

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 111

H.P. 87

House of Representatives, January 11, 2005

### **An Act To Promote Health Insurance Coverage for Employees of Small Businesses**

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Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative CURLEY of Scarborough.  
Cosponsored by Senator BARTLETT of Cumberland and  
Representatives: DUDLEY of Portland, GLYNN of South Portland, MARRACHÉ of  
Waterville, NASS of Acton.

Be it enacted by the People of the State of Maine as follows:

2           **Sec. 1. 24-A MRSA §2809-A, sub-§11.** as amended by PL 1991, c.  
4 885, Pt. E, §30 and affected by §47, is repealed.

6           **Sec. 2. 24-A MRSA §2809-A, sub-§11-A** is enacted to read:

8           **11-A. Continued group coverage; groups with fewer than 20**  
9 **employees.** Notwithstanding any other provision of this section,  
10 if the termination of a member's or employee's coverage under a  
11 group policy with 20 or fewer members is a result of the  
12 reduction of hours or termination of the covered employee's  
13 employment, other than termination for gross misconduct, the  
14 insurer shall allow the member or employee to elect, within the  
15 time period prescribed by paragraph C, to continue coverage under  
16 the group policy at the same level of benefits or coverage  
17 offered to employees whose employment has not been terminated or  
18 reduced and at the member's or employee's expense or, at the  
19 member's or employee's option, to convert to a policy of  
20 individual coverage without evidence of insurability in  
21 accordance with this section. If the level of benefits or  
22 coverage offered to employees whose employment has not been  
23 terminated or reduced is modified, the level of benefits or  
24 coverage offered to a member or employee pursuant to this  
25 subsection must be modified in the same manner.

26           A. For the purposes of this subsection, "member or  
27 employee" means a person who has been a member or employee  
28 for at least 6 months.

29           B. The employer's decision to terminate an employee for  
30 gross misconduct is conclusive as to the employee's  
31 ineligibility for continued coverage under this subsection.

32           C. Within 14 days of a member's or employee's termination  
33 of employment or reduction of hours of employment, other  
34 than for gross misconduct, the employer shall give the  
35 insurer written notice on a form provided by the insurer of  
36 a member's or employee's eligibility for an election to  
37 continue coverage under this subsection.

38           D. Within 14 days of the receipt of written notice from the  
39 employer pursuant to paragraph C, the insurer shall send the  
40 member or employee an election and premium notice form  
41 approved by the superintendent. The form must provide the  
42 member or employee an opportunity to elect or decline to  
43 elect continued coverage under the group policy and notify  
44 the member or employee of the applicable premium amount due  
45 after the election to continue coverage. The notice must be  
46

2 sent by first class mail to the last known mailing address  
3 of the member or employee.

4 E. The member or employee has 31 days from the receipt of  
5 the election and premium notice form from the insurer under  
6 paragraph D in which to elect continued coverage in writing  
7 to the insurer and make the initial premium payment to the  
8 insurer. After the election, the insurer shall bill the  
9 member or employee for premiums once each month with a due  
10 date on the first of the month of coverage subject to any  
11 grace period for payment pursuant to this Title.

12 F. An insurer is not required to continue coverage under a  
13 group or individual policy if the member or employee meets  
14 the conditions set out in subsection 3, paragraph A.

15 G. The payment for continued group coverage under this  
16 subsection may not exceed 102% of the group rate in effect  
17 for a group member in the employer's group policy, including  
18 an employer's contribution, if any.

19 H. At the option of the member or employee, the continued  
20 group coverage may cover the member or employee, the member  
21 or employee and any dependents or only the dependents of the  
22 member or employee; however, if the continued group coverage  
23 is for a dependent of the member or employee, the dependent  
24 must have been covered for a period of at least 3 months  
25 under the group policy, unless the dependent was not  
26 eligible for coverage until after the beginning of the  
27 3-month period.

28 I. Except as provided in paragraph J, coverage provided  
29 under this subsection continues for a maximum of 18 months  
30 from the date of termination of the prior coverage.

31 J. Coverage provided under this subsection may be  
32 terminated sooner than provided under paragraph I if:

33 (1) The member or employee fails to make timely  
34 payment of a required premium amount;

35 (2) The member or employee becomes eligible for  
36 coverage under another group policy or becomes entitled  
37 to benefits under Title XVIII of the Social Security  
38 Act; or

39 (3) The group health policy is terminated.

40 K. At the expiration of any continued group coverage  
41 obtained under this subsection, the member or employee has

2 the same conversion privileges as otherwise granted under  
3 this section.

4 L. This subsection may not be construed to:

6 (1) Prevent members or employees from negotiating for  
7 or receiving greater continued coverage of group  
8 insurance than is provided in this subsection;

10 (2) Require coverage beyond the time limit set in  
11 paragraph I; or

12 (3) Permit a member or employee to increase the level  
13 of benefits or coverage that the member or employee  
14 receives immediately before the termination of the  
15 member's or employee's coverage under the employer's  
16 group policy.

18 M. This subsection does not apply to any group policy  
19 subject to the United States Consolidated Omnibus Budget  
20 Reconciliation Act, Public Law 99-272, Title X, Private  
21 Health Insurance Coverage, Sections 10001 to 10003.

24 N. The superintendent may adopt rules as necessary to  
25 implement the requirements of this subsection. Rules  
26 adopted pursuant to this subsection are routine technical  
27 rules as defined in Title 5, chapter 375, subchapter 2-A.

28 **Sec. 3. 24-A MRSA §4222-B. sub-§18.** as enacted by PL 2001, c.  
30 410, Pt. B, §3, is amended to read:

32 **18.** The ~~requirement~~ requirements of section 2809-A,  
33 subsection ~~11~~ 11-A to continue group coverage under certain  
34 circumstances ~~applies~~ apply to health maintenance organizations.

36  
37 **SUMMARY**

38  
39 This bill gives an employee whose coverage under a group  
40 policy is terminated the right to maintain coverage under that  
41 group policy at the employee's expense for 18 months or convert  
42 to an individual policy without evidence of insurability. The  
43 bill applies to group policies covering fewer than 20 employees.  
44 The bill clarifies that the continuation or conversion privilege  
45 is not available if the employee's employment is terminated for  
46 gross misconduct.