

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL NO. 553

By: Justice of the Senate

and

Osborn of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to insurance; amending 36 O.S. 2001,
11 Section 4509, which relates to extension and
12 termination of group accident and health coverage;
13 providing that certain provisions are inapplicable in
14 certain circumstances; modifying and expanding scope
15 of coverage; expanding coverage period; providing for
16 premiums; providing for continuation of coverage in
17 certain circumstances; amending 36 O.S. 2001,
18 Sections 6532, as last amended by Section 18, Chapter
19 274, O.S.L. 2004 and 6534, as last amended by Section
20 2, Chapter 404, O.S.L. 2008 (36 O.S. Supp. 2008,
21 Sections 6532 and 6534), which relate to the Health
22 Insurance High Risk Pool Act; modifying definitions;
23 providing certain exception; construing act; and
24 declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2001, Section 4509, is

amended to read as follows:

Section 4509. A. When an insured employee or a dependent whose
group insurance coverage is terminated and the coverage is subject

1 to the provisions of the Consolidated Omnibus Budget Reconciliation
2 Act of 1985 (COBRA), Pub. L. 99-272, April 7, 1986, 100 Stat. 82,
3 neither subsection B, C, or D of this section applies.

4 B. In the case of an employee whose insurance is terminated
5 under a group policy providing hospital, medical or surgical, or
6 Christian Science care and treatment expense benefits~~;~~; or contract
7 of hospital or medical service or indemnity~~;~~; or prepaid health plan
8 or health maintenance organization subscriber contract, such
9 employee and ~~his~~ the dependents of the employee shall remain insured
10 under the policy or contract for a period of at least ~~thirty (30)~~
11 sixty-three (63) days after such termination, unless during such
12 period the employee and his dependents shall otherwise become
13 entitled to similar insurance from some other source. Premiums may
14 be charged for this period. The premiums charged shall be the
15 premiums which would have been charged for the coverage provided
16 under the group policy or contract had termination not occurred.

17 ~~B.~~ C. If an employee has been covered for at least six (6)
18 months under any group accident and health insurance policy
19 delivered in this state, providing hospital, medical or surgical, or
20 Christian Science care and treatment expense benefits, or under a
21 contract of hospital or medical service or indemnity, and the
22 individual employee has had his employment terminated or the group
23 itself is terminated, then the termination shall not affect coverage
24 of the insured or his dependents for any continuous loss which

1 commenced while the insurance was in force. The extension of
2 benefits beyond the period the insurance was in force may be
3 predicated upon the continuous total disability of the person
4 insured or his or her dependents or the expenses incurred in
5 connection with a plan of surgical treatment, which shall include
6 maternity care and delivery expenses, which commenced prior to the
7 termination. The coverage for the extension of benefits shall be
8 for the maximum benefits under the terminated policy or for a time
9 period of not less than three (3) months in the case of basic
10 coverage or six (6) months in the case of major medical coverage.
11 Premium monies may be charged for the period of the extension of
12 benefits. The premiums charged shall be the premiums which would
13 have been charged for the coverage provided under the group policy
14 or contract had termination not occurred.

15 D. When an insured employee or a dependent whose group health
16 insurance coverage is terminated due to the employee's involuntary
17 termination from employment, the employee or his or her dependents
18 shall have a right to continue the group health insurance coverage
19 for four (4) months following the employee's termination from
20 employment subject to all of the following conditions:

21 1. The group health insurance is provided pursuant to a group
22 policy providing hospital, medical or surgical, or Christian Science
23 care and treatment expense benefits; or contract of hospital or
24 medical service or indemnity; or prepaid health plan or health

1 maintenance organization subscriber contract; or a self-insured
2 employer plan;

3 2. The coverage shall be the same coverage as was provided
4 prior to the employee's termination;

5 3. Premiums shall be paid for the period of coverage. The
6 premiums charged shall be the premiums which would have been charged
7 for the coverage provided under the group policy or contract had
8 termination not occurred;

9 4. The employee was not terminated for misconduct; and

10 5. This subsection shall remain in force only until the end of
11 the period for which a premium subsidy is available pursuant to the
12 American Recovery and Reinvestment Act of 2009 (ARRA) or its
13 successor.

14 SECTION 2. AMENDATORY 36 O.S. 2001, Section 6532, as
15 last amended by Section 18, Chapter 274, O.S.L. 2004 (36 O.S. Supp.
16 2008, Section 6532), is amended to read as follows:

17 Section 6532. As used in the Health Insurance High Risk Pool
18 Act:

19 1. "Agent" means any person who is licensed to sell health
20 insurance in this state;

21 2. "Primary plan" means the comprehensive health insurance
22 benefit plan adopted by the Board of Directors of the Health
23 Insurance High Risk Pool which meets all requirements of federal law
24 as a plan required to be offered by the Pool;

1 3. "Board" means the Board of Directors of the Health Insurance
2 High Risk Pool;

3 4. "Church plan" has the meaning given such term under Section
4 3(33) of the Employee Retirement Income Security Act of 1974;

5 5. "Creditable coverage" means, with respect to an individual,
6 coverage of the individual provided under any of the following:

- 7 a. a group health plan,
- 8 b. health insurance coverage,
- 9 c. Part A or B of Title XVIII of the Social Security Act,
- 10 d. Title XIX of the Social Security Act, other than
11 coverage consisting solely of benefits under Section
12 1928 of such act,
- 13 e. Chapter 55 of Title 10, U.S. Code,
- 14 f. a medical care program of the Indian Health Service or
15 of a tribal organization,
- 16 g. a state health benefits risk pool,
- 17 h. a health plan offered under Chapter 89 of Title 5,
18 U.S. Code,
- 19 i. a public health plan as defined in federal
20 regulations, or
- 21 j. a health benefit plan under Section 5(e) of the Peace
22 Corps Act, 22 U.S.C. 2504(e);

23 6. "Federally defined eligible individual" means an individual:
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- 1 a. for whom, as of the date on which the individual seeks
2 coverage under the Health Insurance High Risk Pool
3 Act, the aggregate of the periods of creditable
4 coverage, as defined in Section 1D of the Employee
5 Retirement Income Security Act of 1974, is eighteen
6 (18) or more months,
- 7 b. whose most recent prior creditable coverage was under
8 a group health plan, governmental plan, church plan or
9 health insurance coverage offered in conjunction with
10 any such plan, and
- 11 c. who is not eligible for coverage under a group health
12 plan, part A or B of Title XVIII of the Social
13 Security Act, or a state plan under Title XIX of such
14 Act or any successor program and who does not have
15 other health insurance coverage, except that a person
16 who has exhausted COBRA coverage shall be, for the
17 purposes of the Health Insurance High Risk Pool Act, a
18 federally defined individual
- 19 ~~d. with respect to whom the most recent coverage under a~~
20 ~~COBRA continuation provision or under a similar state~~
21 ~~program, elected such coverage, and~~
- 22 ~~e. who has exhausted such continuation coverage under~~
23 ~~such provision or program, if the individual elected~~
24 ~~the continuation coverage described in this paragraph~~

1 ~~of this section, however, if the individual is~~
2 ~~eligible for the credit for health insurance costs~~
3 ~~under Section 35 of the Internal Revenue Code of 1986,~~
4 ~~the requirement for exhaustion of any available COBRA~~
5 ~~or state continuation benefits is waived;~~

6 7. "Governmental plan" has the same meaning given such term
7 under Section 3(32) of the Employee Retirement Income Security Act
8 of 1974 and any federal governmental plan;

9 8. "Group health benefit plan" means an employee welfare
10 benefit plan as defined in section 3(1) of the Employee Retirement
11 Income Security Act of 1974 to the extent that the plan provides
12 medical care as defined in Section 3N of the Employee Retirement
13 Income Security Act of 1974 and including items and services paid
14 for as medical care to employees or their dependents as defined
15 under the terms of the plan directly or through insurance,
16 reimbursement, or otherwise;

17 9. "Health insurance" means any individual or group hospital or
18 medical expense-incurred policy or health care benefits plan or
19 contract. The term does not include any policy governing short-term
20 accidents only, a fixed-indemnity policy, a limited benefit policy,
21 a specified accident policy, a specified disease policy, a Medicare
22 supplement policy, a long-term care policy, medical payment or
23 personal injury coverage in a motor vehicle policy, coverage issued
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1 as a supplement to liability insurance, a disability policy, or
2 workers' compensation;

3 10. "Insurer" means any individual, corporation, association,
4 partnership, fraternal benefit society, or any other entity engaged
5 in the health insurance business, except insurance agents and
6 brokers. This term shall also include not-for-profit hospital
7 service and medical indemnity plans, health maintenance
8 organizations, preferred provider organizations, prepaid health
9 plans, the State and Education Employees Group Health Insurance
10 Plan, and any reinsurer reinsuring health insurance in this state,
11 which shall be designated as engaged in the business of insurance
12 for the purposes of Section 6531 et seq. of this title;

13 11. "Medical care" means amounts paid for:

- 14 a. the diagnosis, care, mitigation, treatment or
15 prevention of disease, or amounts paid for the
16 purpose of affecting any structure or function of
17 the body,
- 18 b. transportation primarily for and essential to
19 medical care referred to in subparagraph a of
20 this paragraph, and
- 21 c. insurance covering medical care referred to in
22 subparagraphs a and b of this paragraph;

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1 12. "Medicare" means coverage under Parts A and B of Title
2 XVIII of the Social Security Act (Public Law 74-271, 42 U.S.C.,
3 Section 1395 et seq., as amended);

4 13. "Pool" means the Health Insurance High Risk Pool;

5 14. "Physician" means a doctor of medicine and surgery, doctor
6 of osteopathic medicine, doctor of chiropractic, doctor of podiatric
7 medicine, doctor of optometry, and, for purposes of oral and
8 maxillofacial surgery only, a doctor of dentistry, each duly
9 licensed by this state;

10 15. "Plan" means any of the comprehensive health insurance
11 benefit plans as adopted by the Board of Directors of the Health
12 Insurance High Risk Pool, or by rule;

13 16. "Alternative plan" means any of the comprehensive health
14 insurance benefit plans adopted by the Board of Directors of the
15 Health Insurance High Risk Pool other than the primary plan; and

16 17. "Reinsurer" means any insurer as defined in Section 103 of
17 this title from whom any person providing health insurance to
18 Oklahoma insureds procures insurance for itself as the insurer, with
19 respect to all or part of the health insurance risk of the person.

20 SECTION 3. AMENDATORY 36 O.S. 2001, Section 6534, as
21 last amended by Section 2, Chapter 404, O.S.L. 2008 (36 O.S. Supp.
22 2008, Section 6534), is amended to read as follows:

23 Section 6534. A. Except as otherwise provided in this section,
24 any person who maintains a primary residence in this state for at

1 least one (1) year, or who is legally domiciled in this state on the
2 date of application and who is eligible for the credit for health
3 insurance costs under Section 35 of the Internal Revenue Code of
4 1986, or is a federally defined eligible individual shall be
5 eligible for coverage under any of the plans of the Health Insurance
6 High Risk Pool including:

7 1. The spouse of the insured; and

8 2. Any dependent unmarried child of the insured, from the
9 moment of birth. Such coverage shall terminate at the end of the
10 premium period in which the child marries, ceases to be a dependent
11 of the insured, or attains the age of nineteen (19) years, whichever
12 occurs first. However, if the child is a full-time student at an
13 accredited institution of higher learning, the coverage may continue
14 while the child remains unmarried and a full-time student, but not
15 beyond the premium period in which the child reaches the age of
16 twenty-three (23) years.

17 B. 1. ~~No~~ Except as provided in this paragraph, no person is
18 eligible for coverage under any of the Pool plans unless such person
19 has been rejected by at least two insurers for coverage
20 substantially similar to the primary plan coverage. As used in this
21 paragraph, rejection includes an offer of coverage with a material
22 underwriting restriction or an offer of coverage at a rate equal to
23 or greater than the primary Pool plan rates. No person is eligible
24 for coverage under any of the plans if such person has, on the date

1 of issue of coverage under any of the plans, coverage equivalent to
2 the primary plan under another health insurance contract or policy.
3 This paragraph shall not apply to federally defined eligible
4 individuals or an individual who is eligible for the credit for
5 health insurance costs under Section 35 of the Internal Revenue Code
6 of 1986 except for a person who has exhausted COBRA coverage as
7 provided for in subparagraph c of paragraph 6 of Section 6532 of
8 this title.

9 2. No person who is currently receiving, or is entitled to
10 receive, health care benefits under any federal or state program
11 providing financial assistance or preventive and rehabilitative
12 social services is eligible for coverage under any of the plans.

13 3. No person who is covered under any of the plans and who
14 terminates coverage is again eligible for coverage unless twelve
15 (12) months has elapsed since the coverage was terminated; provided,
16 however, this provision shall not apply to an applicant who is a
17 federally defined eligible individual. The Board of Directors of
18 the Health Insurance High Risk Pool may waive the twelve-month
19 waiting period under circumstances to be determined by the Board.

20 4. No person on whose behalf any of the plans have paid out an
21 aggregate from any or all offered plans of One Million Dollars
22 (\$1,000,000.00) in covered benefits is eligible for coverage under
23 any of the plans.

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1 5. No inmate incarcerated in any state penal institution or
2 confined to any narcotic detention, treatment, and rehabilitation
3 facility shall be eligible for coverage under any of the plans;
4 provided, however, this provision shall not apply with respect to an
5 applicant who is a federally defined eligible individual.

6 C. The Board may establish an annual enrollment cap if the
7 Board determines it is necessary to limit costs to the plans.
8 However, federally defined eligible individuals shall be guaranteed
9 access to the Pool without regard to any enrollment caps that are
10 set for nonfederally defined eligible individuals.

11 D. The coverage of any person who ceases to meet the
12 eligibility requirements of this section may be terminated at the
13 end of the month in which an individual no longer meets the
14 eligibility requirements.

15 E. Nothing in this section shall be construed to deny
16 eligibility to a person who has exhausted COBRA coverage. Any
17 person who has exhausted COBRA coverage must apply for coverage
18 under any of the Pool plans within sixty-three (63) days after
19 exhausting such COBRA coverage in order to have a preexisting
20 condition covered.

21 SECTION 4. It being immediately necessary for the preservation
22 of the public peace, health and safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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