

CHAPTER 1124**ACCIDENT OR HEALTH INSURANCE BENEFITS***H.F. 2465*

AN ACT relating to the continuation of and conversion of accident or health insurance benefits and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 509B.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Accident or health insurance" means hospital, surgical, or major medical insurance, or a combination of these.
2. "Commissioner" means the state commissioner of insurance.
3. "Group policy" means a group accident or health insurance policy issued by an insurance company under chapter 509, a group accident or health contract issued by a health service corporation under chapter 514, or a plan for health care services provided by a health maintenance organization under chapter 514B, or issued or provided by any similar corporation or organization.
4. "Individual policy" or "converted policy" means an individual accident or health insurance policy issued by an insurance company, or an individual accident or health services contract issued by a health service corporation, or a plan for health care services provided by a health maintenance organization, or provided by any similar corporation or organization.
5. "Insurer" means the entity issuing a group policy or an individual or converted policy.
6. "Insurance", "insures", and "insured" refer to coverage under a group policy, individual policy, or converted policy on a premium-paying basis, and do not include coverage provided solely as an accrued liability or by reason of a disability extension.
7. "Premium" includes any premium or payment or other consideration payable for coverage under a group or individual policy.
8. "Medicare" means Title XVIII of the United States Social Security Act.

Sec. 2. NEW SECTION. 509B.2 PERSONS INCLUDED IN THIS CHAPTER.

1. As used in this chapter, "termination of employment or membership" includes but is not limited to termination because of permanent or temporary layoff or approved leave of absence. A provision in this chapter which relates to termination of insurance under a group policy of an employee or member and the employee's or member's covered dependents includes termination of insurance with respect to the surviving or former spouse or children of an employee or member whose insurance would terminate because of dissolution or annulment of the marriage of the employee or member, or would terminate because of death of the employee or member.
2. A provision in this chapter which relates to an employee or member includes the surviving or former spouse or children if termination occurs because of dissolution or annulment of a marriage or death of an employee or member.

Sec. 3. NEW SECTION. 509B.3 CONTINUATION OF BENEFITS.

A group policy delivered or issued for delivery in this state which insures employees or members for accident or health insurance on an expense-incurred or service basis, other than for specific diseases or for accidental injuries only, shall provide that employees or members whose coverage under the group policy would otherwise terminate because of termination of employment or membership may continue their accident or health insurance under that group policy, for themselves and their eligible dependents, subject to all of the group policy's terms and conditions applicable to those forms of insurance and subject to all of the following conditions:

1. Continuation shall only be available to an employee or member if the employee or member was continuously insured under the group policy, and for similar benefits under any group policy which it replaced, during the entire three months' period immediately preceding the termination.

2. Continuation shall not be available for a person who is or could be covered by medicare. Continuation shall not be available for a person who is or is eligible to be covered by another group insured or uninsured arrangement which provides accident or health coverage, unless the person was covered by that other group policy immediately prior to the termination.

3. Continuation may exclude dental care, vision care, or prescription drug benefits or other benefits provided under the group policy which benefits are in addition to accident or health benefits.

4. An employee or member who wishes continuation of coverage must request continuation in writing to the employer or group policyholder within the ten-day period following the later of either of the following:

a. The date of the termination.

b. The date the employee is given notice of the right of continuation as provided in section 509B.5 by either the employer or the group policyholder.

If proper notice is given, the employee or member is not eligible to elect continuation more than thirty-one days after the date of termination.

5. An employee or member electing continuation shall pay monthly to the employer or group policyholder, in advance, the amount of contribution required by the employer or group policyholder, but not more than the group rate otherwise due for the insurance being continued under the group policy. If proper notice is given, the election of continuation by the employee or member together with the first contribution required to establish contributions on a monthly basis in advance, shall be given to the employer or group policyholder within thirty-one days of the date the group insurance would otherwise terminate.

6. Continuation of insurance under the group policy for any person shall terminate when the person becomes eligible for medicare or another group insured or uninsured accident or health arrangement, or earlier, when any of the following first occurs:

a. Nine months after the date the employee's or member's insurance under the policy would otherwise have terminated because of termination of employment or membership.

b. At the end of the period for which contributions were made if the employee or member fails to make timely payment of a required contribution and if proper notice as provided in section 509B.5, subsection 2.

c. If the person covered is a former spouse, upon the former spouse's remarriage.

d. The date on which the group policy is terminated or, in the case of an employee, the date the employer terminates participation under the group policy. However, if this paragraph applies and the coverage which would cease because of the employer's termination is replaced by similar coverage under a different group policy, all of the following apply:

(1) The employee, member, spouse, or eligible dependent may become covered under the different group policy, for the balance of the period that the employee or member would have remained covered under the prior group policy had a termination of the group policy as specified in paragraph "d" not occurred.

(2) The minimum level of benefits to be provided by the different group policy shall be the applicable level of benefits of the prior group policy, reduced by any benefits payable under the prior group policy.

(3) The prior group policy shall continue to provide benefits to the extent of its accrued liabilities and extensions of benefits as if the prior group policy had not been replaced by the different group policy.

7. A notification of the continuation privilege shall be included with or in each certificate of coverage and as otherwise provided in section 509B.5 and shall contain the time limits for requesting the continued coverage.

8. The spouse of an employee or member, and any covered dependent children of the employee or member, whose coverage under the group policy would otherwise terminate because of dissolution or annulment of marriage or death of the employee or member shall have the same contribution and notice responsibilities and privileges as provided under this chapter to the employee or member upon termination of employment or membership.

Sec. 4. NEW SECTION. 509B.4 CONVERSION OF GROUP POLICIES.

A group policy delivered or issued for delivery in this state which insures employees or members for accident or health insurance on an expense-incurred or service basis, other than for specific diseases or for accidental injuries only, shall provide that an employee or member whose coverage under the group policy has been terminated is entitled to have a converted policy issued to the employee or member by the insurer without evidence of insurability, subject to the following:

1. A converted policy shall not be available to an employee or member if termination of insurance under the group policy occurred because of any of the following:

(a) Termination of employment or termination of membership and the employee or member was not entitled to continuation of group coverage, or failed to elect continuation.

(b) Failure to make timely payment of required premium after notice as required in section 509B.5, subsection 2.

(c) Any other reason, if the employee or member was not continuously insured under the group policy, and for similar benefits under any group policy which it replaced, during the entire three months' period immediately preceding the termination.

(d) The group policy terminated or an employer's or group policyholder's participation terminated, and the insurance is replaced by similar coverage under another group policy within thirty-one days of the date of termination.

2. If proper notice is given as required in section 509B.5, written application and the first premium payment for the converted policy shall be made to the insurer not later than thirty-one days after the termination. The converted policy's effective date shall be the day following the termination of insurance under the group policy.

3. The premium for the converted policy shall be determined in accordance with the insurer's table of premium rates applicable to the age and class of risk of each person to be covered under that policy and to the type and amount of insurance provided.

4. The converted policy shall cover the employee or member and dependents who were covered by the group policy on the date of termination of insurance. At the option of the insurer, a separate converted policy may be issued to cover any dependent.

5. The insurer is not required to issue a converted policy covering any person if the person is or is eligible to be covered by medicare. The insurer is not required to issue a converted policy covering any person if both paragraphs "a" and "b" apply:

a. If any of the following apply:

(1) The person is covered for similar benefits by another individual policy.

(2) The person is or is eligible to be covered for similar benefits under any arrangement of coverage for individuals in an employer group, whether insured or uninsured.

(3) The person is or is eligible to be covered for similar benefits under any other state or federal law.

b. The benefits provided under sources of the kind referred to in paragraph "a", subparagraph (1), for the person, or the benefits provided or available under sources of the kind referred to in paragraph "a", subparagraphs (2) and (3), for the person, together with the converted policy's benefits, would result in overinsurance according to the insurer's standards for overinsurance.

6. A converted policy may provide that the insurer may at any time request information of a person covered as to whether the person is covered for similar benefits described in subsection 5, paragraph "a", subparagraph (1) or is or is eligible to be covered for similar benefits

described in subsection 5, paragraph "a", subparagraphs (2) and (3). The converted policy may provide that as of any premium due date the insurer may refuse to renew the policy or the coverage of any insured person for any of the following reasons:

a. Either those similar benefits for which the person is or is eligible to be covered, together with the converted policy's benefits, would result in overinsurance according to the insurer's standards for overinsurance, or the policyholder of the converted policy fails to provide the requested information.

b. Fraud or material misrepresentation in applying for any benefits under the converted policy.

c. Eligibility of the insured person for coverage under medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy.

d. Other reasons approved by the commissioner of insurance.

7. An insurer is not required to issue a converted policy providing benefits in excess of the accident and health insurance under the group policy from which conversion is made.

8. The converted policy shall not exclude, as a preexisting condition, any condition covered by the group policy. However, the converted policy may provide for a reduction of its accident and health benefits by the amount of the benefits payable under the group policy after the individual's insurance terminates under the group policy. The converted policy may also provide that during the first policy year, the benefits payable under the converted policy, together with the benefits payable under the group policy after its termination, shall not exceed those that would have been payable had the individual's insurance under the group policy remained in force and effect.

9. Subject to the other provisions of this chapter, if the group insurance policy from which conversion is made insures the employee or member for basic hospital and surgical insurance, the employee or member may exercise the option of obtaining a converted policy providing coverage on an expense-incurred basis under any of the following plans:

a. Plan A which covers all of the following:

(1) Hospital room and board daily expense benefits in a maximum dollar amount approximating the average semi-private rate charged in the Polk county metropolitan area of this state for a maximum duration of seventy days.

(2) Miscellaneous hospital expense benefits up to a maximum amount of ten times the hospital room and board daily expense benefits.

(3) Surgical expense benefits according to a surgical procedures schedule consistent with those customarily offered by the insurer under group or individual health insurance policies and providing a maximum benefit of eight hundred dollars.

b. Plan B.

The same as plan A, except that the maximum hospital room and board daily expense benefits is seventy-five percent of the corresponding plan A maximum and the surgical schedule maximum is six hundred dollars.

c. Plan C.

The same as plan A, except that the maximum hospital room and board daily expense benefit is fifty percent of the corresponding plan A maximum and the surgical schedule maximum is four hundred dollars.

The maximum dollar amount for plan A's hospital room and board daily expense benefits shall be determined by the commissioner of insurance and may be redetermined by the commissioner from time to time as to converted policies issued subsequent to the redetermination. The redetermination shall not be made more often than once in three years. The plan A maximum, and the corresponding maximums in plans B and C, shall be rounded to the nearest multiple of ten dollars and that rounding may be to the next higher or lower multiple of ten dollars, if otherwise exactly midway between.

10. Subject to the other provisions and conditions of this chapter, if the group policy from which conversion is made insures the employee or member for major medical expense insurance, the employee or member may obtain a converted policy providing catastrophic or major medical coverage under a plan meeting the following requirements:

a. A maximum benefit at least equal to, at the option of the insurer, either of the following benefits:

(1) A maximum payment per covered person for all covered medical expenses incurred during that person's lifetime, equal to the smaller of the maximum benefit provided under the group policy or two hundred fifty thousand dollars.

(2) A maximum payment for each unrelated injury or sickness equal to the smaller of the maximum benefit provided under the group policy, or two hundred fifty thousand dollars.

b. Payment of benefits at the rate of eighty percent of covered medical expenses which are in excess of the deductible until twenty percent of the expenses in a benefit period reaches one thousand dollars, after which benefits will be paid at the rate of one hundred percent during the remainder of the benefit period. Payment of benefits for outpatient treatment of mental illness, if provided in the converted policy, may be at a lesser rate but not less than fifty percent.

c. A deductible for each benefit period which, at the option of the insurer, shall be the sum of the benefits deductible and one hundred dollars or the corresponding deductible in the group policy. "Benefits deductible" means the value of any benefits provided on an expense-incurred basis which are provided with respect to covered medical expenses by any other group or individual accident or health insurance policy or medical practice or other prepayment plan, or any other plan or program whether insured or uninsured, or by reason of any state or federal law and if, pursuant to subsection 11, the converted policy provides both basic hospital and surgical coverage and major medical coverage, the value of the basic benefits. If the maximum benefit is determined by paragraph "a", subparagraph (2), the insurer may require that the deductible be satisfied during a period of not less than three months if the deductible is one hundred dollars or less and not less than six months if the deductible exceeds one hundred dollars.

d. The "benefit period" shall be each calendar year when the maximum benefit is determined by paragraph "a", subparagraph (1) or twenty-four months when the maximum benefit is determined by paragraph "a", subparagraph (2).

e. "Covered medical expenses" includes at least, in the case of hospital room and board charges, the dollar amount in plan A of subsection 9, paragraph "a" and at least twice that amount for charges in an intensive care unit. Any surgical procedures schedule shall be consistent with those customarily offered by the insurer under group or individual health insurance policies and shall provide at least a one thousand two hundred dollar maximum benefit.

11. At the option of the insurer, the plans of benefits set forth in subsections 9 and 10 may be provided under separate policies, or may be provided by a policy of comprehensive medical expense benefits without first dollar coverage. The comprehensive policy shall conform to the requirements of subsection 10. However, an insurer electing to provide such a policy shall make available a low deductible option, not to exceed one hundred dollars, a high deductible option between five hundred dollars and one thousand dollars, and a third deductible option midway between the high and low deductible options. Alternatively, this policy may provide for deductible options equal to the greater of the benefits deductible and the amounts specified in this subsection.

12. The insurer may, at its option, offer alternative plans for group health and accident insurance conversion in addition to those required by this chapter. If an insurer customarily offers individual policies on a service basis, that insurer may, in lieu of converted policies on an expense-incurred basis, make available converted policies on a service basis which, in the opinion of the commissioner, satisfy the intent of this chapter.

13. If, under this chapter, coverage would be continued under the group policy on an employee or member following termination due to retirement prior to the time the employee or member is or could be covered by medicare, the employee or member may elect, in lieu of continuation of group insurance, and notwithstanding subsection 1, paragraph "a", to have the same conversion rights as would apply if a continued policy were terminated at that time.

14. The converted policy may provide for reduction or termination of coverage of a person upon eligibility for coverage under medicare or under any other state or federal law providing for benefits similar to those provided by the converted policy.

15. Subject to any preceding conditions, conversion privileges are available to a surviving spouse at the death of the employee or member, with respect to the spouse and children whose coverage under the group policy terminates by reason of the death, or to each surviving child whose coverage under the group policy terminates by reason of death, or when continuation of dependent's coverage is accepted following the employee's or member's death, at the end of the continuation. Subject to any preceding conditions, the conversion privilege is available to the spouse of the employee or member upon termination of coverage of the spouse, by reason of dissolution or annulment of marriage or otherwise ceasing to be a qualified family member under the group policy, while the employee or member remains insured under the policy, or when continuation of dependent's coverage is elected following the dissolution or annulment of marriage, at the end of continuation. This conversion privilege includes children whose coverage under the group policy terminates at the same time. Subject to any preceding conditions, the conversion privilege is also available to a child solely with respect to the child upon termination of coverage by reason of ceasing to be a qualified family member under the group policy, if a conversion privilege is not otherwise provided within this section.

16. If the benefit levels in subsections 9 and 10 exceed the benefit levels provided under the group policy, the converted policy may offer benefits which are substantially similar to those provided under the group policy in lieu of those required in subsections 9 and 10.

17. The insurer may elect to provide group insurance coverage in lieu of the issuance of a converted individual policy.

18. A notification of the conversion privilege shall be included with or in each certificate of coverage.

19. A converted policy which is delivered outside this state may be on a form which could be delivered in such other jurisdiction as a converted policy had the group policy been issued in that jurisdiction.

Sec. 5. NEW SECTION. 509B.5 NOTICE OF TERMINATION OF MEMBERSHIP OR MODIFICATION OF COVERAGE.

1. Employers or group policyholders shall notify all employees or members of their continuation and conversion rights within ten days of termination of employment or membership. The notice shall be in writing and delivered in person or mailed to the person's last known address. However, continuation and conversion rights shall not be denied because of failure to provide proper notice. After receiving proper notice the employee or member may request and shall receive continuation or conversion coverage in accordance with this chapter within ten days of the request, notwithstanding any other time limitation provided by this chapter. Notification as provided in this section supersedes section 515.80 as that section relates to accident and health insurance.

2. If an employer or group policyholder terminates or substantially modifies an agreement to provide accident or health insurance for employees or members or if accident or health insurance for employees or members is terminated for failure to pay premiums or for another reason, the employer or group policyholder shall notify the employees or members, including persons being continued under the policy's continuation provisions, of the termination or substantial modification of their coverage. The notice shall be in writing and delivered in person to the entitled persons or mailed to their last known addresses at least ten days prior to

the termination or substantial modification of the accident or health insurance coverage. The employer or group policyholder is solely liable for benefits, including extended benefits, other than extended benefits for which the insurer is liable in accordance with the provisions of the group policy, which would have been payable had the accident or health insurance remained in force or not been terminated or substantially modified during the period of time following the termination or substantial modification until the person entitled to notice is given notice by the employer or group policyholder as required by this subsection.

3. The employer or group policyholder is also solely liable for benefits, including extended benefits, which would have been payable had the accident or health insurance been in force and the employees or members been covered during the period of time the employer or group policyholder failed to implement the plan for accident or health insurance which the employer or group policyholder had agreed to provide, until the employer or group policyholder gives notice of its failure or inability to provide the agreed plan. The notice shall be in writing and delivered in person to the employees or members or mailed to their last known addresses.

4. The employer or group policyholder is also solely liable for benefits, including extended benefits, which would have been payable had the accident or health insurance been in force and the employees or members been covered by the accident or health insurance during a period of time for which the employer or group policyholder has collected contributions through payroll, withholding, or otherwise, but has failed to enroll the employees or members, unless the employer or group policyholder has given actual notice that enrollment in the plan will not become effective until a later date or until the employee's or member's application for enrollment has been approved.

Sec. 6. Section 91A.2, subsection 4, paragraph d, Code Supplement 1985, is amended to read as follows:

d. Expenses incurred and recoverable under a health benefit plan as defined in and as provided in chapter 91B.

Sec. 7. Section 91A.2, Code Supplement 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 7. "Health benefit plan" means a plan or agreement provided by an employer for employees for the provision of or payment for care and treatment of sickness or injury.

Sec. 8. Section 509.3, subsection 4, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

4. A provision that if the insurance on a person or insurance on a person and the person's dependents covered by the policy ceases because of termination of employment or of membership in the class, the person and the person's dependents may continue their accident or health insurance under the group policy and may subsequently apply for a converted policy without evidence of insurability, as provided in chapter 509B.

Sec. 9. Chapter 91B, Code 1985, is repealed.

Sec. 10. This Act is effective July 1, 1987.

Approved April 21, 1986