

1 AN ACT

2 relating to the availability and continuation of certain health
3 benefit plan coverage.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subtitle A, Title 8, Insurance Code, is amended
6 by adding Chapter 1202A to read as follows:

7 CHAPTER 1202A. TEMPORARY EXTENSION OF ELECTION PERIOD FOR
8 CONTINUATION OF CERTAIN COVERAGE

9 Sec. 1202A.001. EXTENSION OF ELECTION PERIOD. (a) For the
10 purposes of this section, an "extended election eligible
11 individual" means an employee, member, dependent, or enrollee:

12 (1) who became eligible for continuation coverage due
13 to involuntary termination, other than involuntary termination for
14 cause, under Subchapter F, Chapter 1251, or Subchapter G, Chapter
15 1271, at any time during the period that begins on September 1,
16 2008, and ends on February 16, 2009;

17 (2) who did not elect such coverage or whose elected
18 continuation coverage lapsed or was canceled without reinstatement
19 for a reason other than exhaustion of the maximum period of
20 continuation coverage allowable under law; and

21 (3) whose involuntary termination on which the
22 eligibility is based occurred during that same period.

23 (b) Notwithstanding Section 1251.253 or 1271.301, an
24 extended election eligible individual may elect continuation

1 coverage under this section beginning on the effective date of S.B.
2 No. 1771, Acts of the 81st Legislature, Regular Session, 2009, and
3 ending on the 60th day after the date on which the notification
4 required by Subsection (e) is provided to the individual.

5 (c) The period of continuation coverage for an extended
6 election eligible individual who elects continuation coverage
7 begins with the first period of coverage beginning on or after the
8 effective date of S.B. No. 1771, Acts of the 81st Legislature,
9 Regular Session, 2009, and does not extend beyond the date the
10 period of continuation coverage would have ended if the coverage
11 had been elected during the election period required under the law
12 as it existed before the effective date of S.B. No. 1771, Acts of
13 the 81st Legislature, Regular Session, 2009.

14 (d) With respect to an individual who elects continuation
15 coverage under Subsection (b), the period beginning on the date the
16 individual first became eligible for continuation coverage and
17 ending on the first day of the 60-day election period described by
18 Subsection (b) shall be disregarded for purposes of determining a
19 63-day period referred to in 29 U.S.C. Section 1181(c)(2), 42
20 U.S.C. Section 300gg(c)(2), 26 U.S.C. Section 9801(c)(2), and
21 Sections 846.202(d), 1501.102, and 1506.001(8).

22 (e) Not later than the 60th day after the effective date of
23 S.B. No. 1771, Acts of the 81st Legislature, Regular Session, 2009,
24 an employer or group policy or contract holder shall provide notice
25 to any former employee, member, dependent, or enrollee who is an
26 extended election eligible individual that includes:

27 (1) a description of the extended election period

1 available to the individual under this section;

2 (2) a description, displayed in a prominent manner, of
3 the individual's right to a reduced premium and any conditions on
4 entitlement to the reduced premium under the American Recovery and
5 Reinvestment Act of 2009 (Pub. L. No. 111-5);

6 (3) a form that allows the individual to request
7 treatment as an assistance eligible individual, as defined by the
8 American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5),
9 to whom the premium subsidy would apply;

10 (4) the amount continuation coverage will cost and the
11 period of coverage available;

12 (5) an election form that includes the return address
13 and the due date for making the election; and

14 (6) notice that if the individual is entitled to the
15 reduced premium and later becomes eligible for other group health
16 plan coverage or Medicare, the individual must notify the employer
17 in writing or the individual may be subject to a tax penalty.

18 Sec. 1202A.002. EXPIRATION OF CHAPTER. This chapter
19 expires September 1, 2013.

20 SECTION 2. Section 1251.253, Insurance Code, is amended to
21 read as follows:

22 Sec. 1251.253. REQUEST FOR CONTINUATION OF GROUP COVERAGE.
23 An employee, member, or dependent must provide to the employer or
24 group policyholder a written request for [~~in writing the~~]
25 continuation of group coverage not later than the 60th [~~31st~~] day
26 after the later of:

27 (1) the date the group coverage would otherwise

1 terminate; or

2 (2) the date the individual is given, in a format
3 prescribed by the commissioner, notice by either the employer or
4 the group policyholder of the right to continuation of group
5 coverage.

6 SECTION 3. Section 1251.254, Insurance Code, is amended to
7 read as follows:

8 Sec. 1251.254. PAYMENT OF CONTRIBUTIONS. Except as
9 provided by this section, an [(a) An] employee, member, or
10 dependent who elects to continue group coverage under this
11 subchapter must pay to the employer or group policyholder[7] each
12 month [in advance,] the amount of contribution required by the
13 employer or policyholder, plus two percent of the group rate for the
14 coverage being continued under the group policy [on the due date of
15 each payment]. A payment under this section must be made not later
16 than the 45th day after the date of the initial election for
17 coverage and on the due date of each payment thereafter. Following
18 the first payment made after the initial election for coverage, the
19 payment of any other premium shall be considered timely if made on
20 or before the 30th day after the date on which the payment is due.

21 ~~[(b) The employee's, member's, or dependent's written~~
22 ~~election for continuation of group coverage, together with the~~
23 ~~first contribution required to establish advance monthly~~
24 ~~contributions, must be given to the employer or policyholder not~~
25 ~~later than the later of:~~

26 ~~[(1) the 31st day after the date coverage would~~
27 ~~otherwise terminate, or~~

1 ~~[(2) the date the individual is given notice by either~~
2 ~~the employer or the group policyholder of the right to continuation~~
3 ~~of group coverage.]~~

4 SECTION 4. Section 1251.255, Insurance Code, is amended to
5 read as follows:

6 Sec. 1251.255. TERMINATION OF CONTINUED COVERAGE.

7 (a) Group coverage continued under this subchapter may not
8 terminate until the earliest of:

9 (1) the date the maximum continuation period provided
10 by law would end, which is:

11 (A) for any employee, member, or dependent not
12 eligible for continuation coverage under Title X, Consolidated
13 Omnibus Budget Reconciliation Act of 1985 (29 U.S.C. Section 1161
14 et seq.) (COBRA), nine [six] months after the date the employee,
15 member, or dependent elects to continue the group coverage; or

16 (B) for any employee, member, or dependent
17 eligible for continuation coverage under COBRA, six additional
18 months following any period of continuation coverage provided under
19 COBRA;

20 (2) the date failure to make timely payments would
21 terminate the group coverage;

22 (3) the date the group coverage terminates in its
23 entirety;

24 (4) the date the insured is or could be covered under
25 Medicare;

26 (5) the date the insured is covered for similar
27 benefits by another plan or program, including:

1 (A) a hospital, surgical, medical, or major
2 medical expense insurance policy;

3 (B) a hospital or medical service subscriber
4 contract; or

5 (C) a medical practice or other prepayment plan;

6 (6) the date the insured is eligible for similar
7 benefits, whether or not covered for those benefits, under any
8 arrangement of coverage for individuals in a group, whether on an
9 insured or uninsured basis; or

10 (7) the date similar benefits are provided or
11 available to the insured under any state or federal law other than
12 continuation coverage under Title X, Consolidated Omnibus Budget
13 Reconciliation Act of 1985 (29 U.S.C. Section 1161 et seq.)
14 (COBRA).

15 (b) Not later than the 30th day before the end of the
16 continuation period described by Subsection (a)(1) that is
17 applicable to the individual [~~six months after the date the~~
18 ~~employee, member, or dependent elects to continue group coverage~~
19 ~~under the policy~~], the insurer shall:

20 (1) notify the individual that the individual may be
21 eligible for coverage under the Texas Health Insurance Risk Pool as
22 provided by Chapter 1506; and

23 (2) provide to the individual the address for applying
24 to that pool.

25 SECTION 5. Section 1271.302, Insurance Code, is amended to
26 read as follows:

27 Sec. 1271.302. REQUEST FOR CONTINUED COVERAGE; DEADLINE.

1 An enrollee must provide to the employer or group contract holder
2 [~~make~~] a written notice of election to continue group coverage
3 under this subchapter [~~and pay the first contribution required to~~
4 ~~establish contributions on an advance monthly basis to the employer~~
5 ~~or group contract holder~~] not later than the 60th [~~31st~~] day after
6 the later of:

7 (1) the date the group coverage would otherwise
8 terminate; or

9 (2) the date the enrollee is given notice of the right
10 of continuation by the employer or group contract holder.

11 SECTION 6. Subsection (b), Section 1271.303, Insurance
12 Code, is amended to read as follows:

13 (b) The enrollee must make the payment not later than the
14 45th day after the initial election for coverage and on the due date
15 of each payment thereafter. Following the first payment made after
16 the initial election for coverage, the payment of any other premium
17 shall be considered timely if made by the 30th day after the date on
18 which payment is due [~~in advance on a monthly basis on the due date~~
19 ~~of each payment~~].

20 SECTION 7. Section 1271.304, Insurance Code, is amended to
21 read as follows:

22 Sec. 1271.304. TERMINATION OF CONTINUED COVERAGE. Group
23 continued coverage under this subchapter may not terminate until
24 the earliest of:

25 (1) the date the maximum continuation period provided
26 by law would end, which is:

27 (A) for any enrollee not eligible for

1 continuation coverage under Title X, Consolidated Omnibus Budget
2 Reconciliation Act of 1985 (29 U.S.C. Section 1161 et seq.)
3 (COBRA), the end of the nine-month [~~six-month~~] period after the
4 date the election to continue coverage is made; or

5 (B) for any enrollee eligible for continuation
6 coverage under COBRA, six additional months following any period of
7 continuation provided under that statute;

8 (2) the date on which failure to make timely payments
9 terminates coverage;

10 (3) the date on which the enrollee is covered for
11 similar services and benefits by any other plan or program,
12 including a hospital, surgical, medical, or major medical expense
13 insurance policy, hospital or medical service subscriber contract,
14 or medical practice or other prepayment plan; or

15 (4) the date on which the group coverage terminates in
16 its entirety.

17 SECTION 8. Subsection (a), Section 1271.305, Insurance
18 Code, is amended to read as follows:

19 (a) At least 30 days before the end of the continuation
20 [~~six-month~~] period described by Section 1271.304(1) that is
21 applicable to the enrollee [~~after the date an enrollee elects to~~
22 ~~continue group coverage]~~, the health maintenance organization
23 shall notify the enrollee that the enrollee may be eligible for
24 coverage under the Texas Health Insurance Risk Pool as provided by
25 Chapter 1506.

26 SECTION 9. Section 1506.153, Insurance Code, is amended by
27 adding Subsections (c) and (d) to read as follows:

1 (c) An individual eligible for benefits from the
2 continuation of coverage under Subchapter F or G, Chapter 1251, or
3 Subchapter G, Chapter 1271, who did not elect continuation coverage
4 during the election period, or whose elected continuation coverage
5 lapsed or was canceled without reinstatement, is eligible for pool
6 coverage. Eligibility under this subsection is subject to a
7 180-day exclusion of coverage under Section 1506.155(a-1).

8 (d) The 180-day exclusion of coverage provided under
9 Subsection (c) does not apply to an individual eligible for
10 benefits from the continuation of coverage under Subchapter F or G,
11 Chapter 1251, or Subchapter G, Chapter 1271, who did not elect
12 continuation coverage during the election period, or whose elected
13 continuation coverage lapsed or was canceled without
14 reinstatement, following a period of continuation coverage under
15 Title X, Consolidated Omnibus Budget Reconciliation Act of 1985 (29
16 U.S.C. Section 1161 et seq.) (COBRA).

17 SECTION 10. Subsection (a-1), Section 1506.155, Insurance
18 Code, is amended to read as follows:

19 (a-1) Except as provided by Section 1506.056, pool coverage
20 for an individual eligible pursuant to Section 1506.153(b) or (c)
21 excludes charges or expenses incurred before the expiration of 180
22 days from the effective date of coverage with regard to any
23 condition for which:

24 (1) the existence of symptoms would cause an
25 ordinarily prudent person to seek diagnosis, care, or treatment
26 within the six-month period preceding the effective date of
27 coverage; or

1 (2) medical advice, care, or treatment was recommended
2 or received during the six-month period preceding the effective
3 date of coverage.

4 SECTION 11. (a) Sections 1251.253 and 1271.302, Insurance
5 Code, as amended by this Act, apply only to:

6 (1) a request for continuation of group coverage that
7 an employee, member, dependent, or enrollee becomes eligible to
8 make on or after the effective date of this Act; or

9 (2) a request for continuation of group coverage that
10 an employee, member, dependent, or enrollee became eligible to make
11 before the effective date of this Act, provided that the election
12 period available to the employee, member, dependent, or enrollee
13 under Section 1251.253 or 1271.302, Insurance Code, as those
14 sections existed before amendment by this Act, has not expired as of
15 the effective date of this Act.

16 (b) A request for continuation of group coverage that an
17 employee, member, dependent, or enrollee became eligible to make
18 before the effective date of this Act and that, on the effective
19 date of this Act, the employee, member, dependent, or enrollee is no
20 longer eligible to make, is governed by the law as it existed before
21 the effective date of this Act, and that law is continued in effect
22 for that purpose. This subsection does not apply to an employee,
23 member, dependent, or enrollee who is an extended election eligible
24 individual to whom Chapter 1202A, Insurance Code, as added by this
25 Act, applies.

26 SECTION 12. Sections 1251.254 and 1271.303, Insurance Code,
27 as amended by this Act, apply only to a payment for continuation

1 coverage required to be made on or after the effective date of this
2 Act. A payment for continuation coverage required to be made before
3 the effective date of this Act is governed by the law as it existed
4 before that date, and that law is continued in effect for that
5 purpose.

6 SECTION 13. Sections 1251.255 and 1271.304, Insurance Code,
7 as amended by this Act, apply to coverage for which an election to
8 continue was made on or after the effective date of this Act.

9 SECTION 14. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for immediate
13 effect, this Act takes effect September 1, 2009.

S.B. No. 1771

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1771 passed the Senate on April 14, 2009, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1771 passed the House on May 26, 2009, by the following vote: Yeas 144, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor