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HOUSE BILL NO. 315

Offered January 13, 2010

Prefiled January 11, 2010

A *BILL to amend and reenact §§ 38.2-3416 and 38.2-3541 of the Code of Virginia, relating to conversion or continuation of group health coverage upon termination of eligibility.*

Patrons—McClellan, Dance, Herring, McQuinn and Ward

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-3416 and 38.2-3541 of the Code of Virginia are amended and reenacted as follows:

§ 38.2-3416. Conversion on termination of eligibility; insurer required to offer conversion policy or group coverage.

A. Before an insurer who delivers or issues for delivery in this Commonwealth or who renews, reissues or extends if already issued, any group hospital, medical and surgical or group major medical policy, the insurer shall be required to be able to offer without evidence of insurability to residents of this Commonwealth who are covered under the policy, whose eligibility may terminate under the policy, and who may elect Option 1 under § 38.2-3541 a nongroup policy of group accident and sickness insurance, either individual or family, whichever is appropriate, coverage pursuant to the provisions of § 38.2-3541 unless such termination is due to termination of the group policy under circumstances in which the insured person is insurable under other replacement group coverage or health care plan without waiting periods or preexisting conditions under the replacement coverage or plan.

B. Any insurer who has in effect prior to January 1, 1985, any group policy described in subsection A of this section, may be exempted from the provisions of subsection A of this section. However, for persons affected by the termination of eligibility, the insurer shall be required to continue coverage under the existing group policy, without evidence of insurability and at the insurer's current rate applicable to the group policy, for as long as the affected persons elect or as long as the insurer is not required to offer an acceptable conversion policy.

§ 38.2-3541. Conversion or continuation on termination of eligibility.

A. Each group hospital policy, group medical and surgical policy or group major medical policy delivered or issued for delivery in this Commonwealth or renewed, reissued or extended if already issued, shall contain, subject to the policyholder's selection, one of the options option set forth in this section subsection B. These options This option shall apply if the insurance on a person covered under such a policy ceases because of the termination of the person's eligibility for coverage, prior to that person becoming eligible for Medicare or Medicaid benefits unless such termination is due to termination of the group policy under circumstances in which the insured person is insurable under other replacement group coverage or health care plan without waiting periods or preexisting conditions under the replacement coverage or plan.

1. Option 1: To have the insurer issue him, without evidence of insurability, an individual accident and sickness insurance policy in the event that the insurer is not exempt under § 38.2-3416 and offers such policy, subject to the following requirements:

a. The application for the policy shall be made, and the first premium paid to the insurer within thirty-one days after the termination;

b. The premium on the policy shall be at the insurer's then customary rate applicable: (i) to such policies; (ii) to the class of risk to which the person then belongs, and (iii) to his or her age on the effective date of the policy;

c. The policy will not result in over-insurance on the basis of the insurer's underwriting standards at the time of issue;

d. The benefits under the policy shall not duplicate any benefits paid for the same injury or same sickness under the prior policy;

e. The policy shall extend coverage to the same family members that were insured under the group policy; and

f. Coverage under this option shall be effected in such a way as to result in continuous coverage during the thirty-one-day period for such insured.

2. Option 2: To B. Each person described in subsection A shall have the option to have his present coverage under the policy continued for a period of ninety days 12 months immediately following the date of the termination of the person's eligibility, without evidence of insurability, subject to the following requirements:

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59 a 1. The application for the extended coverage is made to the group policyholder and ~~the total each~~
60 ~~monthly premium for the ninety-day~~ *is paid timely each month during the 12-month period is paid* to the
61 group policyholder ~~prior to the termination~~;

62 b 2. The premium for continuing the group coverage shall be at the insurer's current rate applicable
63 to the group policy *plus any applicable administrative fee not to exceed two percent of the current rate*;
64 and

65 c 3. Continuation shall only be available to an employee or member who has been continuously
66 insured under the group policy during the entire three months' period immediately preceding termination
67 of eligibility.

68 C. *The policyholder shall provide each employee or other person covered under such a policy*
69 *written notice of the availability of this option and the procedures and time periods for obtaining*
70 *continuation of coverage under the group policy.*