



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5018

Introduced 1/21/2010, 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 and the Health Maintenance Organization Act. Provides that continuation of and notice concerning group hospital, surgical, and major medical coverage and group HMO coverage, with respect to an employee or member who is involuntarily terminated between September 1, 2008 and the end of the period set forth in the federal American Recovery and Reinvestment Act of 2009 (instead of December 31, 2009), shall be available if the employee or member was insured under the group policy or group contract on the day prior to the termination. Makes other changes. Effective immediately.

LRB096 18816 RPM 34202 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. With respect to an  
6 employee or member who is involuntarily terminated between  
7 September 1, 2008 and the end of the period set forth in  
8 Section 3001(a)(3)(A) of Title III of Division B of the  
9 federal American Recovery and Reinvestment Act of 2009, as  
10 now or hereafter amended ~~December 31, 2009~~, continuation  
11 shall be available if the employee or member was insured  
12 under the group policy on the day prior to the termination.

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

24 3. Continuation need not include dental, vision care,  
25 prescription drug benefits, disability income, specified  
26 disease, or similar supplementary benefits which are

1 provided under the group policy in addition to its  
2 hospital, surgical or major medical benefits.

3 4. Within 10 days after the employee's or member's  
4 termination or reduction in hours below the minimum  
5 required by the group plan written notice of continuation  
6 shall be presented to the employee or member by the  
7 employer. If the employee or member is unavailable, written  
8 notice shall be mailed by the employer to the last known  
9 address of the employee or member within 10 days after the  
10 employee's or member's termination or reduction in hours  
11 below the minimum required by the group plan. The employer  
12 shall also send a copy of the notice to the insurer. An  
13 employee or member who wishes continuation of coverage must  
14 request such continuation in writing within the 30 day  
15 period following the later of: (i) the date of such  
16 termination or reduction in hours below the minimum  
17 required by the group plan, or (ii) the date the employee  
18 is presented or mailed written notice of the right of  
19 continuation by either the employer or the group  
20 policyholder. In no event, however, may the employee or  
21 member elect continuation more than 60 days after the date  
22 of such termination or reduction in hours below the minimum  
23 required by the group plan. Written notice of continuation  
24 presented to the employee or member by the policyholder, or  
25 mailed by the policyholder to the last known address of the  
26 employee, shall constitute the giving of notice for the

1 purpose of this provision.

2 The insurer shall not deny coverage to the employee or  
3 member due to the employer's failure to provide notice  
4 pursuant to this Section to the employee or member. Until  
5 the end of the period set forth in Section 3001(a)(3)(A) of  
6 Title III of Division B of the federal American Recovery  
7 and Reinvestment Act of 2009, as now or hereafter amended  
8 ~~January 1, 2010,~~ in the event the employee or member  
9 contacts the insurer regarding continuation rights and  
10 advises that notice has not been provided by the employer  
11 or group policyholder, the insurer shall provide a written  
12 explanation to the employee or member of the employee's or  
13 member's continuation rights pursuant to this Section.

14 4a. Unless contrary to the provisions of, or any rules  
15 promulgated pursuant to, ~~Section 3001(a)(7) of Title III of~~  
16 ~~Division B of~~ the federal American Recovery and  
17 Reinvestment Act of 2009, with respect to employees or  
18 members of health plans that are subject solely to State  
19 continuation coverage and who are terminated or whose  
20 reduction in hours below the minimum required by the group  
21 occurs between the effective date of this amendatory Act of  
22 the 96th General Assembly and the end of the period set  
23 forth in Section 3001(a)(3)(A) of Title III of Division B  
24 of the federal American Recovery and Reinvestment Act of  
25 2009, as now or hereafter amended ~~December 31, 2009,~~ the  
26 notice requirements of this Section are not satisfied

1 unless notice is presented or mailed to the employee or  
2 member by the insurer informing the employee or member of  
3 the availability of premium reduction with respect to such  
4 coverage under the American Recovery and Reinvestment Act  
5 of 2009. Such written notice shall conform to all  
6 applicable requirements set forth in ~~Section 3001(a)(7) of~~  
7 ~~Title III of Division B of~~ the federal American Recovery  
8 and Reinvestment Act of 2009. The Department shall publish  
9 models for the notification that shall be provided by  
10 insurers pursuant to this paragraph 4a.

11 4b. Unless contrary to the provisions of, or any rules  
12 promulgated pursuant to, Section 3001(a)(7) of Title III of  
13 Division B of the federal American Recovery and  
14 Reinvestment Act of 2009, with respect to employees or  
15 members of health plans that are subject solely to State  
16 continuation coverage who were terminated or whose  
17 reduction in hours below the minimum required by the group  
18 occurred between September 1, 2008 and the effective date  
19 of this amendatory Act of the 96th General Assembly and who  
20 have an election of continuation of coverage pursuant to  
21 this Section in effect, notice shall be presented or mailed  
22 to the employee or member by the insurer informing the  
23 employee or member of the availability of premium reduction  
24 with respect to such coverage under the federal American  
25 Recovery and Reinvestment Act of 2009. Such written notice  
26 shall conform to all applicable requirements set forth in

1 Section 3001(a)(7) of Title III of Division B of the  
2 federal American Recovery and Reinvestment Act of 2009 and  
3 shall be presented or mailed to the employee or member  
4 within 14 days of the effective date of this amendatory Act  
5 of the 96th General Assembly. The Department shall publish  
6 models for the notification that shall be provided by  
7 insurers pursuant to this paragraph 4b.

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

19 6. Continuation of insurance under the group policy for  
20 any person shall terminate when he becomes eligible for  
21 Medicare or is covered by any other insured or uninsured  
22 plan which provides hospital, surgical or medical coverage  
23 for individuals in a group and under which the person was  
24 not covered immediately prior to such termination or  
25 reduction in hours below the minimum required by the group  
26 plan as provided in condition 2 above or, if earlier, at

1 the first to occur of the following:

2 (a) The date 12 months after the date the  
3 employee's or member's insurance under the policy  
4 would otherwise have terminated because of termination  
5 of employment or membership or reduction in hours below  
6 the minimum required by the group plan or, with respect  
7 to an employee or member who is an assistance eligible  
8 individual as defined in Section 3001(a)(3) of Title  
9 III of Division B of the federal American Recovery and  
10 Reinvestment Act of 2009, the date that the individual  
11 ceases to be eligible for premium assistance under  
12 Section 3001(a)(2)(A)(ii)(I) of Title III of Division  
13 B of the federal American Recovery and Reinvestment Act  
14 of 2009, as now or hereafter amended.

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

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

25 (i) The employee or member shall have the right  
26 to become covered under that other group policy,



1           for the balance of the period that he would have  
2           remained covered under the prior group policy in  
3           accordance with condition 6 had a termination  
4           described in this (c) not occurred.

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

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

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

19          9. An employee or member without an election of  
20          continuation of coverage pursuant to this Section in effect  
21          on the effective date of this amendatory Act of the 96th  
22          General Assembly may elect continuation pursuant to this  
23          paragraph 9 if the employee or member: (i) would be an  
24          assistance eligible individual as defined in Section  
25          3001(a)(3) of Title III of Division B of the federal  
26          American Recovery and Reinvestment Act of 2009, if such an

1 election were in effect and (ii) at the time of termination  
2 was eligible for continuation pursuant to paragraphs 1 and  
3 2 of this Section.

4 Unless contrary to the provisions of, or any rules  
5 promulgated pursuant to, Section 3001(a)(7) of Title III of  
6 Division B of the federal American Recovery and  
7 Reinvestment Act of 2009, written notice of continuation  
8 pursuant to this paragraph 9 shall be presented to the  
9 employee or member by the insurer or mailed by the insurer  
10 to the last known address of the employee or member within  
11 30 days after the effective date of this amendatory Act of  
12 the 96th General Assembly. Such written notice shall  
13 conform to all applicable requirements set forth in Section  
14 3001(a)(7) of Title III of Division B of the federal  
15 American Recovery and Reinvestment Act of 2009. The  
16 Department shall publish models for the notification that  
17 shall be provided by insurers pursuant to this paragraph 9.

18 An employee or member electing continuation of  
19 coverage under this paragraph 9 must request such  
20 continuation in writing within 60 days after the date the  
21 employee or member receives written notice of the right of  
22 continuation by the insurer.

23 Continuation of coverage elected pursuant to this  
24 paragraph 9 shall commence with the first period of  
25 coverage beginning on or after February 17, 2009, the  
26 effective date of the federal American Recovery and

1 Reinvestment Act of 2009, and shall not extend beyond the  
2 period of continuation that would have been required if the  
3 coverage had been elected pursuant to paragraph 4 of this  
4 Section.

5 With respect to an employee or member who elects  
6 continuation of coverage under this paragraph 9, the period  
7 beginning on the date of the employee's or member's  
8 involuntary termination of employment and ending on the  
9 date of the first period of coverage on or after February  
10 17, 2009 shall be disregarded for purposes of determining  
11 the 63-day period referred to in Section 20 of the Illinois  
12 Health Insurance Portability and Accountability Act.

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

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

21 (Source: P.A. 96-13, eff. 6-18-09.)

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

24 (215 ILCS 125/4-9.2) (from Ch. 111 1/2, par. 1409.2-2)

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

14           (1) Continuation shall only be available to an employee  
15 or member who has been continuously covered under the group  
16 contract (and for similar benefits under any group contract  
17 that it replaced) during the entire 3 month period ending  
18 with the termination of employment or membership or  
19 reduction in hours below the minimum required by the group  
20 contract. With respect to an employee or member who is  
21 involuntarily terminated between September 1, 2008 and the  
22 end of the period set forth in Section 3001(a)(3)(A) of  
23 Title III of Division B of the federal American Recovery  
24 and Reinvestment Act of 2009, as now or hereafter amended  
25 ~~December 31, 2009~~, continuation shall be available if the  
26 employee or member was covered under the group contract the

1 day prior to such termination.

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

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

17 (4) Within 10 days after the employee's or member's  
18 termination or reduction in hours below the minimum  
19 required by the group contract, written notice of  
20 continuation shall be presented to the employee or member  
21 by the employer. If the employee or member is unavailable,  
22 written notice shall be mailed by the employer to the last  
23 known address of the employee or member within 10 days  
24 after the employee's or member's termination or reduction  
25 in hours below the minimum required by the group plan. The  
26 employer shall also send a copy of the notice to the HMO.

1 An employee or member who wishes continuation of coverage  
2 must request continuation in writing within the 30 day  
3 period following the later of (i) the date of termination  
4 or reduction in hours below the minimum required by the  
5 group contract or (ii) the date the employee is presented  
6 or mailed written notice of the right of continuation by  
7 either the employer or the group policyholder. In no event,  
8 however, shall the employee or member elect continuation  
9 more than 60 days after the date of termination or  
10 reduction in hours below the minimum required by the group  
11 contract. Written notice of continuation presented to the  
12 employee or member by the policyholder, or mailed by the  
13 policyholder to the last known address of the employee,  
14 shall constitute the giving of notice for the purpose of  
15 this paragraph.

16 The HMO shall not deny coverage to the employee or  
17 member due to the employer's failure to provide notice  
18 pursuant to this Section to the employee or member. Until  
19 the end of the period set forth in Section 3001(a)(3)(A) of  
20 Title III of Division B of the federal American Recovery  
21 and Reinvestment Act of 2009, as now or hereafter amended  
22 ~~January 1, 2010,~~ in the event the employee or member  
23 contacts the HMO regarding continuation rights and advises  
24 that notice has not been provided by the employer or group  
25 policyholder, the HMO shall provide a written explanation  
26 to the employee or member of the employee's or member's

1 continuation rights pursuant to this Section.

2 (4a) Unless contrary to the provisions of, or any rules  
3 promulgated pursuant to, ~~Section 3001(a)(7) of Title III of~~  
4 ~~Division B of~~ the federal American Recovery and  
5 Reinvestment Act of 2009, with respect to employees or  
6 members of health plans that are subject solely to State  
7 continuation coverage and who are terminated or whose  
8 reduction in hours below the minimum required by the group  
9 occurs between the effective date of this amendatory Act of  
10 the 96th General Assembly and the end of the period set  
11 forth in Section 3001(a)(3)(A) of Title III of Division B  
12 of the federal American Recovery and Reinvestment Act of  
13 2009, as now or hereafter amended ~~December 31, 2009~~, the  
14 notice requirements of this Section are not satisfied  
15 unless notice is presented or mailed to the employee or  
16 member by the HMO informing the employee or member of the  
17 availability of premium reduction with respect to such  
18 coverage under the federal American Recovery and  
19 Reinvestment Act of 2009. Such written notice shall conform  
20 to all applicable requirements set forth in ~~Section~~  
21 ~~3001(a)(7) of Title III of Division B of~~ the federal  
22 American Recovery and Reinvestment Act of 2009. The  
23 Department shall publish models for the notification that  
24 shall be provided by HMOs pursuant to this paragraph (4a).

25 (4b) Unless contrary to the provisions of, or any rules  
26 promulgated pursuant to, Section 3001(a)(7) of Title III of

1 Division B of the federal American Recovery and  
2 Reinvestment Act of 2009, with respect to employees or  
3 members of health plans that are subject solely to State  
4 continuation coverage who were terminated or whose  
5 reduction in hours below the minimum required by the group  
6 occurred between September 1, 2008, and the effective date  
7 of this amendatory Act of the 96th General Assembly and who  
8 have an election of continuation of coverage pursuant to  
9 this Section in effect, notice shall be presented or mailed  
10 to the employee or member by the HMO informing the employee  
11 or member of the availability of premium reduction with  
12 respect to such coverage under the federal American  
13 Recovery and Reinvestment Act of 2009. Such written notice  
14 shall conform to all applicable requirements set forth in  
15 Section 3001(a)(7) of Title III of Division B of the  
16 federal American Recovery and Reinvestment Act of 2009 and  
17 shall be presented or mailed to the employee or member  
18 within 14 days of the effective date of this amendatory Act  
19 of the 96th General Assembly. The Department shall publish  
20 models for the notification that shall be provided by HMOs  
21 pursuant to this paragraph (4b).

22 (5) An employee or member electing continuation must  
23 pay to the group policyholder or his employer, on a monthly  
24 basis in advance, the total amount of premium required by  
25 the HMO, including that portion of the premium contributed  
26 by the policyholder or employer, if any, but not more than



1 the group rate for the coverage being continued with  
2 appropriate reduction in premium for any supplementary  
3 benefits that have been discontinued under paragraph (3) of  
4 this Section. The premium rate required by the HMO shall be  
5 the applicable premium required on the due date of each  
6 payment.

7 (6) Continuation of coverage under the group contract  
8 for any person shall terminate when the person becomes  
9 eligible for Medicare or is covered by any other insured or  
10 uninsured plan that provides hospital, surgical, or  
11 medical coverage for individuals in a group and under which  
12 the person was not covered immediately before termination  
13 or reduction in hours below the minimum required by the  
14 group contract as provided in paragraph (2) of this Section  
15 or, if earlier, at the first to occur of the following:

16 (a) The expiration of 12 months after the  
17 employee's or member's coverage because of termination  
18 of employment or membership or reduction in hours below  
19 the minimum required by the group contract.

20 (b) If the employee or member fails to make timely  
21 payment of a required contribution, the end of the  
22 period for which contributions were made or, with  
23 respect to an employee or member who is an assistance  
24 eligible individual as defined in Section 3001(a)(3)  
25 of Title III of Division B of the federal American  
26 Recovery and Reinvestment Act of 2009, the date that

1       the individual ceases to be eligible for premium  
2       assistance under Section 3001(a)(2)(A)(ii)(I) of Title  
3       III of Division B of the federal American Recovery and  
4       Reinvestment Act of 2009, as now or hereafter amended.

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

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

23           (8) Continuation shall not be available for any  
24      employee who was discharged because of the commission of a  
25      felony in connection with his or her work, or because of  
26      theft in connection with his or her work, for which the

1 employer was in no way responsible if the employee (i)  
2 admitted to committing the felony or theft or (ii) was  
3 convicted or placed under supervision by a court of  
4 competent jurisdiction.

5 (9) An employee or member without an election of  
6 continuation of coverage pursuant to this Section in effect  
7 on the effective date of this amendatory Act of the 96th  
8 General Assembly may elect continuation pursuant to this  
9 paragraph (9) if the employee or member: (i) would be an  
10 assistance eligible individual as defined in Section  
11 3001(a)(3) of Title III of Division B of the federal  
12 American Recovery and Reinvestment Act of 2009 if such an  
13 election were in effect and (ii) at the time of termination  
14 was eligible for continuation pursuant to paragraphs (1)  
15 and (2) of this Section.

16 Unless contrary to the provisions of, or any rules  
17 promulgated pursuant to, Section 3001(a)(7) of Title III of  
18 Division B of the federal American Recovery and  
19 Reinvestment Act of 2009, written notice of continuation  
20 pursuant to this paragraph (9) shall be presented to the  
21 employee or member by the HMO or mailed by the HMO to the  
22 last known address of the employee or member within 30 days  
23 after the effective date of this amendatory Act of the 96th  
24 General Assembly. The written notice shall conform to all  
25 applicable requirements set forth in Section 3001(a)(7) of  
26 Title III of Division B of the federal American Recovery

1 and Reinvestment Act of 2009. The Department shall publish  
2 models for the notification that shall be provided by HMOs  
3 pursuant to this paragraph (9).

4 An employee or member electing continuation of  
5 coverage under this paragraph (9) must request such  
6 continuation in writing within 60 days after the date the  
7 employee or member receives written notice of the right of  
8 continuation by the HMO.

9 Continuation of coverage elected pursuant to this  
10 paragraph (9) shall commence with the first period of  
11 coverage beginning on or after February 17, 2009, the  
12 effective date of the federal American Recovery and  
13 Reinvestment Act of 2009, and shall not extend beyond the  
14 period of continuation that would have been required if the  
15 coverage had been elected pursuant to paragraph (4) of this  
16 Section.

17 With respect to an employee or member who elects  
18 continuation of coverage under this paragraph (9), the  
19 period beginning on the date of the employee or member's  
20 involuntary termination of employment and ending on the  
21 date of the first period of coverage on or after February  
22 17, 2009 shall be disregarded for purposes of determining  
23 the 63-day period referred to in Section 20 of the Illinois  
24 Health Insurance Portability and Accountability Act.

25 The requirements of this amendatory Act of 1992 shall apply  
26 to any group contract, as defined in this Section, delivered or

1 issued for delivery on or after 180 days following the  
2 effective date of this amendatory Act of 1992.

3 (Source: P.A. 96-13, eff. 6-18-09.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.