing coverage under another group health plan).

Notice Requirements

Notice of these rights must be made to the insured (the parent) through the insurance certificate. Notice must also be given to the insured by the insured’s employer:

- On or before the date in which the dependent ages-out of coverage;
- At the time the dependent loses extended coverage due to marriage, leaving New Jersey or ending full-time student status; and
- When the dependent loses extended coverage due to coverage under another group health plan.

Finally, employers must also notify the insured immediately after the effective date of the law so that any dependent who previously “aged-out” of coverage has an opportunity for the next 12 months to reinstate coverage under the new law. It appears that this reinstatement would be immediate.

Next Steps

The new law creates a number of difficult issues and obligations for employers with insured New Jersey medical plans. Such employers should begin to consider whether their insurers will be able to handle the administration of the extended benefit, whether they want to explore self-insuring their medical

benefits, how the extended benefit will interact with COBRA, and whether they may want to raise the age for covered dependents under their plans. However, any increase in the age of covered dependents under an employer's plan will have to take into account the federal income tax consequences of providing coverage to individuals who will probably not be dependents under federal tax law.

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