

THE HOUSE OF REPRESENTATIVES
Thursday, March 26, 2009

Committee Substitute for
ENGROSSED
Senate Bill No. 553

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 553 - By:
JUSTICE of the Senate and OSBORN of the House.

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

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

1 SECTION 1. AMENDATORY 36 O.S. 2001, Section 4509, is amended to read
2 as follows:

3 Section 4509. A. When an insured employee or a dependent whose group insurance
4 coverage is terminated and the coverage is subject to the provisions of the Consolidated
5 Omnibus Budget Reconciliation Act of 1985 (COBRA), Pub. L. 99-272, April 7, 1986, 100
6 Stat. 82, neither subsection B, C, or D of this section applies.

1 B. In the case of an employee whose insurance is terminated under a group policy
2 providing hospital, medical or surgical, or Christian Science care and treatment expense
3 benefits;² or contract of hospital or medical service or indemnity; or prepaid health plan
4 or health maintenance organization subscriber contract, such employee and ~~his~~ the
5 dependents of the employee shall remain insured under the policy or contract for a period
6 of at least ~~thirty (30)~~ sixty-three (63) days after such termination, unless during such
7 period the employee and his dependents shall otherwise become entitled to similar
8 insurance from some other source. Premiums may be charged for this period. The
9 premiums charged shall be the premiums which would have been charged for the
10 coverage provided under the group policy or contract had termination not occurred.

11 ~~B. C.~~ If an employee has been covered for at least six (6) months under any group
12 accident and health insurance policy delivered in this state, providing hospital, medical
13 or surgical, or Christian Science care and treatment expense benefits, or under a contract
14 of hospital or medical service or indemnity, and the individual employee has had his
15 employment terminated or the group itself is terminated, then the termination shall not
16 affect coverage of the insured or his dependents for any continuous loss which
17 commenced while the insurance was in force. The extension of benefits beyond the
18 period the insurance was in force may be predicated upon the continuous total disability
19 of the person insured or his or her dependents or the expenses incurred in connection
20 with a plan of surgical treatment, which shall include maternity care and delivery
21 expenses, which commenced prior to the termination. The coverage for the extension of
22 benefits shall be for the maximum benefits under the terminated policy or for a time

1 period of not less than three (3) months in the case of basic coverage or six (6) months in
2 the case of major medical coverage. Premium monies may be charged for the period of
3 the extension of benefits. The premiums charged shall be the premiums which would
4 have been charged for the coverage provided under the group policy or contract had
5 termination not occurred.

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

11 1. The group health insurance is provided pursuant to a group policy providing
12 hospital, medical or surgical, or Christian Science care and treatment expense benefits;
13 or contract of hospital or medical service or indemnity; or prepaid health plan or health
14 maintenance organization subscriber contract; or a self-insured employer plan;

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

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

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

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

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

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

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

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

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

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

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

17 a. a group health plan,

18 b. health insurance coverage,

19 c. Part A or B of Title XVIII of the Social Security Act,

20 d. Title XIX of the Social Security Act, other than coverage consisting
21 solely of benefits under Section 1928 of such act,

22 e. Chapter 55 of Title 10, U.S. Code,

- 1 f. a medical care program of the Indian Health Service or of a tribal
2 organization,
3 g. a state health benefits risk pool,
4 h. a health plan offered under Chapter 89 of Title 5, U.S. Code,
5 i. a public health plan as defined in federal regulations, or
6 j. a health benefit plan under Section 5(e) of the Peace Corps Act, 22
7 U.S.C. 2504(e);

8 6. "Federally defined eligible individual" means an individual:

- 9 a. for whom, as of the date on which the individual seeks coverage under
10 the Health Insurance High Risk Pool Act, the aggregate of the periods
11 of creditable coverage, as defined in Section 1D of the Employee
12 Retirement Income Security Act of 1974, is eighteen (18) or more
13 months,
14 b. whose most recent prior creditable coverage was under a group health
15 plan, governmental plan, church plan or health insurance coverage
16 offered in conjunction with any such plan, and
17 c. who is not eligible for coverage under a group health plan, part A or B
18 of Title XVIII of the Social Security Act, or a state plan under Title XIX
19 of such Act or any successor program and who does not have other
20 health insurance coverage, except that a person who has exhausted
21 COBRA coverage shall be, for the purposes of the Health Insurance
22 High Risk Pool Act, a federally defined individual

- 1 d. ~~with respect to whom the most recent coverage under a COBRA~~
2 ~~continuation provision or under a similar state program, elected such~~
3 ~~coverage, and~~
- 4 e. ~~who has exhausted such continuation coverage under such provision or~~
5 ~~program, if the individual elected the continuation coverage described~~
6 ~~in this paragraph of this section; however, if the individual is eligible~~
7 ~~for the credit for health insurance costs under Section 35 of the~~
8 ~~Internal Revenue Code of 1986, the requirement for exhaustion of any~~
9 ~~available COBRA or state continuation benefits is waived;~~

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

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

19 9. "Health insurance" means any individual or group hospital or medical expense-
20 incurred policy or health care benefits plan or contract. The term does not include any
21 policy governing short-term accidents only, a fixed-indemnity policy, a limited benefit
22 policy, a specified accident policy, a specified disease policy, a Medicare supplement

1 policy, a long-term care policy, medical payment or personal injury coverage in a motor
2 vehicle policy, coverage issued as a supplement to liability insurance, a disability policy,
3 or workers' compensation;

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

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

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

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

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

1 14. "Physician" means a doctor of medicine and surgery, doctor of osteopathic
2 medicine, doctor of chiropractic, doctor of podiatric medicine, doctor of optometry, and,
3 for purposes of oral and maxillofacial surgery only, a doctor of dentistry, each duly
4 licensed by this state;

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

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

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

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

16 Section 6534. A. Except as otherwise provided in this section, any person who
17 maintains a primary residence in this state for at least one (1) year, or who is legally
18 domiciled in this state on the date of application and who is eligible for the credit for
19 health insurance costs under Section 35 of the Internal Revenue Code of 1986, or is a
20 federally defined eligible individual shall be eligible for coverage under any of the plans
21 of the Health Insurance High Risk Pool including:

22 1. The spouse of the insured; and

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

8 B. 1. ~~No~~ Except as provided in this paragraph, no person is eligible for coverage
9 under any of the Pool plans unless such person has been rejected by at least two insurers
10 for coverage substantially similar to the primary plan coverage. As used in this
11 paragraph, rejection includes an offer of coverage with a material underwriting
12 restriction or an offer of coverage at a rate equal to or greater than the primary Pool plan
13 rates. No person is eligible for coverage under any of the plans if such person has, on the
14 date of issue of coverage under any of the plans, coverage equivalent to the primary plan
15 under another health insurance contract or policy. This paragraph shall not apply to
16 federally defined eligible individuals or an individual who is eligible for the credit for
17 health insurance costs under Section 35 of the Internal Revenue Code of 1986 except for
18 a person who has exhausted COBRA coverage as provided for in subparagraph c of
19 paragraph 6 of Section 6532 of this title.

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

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

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

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

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

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

21 E. Nothing in this section shall be construed to deny eligibility to a person who has
22 exhausted COBRA coverage. Any person who has exhausted COBRA coverage must

1 apply for coverage under any of the Pool plans within sixty-three (63) days after
2 exhausting such COBRA coverage in order to have a preexisting condition covered.

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

6 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND
7 FINANCIAL SERVICES, dated 03-25-09 - DO PASS, As Amended.