

1st Sub. H.B. 39
INSURANCE RELATED AMENDMENTS

Senator **Wayne L. Niederhauser** proposes the following amendments:

1. *Page 1, Lines 22 through 24:*

- 22 ▶ clarifies language related to underinsured motorist coverage;
= ▶ addresses dependent coverage;
23 ▶ modifies provisions related to catastrophic coverage of mental health conditions;
24 ▶ addresses issuance of group or blanket accident and health insurance;

2. *Page 2, Line 39:*

- 39 This bill provides an effective date and limited retrospective operation. .

3. *Page 2, Line 56 through Page 3, Line 57:*

- 56 31A-22-411, as last amended by Laws of Utah 1991, Chapter 74
= 31A-22-610.5, as last amended by Laws of Utah 2008, Chapter 3
57 31A-22-625, as last amended by Laws of Utah 2008, Chapters 345 and 382

4. *Page 65, Lines 2005 through 2006:*

- 2005 (ii) approval by a majority of the policyholders in the [~~segregated~~] separate account.
= Section 16. Section 31A-22-610.5 is amended to read:
 31A-22-610.5. Dependent coverage.
 (1) As used in this section, "child" has the same meaning as defined in Section 78B-12-102.
 (2) (a) Any individual or group accident and health insurance policy or health maintenance organization contract that provides coverage for a policyholder's or certificate holder's dependent ~~{shall}~~ may not terminate coverage of an unmarried dependent by reason of the dependent's age before the dependent's 26th birthday and shall, upon application, provide coverage for all unmarried dependents up to age 26.
 (b) The cost of coverage for unmarried dependents 19 to 26 years of age shall be included in the premium on the same basis as other dependent coverage.
 (c) This section does not prohibit the employer from requiring the employee to pay all or part of the cost of coverage for unmarried dependents.
= (d) An individual health insurance policy, group health insurance policy, or health maintenance organization, shall continue in force coverage for a dependent through the last day of the month in which the dependent ceases to be a dependent:
 (i) if premiums are paid; and

(ii) notwithstanding Section 31A-8-402.3, 31A-8-402.5, 31A-22-721, 31A-30-107.1, or 31A-30-107.3.

(3) An individual or group accident and health insurance policy or health maintenance organization contract shall reinstate dependent coverage, and for purposes of all exclusions and limitations, shall treat the dependent as if the coverage had been in force since it was terminated; if:

- (a) the dependent has not reached the age of 26 by July 1, 1995;
- (b) the dependent had coverage prior to July 1, 1994;
- (c) prior to July 1, 1994, the dependent's coverage was terminated solely due to the age of the dependent;

and

- (d) the policy has not been terminated since the dependent's coverage was terminated.

(4) (a) When a parent is required by a court or administrative order to provide health insurance coverage for a child, an accident and health insurer may not deny enrollment of a child under the accident and health insurance plan of the child's parent on the grounds the child:

- (i) was born out of wedlock and is entitled to coverage under Subsection (5);
- (ii) was born out of wedlock and the custodial parent seeks enrollment for the child under the custodial parent's policy;
- (iii) is not claimed as a dependent on the parent's federal tax return; or
- (iv) does not reside with the parent or in the insurer's service area.

(b) A child enrolled as required under Subsection (4)(a)(iv) is subject to the terms of the accident and health insurance plan contract pertaining to services received outside of an insurer's service area. A health maintenance organization must comply with Section 31A-8-502.

(5) When a child has accident and health coverage through an insurer of a noncustodial parent, and when requested by the noncustodial or custodial parent, the insurer shall:

(a) provide information to the custodial parent as necessary for the child to obtain benefits through that coverage, but the insurer or employer, or the agents or employees of either of them, are not civilly or criminally liable for providing information in compliance with this Subsection (5)(a), whether the information is provided pursuant to a verbal or written request;

(b) permit the custodial parent or the service provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(c) make payments on claims submitted in accordance with Subsection (5)(b) directly to the custodial parent, the child who obtained benefits, the provider, or the state Medicaid agency.

(6) When a parent is required by a court or administrative order to provide health coverage for a child, and the parent is eligible for family health coverage, the insurer shall:

(a) permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to an enrollment season restrictions;

(b) if the parent is enrolled but fails to make application to obtain coverage for the child, enroll the child under family coverage upon application of the child's other parent, the state agency administering the Medicaid program, or the state agency administering 42 U.S.C. 651 through 669, the child support enforcement program; and

- (c) (i) when the child is covered by an individual policy, not disenroll or eliminate coverage of the child

unless the insurer is provided satisfactory written evidence that:

(A) the court or administrative order is no longer in effect; or

(B) the child is or will be enrolled in comparable accident and health coverage through another insurer which will take effect not later than the effective date of disenrollment; or

(ii) when the child is covered by a group policy, not disenroll or eliminate coverage of the child unless the employer is provided with satisfactory written evidence, which evidence is also provided to the insurer, that Subsection (9)(c)(i), (ii) or (iii) has happened.

(7) An insurer may not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under Medicaid and covered for accident and health benefits from the insurer that are different from requirements applicable to an agent or assignee of any other individual so covered.

(8) Insurers may not reduce their coverage of pediatric vaccines below the benefit level in effect on May 1, 1993.

(9) When a parent is required by a court or administrative order to provide health coverage, which is available through an employer doing business in this state, the employer shall:

(a) permit the parent to enroll under family coverage any child who is otherwise eligible for coverage without regard to any enrollment season restrictions;

(b) if the parent is enrolled but fails to make application to obtain coverage of the child, enroll the child under family coverage upon application by the child's other parent, by the state agency administering the Medicaid program, or the state agency administering 42 U.S.C. 651 through 669, the child support enforcement program;

(c) not disenroll or eliminate coverage of the child unless the employer is provided satisfactory written evidence that:

(i) the court order is no longer in effect;

(ii) the child is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment; or

(iii) the employer has eliminated family health coverage for all of its employees; and

(d) withhold from the employee's compensation the employee's share, if any, of premiums for health coverage and to pay this amount to the insurer.

(10) An order issued under Section 62A-11-326.1 may be considered a "qualified medical support order" for the purpose of enrolling a dependent child in a group accident and health insurance plan as defined in Section 609(a), Federal Employee Retirement Income Security Act of 1974.

(11) This section does not affect any insurer's ability to require as a precondition of any child being covered under any policy of insurance that:

(a) the parent continues to be eligible for coverage;

(b) the child shall be identified to the insurer with adequate information to comply with this section; and

(c) the premium shall be paid when due.

(12) The provisions of this section apply to employee welfare benefit plans as defined in Section 26-19-2.

(13) The commissioner shall adopt rules interpreting and implementing this section with regard to out-of-area court ordered dependent coverage.

2006 Section ~~{16}~~ 17 . Section 31A-22-625 is amended to read:

Renumber remaining sections accordingly.

5. Page 75, Line 2307 through Page 76, Line 2339:

2307 31A-22-722.5. Mini-COBRA election -- American Recovery and Reinvestment
2308 Act.

2309 (1) ~~{An}~~ (a) If the conditions of Subsection (1)(b) are met, an individual has a right ~~{;~~
until [April 18, 2009] March 1, 2010,} to contact the

2310 individual's employer or the insurer for the employer to participate in a second election period
2311 for mini-COBRA benefits under Section 31A-22-722 in accordance with Section 3001 of the

2312 American Recovery and Reinvestment Act of 2009 (Pub. S. 111-5), as amended, until the later of:

(i) February 17, 2010; or

(ii) 30 days after the day on which the individual's insurer provides the notice described in Section 3001(a)(16)(D), of the American Recovery and Reinvestment Act of 2009, as amended by Pub. L. 111-118, Div. B, Sec. 1010(c).

(b) Subsection (1)(a) applies if the

2313 individual:

2 314 ~~{(a)}~~ (i) was involuntarily terminated from employment between ~~[September 1, 2008 and~~
2315 ~~February 17, 2009]~~ March 1, 2009 and April 30, 2009, as defined in Section 3001 of the

2316 American Recovery and Reinvestment Act of 2009 (Pub. S. 111-5), as amended;

2317 ~~{(b)}~~ (ii) is eligible for COBRA premium assistance under Section 3001 of the American
2318 Recovery and Reinvestment Act of 2009 (Pub. S. 111-5), as amended; [and]

2319 ~~{(c)}~~ (iii) was eligible for Utah mini-COBRA as provided in Section 31A-22-722 at the time
2320 of termination[-];

2321 ~~{(d)}~~ (iv) elected Utah mini-COBRA; and

2322 ~~{(e)}~~ (v) has the individual's coverage ~~{was}~~ terminated between December 1, 2009
through February 1, 2010, for

2323 reasons other than those identified in Subsection 31A-22-722(7).

2324 (2) (a) An individual or the employer of the individual shall contact the insurer and
2325 inform the insurer that the individual wants to take advantage of the second election period for
2326 mini-COBRA coverage under the provisions of Section 3001 of the American Recovery and
2327 Reinvestment Act of 2009 (Pub. S. 111-5), as amended.

2328 (b) An individual or an employer on behalf of an eligible individual must submit the
2329 enrollment forms for coverage under Subsection (1) to the insurer ~~[prior to May 1, 2009]~~

2330 ~~{before March 1, 2010.}~~ by no later than the later of:

(i) March 19, 2010; or

(ii) 30 days after the day on which the notice of the second election period is provided as described in Subsection (1)(a).

2331 (3) The provision regarding the application of pre-existing condition waivers to the
2332 extended second election period for federal COBRA under Section 3001 of the American
2333 Recovery and Reinvestment Act of 2009 (Pub. S. 111-5), as amended, shall apply to the
2334 extended second election for state mini-COBRA under this section.

2335 (4) An insured has the right to extend the employee's coverage under the current
2336 employer's group policy beyond 12 months to the period of time the insured is eligible to
2337 receive assistance in accordance with Section 3001 of the American Recovery and
2338 Reinvestment Act of 2009 (Pub. S. 111-5), as amended.

2339 [~~4~~] (5) An insurer that violates this section is subject to penalties in accordance with

6. *Page 107, Lines 3298 through 3302:*

3298 (1) (a) Except as provided in Subsections (2) and (3), this bill takes effect on May 11,
3299 2010, except that, if approved by two-thirds of all the members elected to each house, Sections
3300 31A-22-722 and 31A-22-722.5 take effect upon approval by the governor, or the day following
3301 the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's
3302 signature, or in the case of a veto, the date of veto override.

(b) The amendments in this bill to Section 31A-22-722.5 have retrospective operation to February 17, 2010.