

May 16, 2006

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New Insurance Law Extends Coverage for Eligible Dependent Until 30 Years of Age

By Anthony P. Sciarrillo

A new insurance law called "Chapter 375" permits eligible children of persons covered under group health plans the opportunity to maintain dependent coverage after reaching the limiting age specified in the health plan.

Chapter 375 Effective as of May 12th

Enacted on January 12, 2006, Chapter 375 became effective May 12, 2006. It applies to all group health contracts, policies or plans that are delivered, issued, executed or renewed on or after the effective date. In other words, the Chapter 375 continuation election right became operative for all group policies first issued on or after May 12, 2006, and for all existing policies upon their first renewal or anniversary date occurring on or after May 12, 2006.

Moreover, the law provides that over-age dependents who aged out of the group policy prior to May 12, 2006 (and who otherwise meet the definition of eligible dependents as set forth below) are to be provided the opportunity, as of May 12, 2006, and for 12 months thereafter, to make continuation elections.

"Eligible Dependent"

Chapter 375 defines an "eligible dependent" as a covered employee's over-age dependent who meet the following requirements:

- 1) under 30 years old;
- 2) unmarried;
- 3) resident of New Jersey or full-time student at an accredited institute of higher education; and
- 4) without coverage under any other health benefit plan.

If an individual qualifies as an eligible dependent, the Chapter 375 continuation election does not generate a separate policy (certificate) for the over-age dependent but becomes effective through the parent's (or covered employee's) certificate or evidence of coverage. The over-age dependent has the same rights as other dependents under the policy. These rights arise independently (➔)

from the rights established under COBRA and *N.J.S.A. 17B:27A-17*. Over-age dependents entitled to Medicare coverage are not entitled to continuation under the covered employee's plan pursuant to Chapter 375.

Chapter 375 allows the group contractholder to require an eligible dependent or covered employee to pay up to 102% of the cost of this coverage, as derived from the applicable portion of the charge for dependent coverage. It may require that an over-age dependent age-out of a policy under which the covered employee was a certificateholder in order to be eligible for the Chapter 375 election.

Employee Coverage Governs

An eligible dependent's continuing coverage will terminate upon the termination of a covered employee's coverage. Furthermore, the eligible dependent's coverage may terminate if the covered employee fails to pay required premiums for coverage, even if the required Chapter 375 continuation premium has been paid by the eligible dependent.

Changes in coverage may be effected only by the covered employee—the eligible dependent may not change coverage during a group's open enrollment period unless the covered employee decides to change plans.

Which Plans Apply?

Chapter 375 applies only to health benefits plans and stand-alone prescription drug plans. It does not apply to self-funded arrangements. It also applies only if the policy is issued in New Jersey regardless of the state of the residence of the employee: the determination of whether the law applies is based on where the policy is delivered, not on the work location of the employees.

More Information

While the Department of Banking and Insurance (“Department”) has not yet developed rules implementing Chapter 375, carriers need to take action in order to assure compliance. Accordingly, the Department has issued separate bulletins to address questions about rating methodology and to provide a temporary supplemental enrollment/change form for purposes of compliance with the Health Information Interchange Technology Law. This information can be found on the Division's website located at www.njdobi.org.



The information provided here is necessarily general and is not intended as legal advice or a substitute for legal advice. If you have any questions regarding this Alert, please contact Anthony P. Sciarillo of the Education Law Group at edlawgroup@lindabury.com.

