

SB3004



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3004

Introduced 2/4/2010, by Sen. Susan Garrett

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 20066 RPM 35579 b

A BILL FOR

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.