

Illinois Spousal Health Insurance Continuation Law

(215 ILCS 5/367.2) (from Ch. 73, par. 979.2)

Sec. 367.2. **Spousal continuation privilege; group contracts.**

A. No policy of group accident or health insurance, nor any certificate thereunder shall be delivered or issued for delivery in this State after December 1, 1985, unless the policy provides for a continuation of the existing insurance benefits for an **employee's spouse and dependent children** who are insured under the provisions of that group policy or certificate thereunder, notwithstanding that the marriage is dissolved by judgment or terminated by the death of the employee or, after the effective date of this amendatory Act of the 93rd General Assembly, **notwithstanding the retirement of the employee provided that the employee's spouse is at least 55 years of age**, in each case without any other eligibility requirements. The provisions of this amendatory Act of the 93rd General Assembly apply to every group policy of accident or health insurance and every certificate issued thereunder delivered or issued for delivery after the effective date of this amendatory Act of the 93rd General Assembly.

B. **Within 30 days of the entry of judgment** or the death or retirement of the employee, the spouse of an employee insured under the policy who seeks a continuation of coverage thereunder shall give the employer or the insurer written notice of the dissolution of the marriage or the death or retirement of the employee. The employer, within 15 days of receipt of the notice shall give written notice of the dissolution of the employee's marriage or the death or retirement of the employee and that former spouse's or retired employee's spouse's residence to the insurance company issuing the policy.

The employer shall immediately send a copy of the notice to the former spouse of the employee or the spouse of the retired employee at the retired employee's spouse's residence or at the former spouse's residence. For purposes of this Act, the term "former spouse" includes "widow" or "widower".

C. **Within 30 days after the date of receipt of a notice** from the employer, retired employee's spouse or former spouse or of the initiation of a new group policy, the insurance company, by certified mail, return receipt requested, shall notify the retired employee's spouse or former spouse at his or her residence that the policy may be continued for that retired employee's spouse or former spouse and covered dependents, and the notice shall include:

- (I) a form for election to continue the insurance coverage;
- (ii) the amount of periodic premiums to be charged for continuation coverage and the method and place of payment; and
- (iii) instructions for returning the election form within 30 days after the date it is received from the insurance company.

Failure of the retired employee's spouse or former spouse to exercise the election to continue insurance coverage by notifying the insurance company in writing within such 30 day period shall terminate the continuation of benefits and the right to continuation.

If the insurance company fails to notify the retired employee's spouse or former spouse as provided for in subsection C hereof, all premiums shall be waived from the date the notice was required until notice is sent, and the benefits shall continue under the terms and provisions of the policy, from the date the notice was required until the notice is sent, notwithstanding any other provision hereof, except where the benefits in existence at the time the company's notice was to be sent pursuant to subsection C are terminated as to all employees.

D. With respect to a former spouse who has **not attained the age of 55** at the time continuation coverage begins, the monthly premium for continuation shall be computed as follows:

- (I) an amount, if any, that would be charged an employee if the former spouse were a current employee of the employer, plus;
- (ii) an amount, if any, that the employer would contribute toward the premium if the former spouse were a current employee.

Failure to pay the initial monthly premium within 30 days after the date of receipt of notice required in subsection C of this Section terminates the continuation benefits and the right to continuation benefits.

The continuation coverage for former spouses who have not attained the age of 55 at the time coverage begins shall terminate upon the earliest to happen of the following:

- (I) The failure to pay premiums when due, including any grace period allowed by the policy; or
 - (ii) When coverage would terminate under the terms of the existing policy if the employee and former spouse were still married to each other; however, the existing coverage shall not be modified or terminated during the first 120 consecutive days subsequent to the employee spouse's death or to the entry of the judgment dissolving the marriage existing between the employee and the former spouse unless the master policy in existence at the time is modified or terminated as to all employees; or
 - (iii) the date on which the former spouse first becomes, after the date of election, an insured employee under any other group health plan; or
 - (iv) the date on which the former spouse remarries;
- or
- (v) the expiration of **2 years** from the date continuation coverage began.

Upon the termination of continuation coverage, the former spouse shall be entitled to convert the coverage to an individual policy.

The continuation rights granted to former spouses who have not attained age 55 shall also include eligible dependents insured prior to the dissolution of marriage or the death of the employee.

E. With respect to a retired employee's spouse or former spouse who **has attained the age of 55 at the time continuation coverage begins**, the monthly premium for the continuation shall be computed as follows:

- (I) an amount, if any, that would be charged an employee if the retired employee's spouse or former spouse were a current employee of the employer, plus;
- (ii) an amount, if any, that the employer would contribute toward the premium if the retired employee's spouse or former spouse were a current employee.

Beginning **2 years after coverage begins** under this paragraph, the monthly premium shall be computed as follows:

- (I) an amount, if any, that would be charged an employee if the retired employee's spouse or former spouse were a current employee of the employer, plus;
- (ii) an amount, if any, that the employer would contribute toward the premium if the retired employee's spouse or former spouse were a current employee.
- (iii) **an additional amount, not to exceed 20%** of (I) and (ii) above, for costs of administration.

Failure to pay the initial monthly premium within 30 days after the date of receipt of the notice

required in subsection C of this Section terminates the continuation benefits and the right to continuation benefits.

The continuation coverage for retired employees' spouses and former spouses who have attained the age of 55 at the time coverage begins shall terminate upon the earliest to happen of the following:

- (I) The failure to pay premiums when due, including any grace period allowed by the policy; or
- (ii) When coverage would terminate, except due to the retirement of an employee, under the terms of the existing policy if the employee and former spouse were still married to each other; however, the existing coverage shall not be modified or terminated during the first 120 consecutive days subsequent to the employee spouse's death or retirement to the entry of the judgment dissolving the marriage existing between the employee and the former spouse unless the master policy in existence at the time is modified or terminated as to all employees; or
- (iii) the date on which the retired employee's spouse or former spouse first becomes, after the date of election, an insured employee under any other group health plan; or
- (iv) the date on which the former spouse remarries;
- or
- (v) the date that person reaches the qualifying age **or otherwise establishes eligibility under the Medicare Program** pursuant to Title XVIII of the federal Social Security Act.

Upon the termination of continuation coverage, the former spouse shall be entitled to convert the coverage to an individual policy.

The continuation rights granted to former spouses who have attained age 55 **shall also include eligible dependents insured prior to the dissolution of marriage**, the death of the employee, or the retirement of the employee.

F. The renewal, amendment, or extension of any group policy affected by this Section shall be deemed to be delivery or issuance for delivery of a new policy or contract of insurance in this State.

G. If (I) the policy is canceled, and (ii) another insurance company contracts to provide group health and accident insurance to the employer, and (iii) continuation coverage is in effect for the retired employee's spouse or former spouse at the time of cancellation and (iv) the employee is or would have been included under the new group policy, then the new insurer must also offer continuation coverage to the retired employee's spouse and to an employee's former spouse under the same terms and conditions as contained in this Section.

H. This Section shall not limit the right of the retired employee's spouse or any former spouse to exercise the privilege to convert to an individual policy as contained in this Code.

I. No person who obtains coverage under this Section shall be required to pay a rate greater than that applicable to any employee or member covered under that group except as provided in clause (iii) of the second paragraph of subsection E.

(Source: P.A. 93-477, eff. 1-1-04.)

Current as of September 19, 2008

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