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H. P. 539 House of Representatives, February 21, 1979

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Damren of Belgrade.
Cosponsor: Mr. Boudreau of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED SEVENTY-NINE

AN ACT to Enact a Model Group Health Insurance Continuation and Conversion Law.

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

Sec. 1. 24-A MRSA c. 36 is enacted to read:

CHAPTER 36

GROUP HEALTH INSURANCE CONTINUATION AND CONVERSION LAW

§ 2841. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. Group policy. "Group policy" means a group health insurance policy issued by an insurance company and a group contract issued by a health service corporation or health maintenance organization or similar corporation or organization under this Title or Title 24.

2. Individual policy or converted policy. "Individual policy" or "converted policy" means an individual health insurance policy issued by an insurance company or an individual health services contract issued by a health service

corporation or health maintenance organization or similar corporation or organization under this Title or Title 24.

3. Insurance, insurers and insured. "Insurance," "insurers" and "insured" refer to coverage under a group policy, individual policy or converted policy on a premium-paying basis under this Title or Title 24 and does not include coverage provided solely as an accrued legality or by reason of a disability extension.

4. Insurer. "Insurer" means the entity issuing a group policy or an individual or converted policy under this Title or Title 24.

5. Medicare. "Medicare" means the United States Social Security Act, Title XVIII, as added by the social security amendments of 1965 or as later amended or superseded.

6. Premium. "Premium" includes any premium or other consideration payable for coverage under a group or individual policy.

§ 2842. Continuation of group hospital, surgical and major medical coverage after termination of employment or membership

A group policy delivered or issued for delivery in this State which insures employees or members for hospital, surgical or major medical 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 insurance under the group policy would otherwise terminate because of termination of employment or membership shall be entitled to continue their hospital, surgical and major medical 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 to the following conditions.

1. Eligibility. Continuation shall only be available to an employee or member who has been continuously insured under the group policy and for similar benefits under any group policy which it replaced during the entire 3-month period ending with the termination.

2. Continuation not available. Continuation shall not be available for any person who is or could be covered by Medicare or is or could be covered by any other arrangement or hospital, surgical or medical coverage for individuals in a group, whether insured or uninsured.

3. Benefits not included. Continuation need not include dental, vision care or prescription drug benefits, or any other benefits provided under the group policy in addition to its hospital, surgical or major medical benefits.

4. Notification to employee. Within 5 days of the date the employee's or member's insurance would otherwise terminate, the group policyholder shall send or give the employee or member written notification of his right to elect continuation as described in this section and the contribution payment amounts

initially required for continuation and the manner, place and time in which the payments shall be made. The notice may be sent to the employee's or member's home address as shown on the records of the policyholder or employer.

5. Payment of premiums. An employee or member electing continuation shall pay to the group policyholder or his employer, on a monthly basis in advance, the amount of contribution required by the policyholder or employer, but not more than the group rate for the insurance applicable under the group policy on the due date of each payment. The employee's or member's written election of continuation, together with the first contribution required to establish contributions on a monthly basis in advance, shall be given to the policyholder or employer within 31 days of the date on which the employee's or member's insurance would otherwise terminate.

6. Termination of continuation. Continuation of insurance under the group policy for any person shall terminate when he fails to satisfy this section or, if earlier, at the first to occur of the following:

A. The date 6 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. If the employee or member fails to make timely payment of a required contribution, the end of the period for which contributions were made; or

C. The date on which the group policy is terminated or, in the case of an employee, the date his employer terminates participation under the group policy. However, if this paragraph applies and the coverage ceasing by reason of the termination is replaced by similar coverage under another group policy, the following shall apply:

(1) The employee or member shall have the right to become covered under that other group policy, for the balance of the period that he would have remained covered under the prior group policy in accordance with this subsection had a termination described in paragraph C not occurred;

(2) The minimum level of benefits to be provided by the other group policy shall be the applicable level of benefits of the prior group policy reduced by any benefits payable under that prior group policy; and

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

7. Notification. A notification of the continuation privilege shall be included in each certificate of coverage.

§ 2843. Conversion; right to obtain individual policy upon termination of group hospital, surgical or major medical coverage

A group policy delivered or issued for delivery in this State which insures employees or members for hospital, surgical or major medical 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 insurance under the group policy has been terminated shall be entitled to have a converted policy issued to him by the insurer under whose group policy he was insured, without evidence of insurability, subject to the following terms and conditions.

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

A. Because of termination of employment or membership and either he was not entitled to continuation of group coverage under paragraph B or failed to elect the continuation;

B. Because he failed to make timely payment of any required contribution;

C. For any other reason and he had not been continuously covered under the group policy and for similar benefits under any group policy which it replaced during the entire 3-month period ending with the termination; or

D. Because the group policy terminated or an employer's participation terminated and the insurance is replaced by similar coverage under another group policy within 31 days of the date of termination.

2. Time limit. Written application and the first premium payment for the coverted policy shall be made to the insurer not later than 31 days after the termination. Its effective date shall be the day following the termination of insurance under the group policy.

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

5. Exclusions. The insurer shall not be required to issue a converted policy covering any person if the person is or could be covered by Medicare. Furthermore, the insurer shall not be required to issue a converted policy covering any person if:

A. The person is or could be covered for similar benefits by another individual policy;

B. The person is or could be covered for similar benefits under any arrangement of coverage for individuals in a group, whether insured or uninsured;

C. Similar benefits are provided for or available to the person by reason of any state or federal law; and

D. The benefits under sources of the kind referred to in paragraph A for the person, or benefits provided or available under sources of the kind referred to in paragraphs A and B for the person, together with the converted policy's benefits would result in overinsurance according to the insurer's standards for overinsurance.

6. Insurers may request. A converted policy may provide that the insurer may at any time request information of any person covered thereunder as to whether he is covered for the similar benefits described in subsection 5 or is or could be covered for the similar benefits described in subsection 5, paragraphs A, B and C. 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 the following reasons only:

A. Either those similar benefits for which the person is or could 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; or

D. Other reasons approved by the Superintendent of Insurance.

7. Excess benefits. An insurer shall not be required to issue a converted policy providing benefits in excess of the hospital, surgical or major medical insurance under the group policy from which conversion is made.

8. Preexisting conditions. The converted policy shall not exclude, as a preexisting condition, any condition covered by the group policy. The converted policy may provide for a reduction of its hospital, surgical or medical benefits by the amount of the benefits payable under the group policy after the individual's insurance terminates thereunder. 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, shall not exceed those that would have been payable had the individual's insurance under the group policy remained in force and effect.

9. Basic coverage plans. Subject to this chapter, if the group insurance policy from which conversion is made insures the employee or member for basic hospital or surgical expense insurance, the employee or member shall be entitled to obtain a converted policy providing, at his option, coverage on an expense incurred basis under any of the following plans:

PLAN A

A. Hospital room and board daily expense benefits in a maximum dollar amount approximating the average semi-private rate charged in the major metropolitan area of this State, for a maximum duration of 70 days;

B. Miscellaneous hospital expense benefits up to a maximum amount of 10 times the hospital room and board daily expense benefits; and

C. Surgical expense benefits according to a surgical procedures' schedule consistent with those customarily offered by the insurer under a group or individual health insurance policy and providing a maximum benefit of $800;

PLAN B

Same as Plan A, except that the maximum hospital room and board daily expense benefit is 75% of the corresponding Plan A maximum and the surgical schedule maximum is $600; or

PLAN C

Same as Plan A, except that the maximum hospital room and board daily expense benefit is 50% of the corresponding Plan A maximum and the surgical schedule maximum is $400.

The maximum dollar amount for Plan A's maximum hospital room and board daily expense benefit shall be determined by the Superintendent of Insurance and may be redetermined by him from time to time as to converted policies issued subsequent to the redetermination. The redetermination shall not be made more often than once in 3 years. That Plan A maximum, and the corresponding maximums in Plans B and C, shall be rounded to the nearest multiple $10, provided that rounding may be to the next higher or lower multiple of $10 if otherwise exactly midway between.

10. Major medical plans. Subject to 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 shall be entitled to 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 either, at the option of the insurer, subparagraphs (1) or (2):

(1) A maximum payment per covered person for all covered medical expenses incurred during that person's lifetime, equal to the smaller of:

(a) The maximum benefit provided under the group policy; or

(b) $250,000; or

(2) A maximum payment for each unrelated injury or sickness, equal to the smaller of:

(a) The maximum benefit provided under the group policy; or

(b) $250,000;

B. Payment of benefits at the rate of 80% of covered medical expenses which are in excess of the deductible, until 20% of the expenses in a benefit period reaches $1,000, after which benefits shall be paid at the rate of 100% 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 50%;

C. A deductible for each benefit period which, at the option of the insurer, shall be the sum of the benefits deductible and $100 of the corresponding deductible in the group policy. The term "benefits deductible," as used in this chapter, 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 hospital, surgical or medical 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 or 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 3 months if the deductible is $100 or less, and not less than 6 months if the deductible exceeds $100;

D. The benefit period shall be each calendar year when the maximum benefit is determined by paragraph A, subparagraph (1), or 24 months when the maximum benefit is determined by paragraph A, subparagraph (2); and

E. The term "covered medical expenses," as used in this chapter, shall include at least, in the case of hospital room and board charges, the lesser of the dollar amount in subsection 9, Plan A, and the average semi-private room and board rate for the hospital in which the individual is confined and at least twice the 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 $1,200 maximum benefit.

11. Alternative plans. At the option of the insurer, the plans or benefits set forth in subsections 9 and 10 may be provided under one policy, or, in lieu of the plans of benefits set forth in subsections 9 and 10, the insurer may provide a policy of comprehensive medical expense benefits without first dollar coverage. The policy shall conform to the requirements of subsection 10, provided, that an insurer electing to provide such a policy shall make available a low deductible option, not to exceed $100, a high deductible option between $500 and $1,000 and a 3rd deductible option midway between the high and low deductible options. Alternatively, such a policy may provide for deductible options equal to the greater of the benefits deductible and the amount specified in this subsection.

12. Insurer option. The insurer may, at its option, offer alternative plans for group health conversion in addition to those required by this chapter. Furthermore, if any 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 Superintendent of Insurance, satisfy the intent of this chapter.

13. Miscellaneous. In the event coverage would be continued under the group policy on an employee following his retirement prior to the time he is or could be covered by Medicare, the employee or member may elect, in lieu of the continuation of group insurance, to have the same conversion rights as would apply had that insurance terminated at retirement.

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

Subject to the conditions set forth in this subsection, the conversion privilege shall also be available to the surviving spouse, if any, at the death of the employee or member, with respect to the spouse and the children whose coverage under the group policy terminates by reason of the death, or if the group policy provides for continuation of dependents coverage following the employee's or member's death, at the end of the continuation, to the spouse of the employee or member upon termination of coverage of the spouse, while the employee or member remains insured under the group policy, with respect to the spouse and the children whose coverage under the group policy terminates at the same time, or to a child solely with respect to himself upon termination of his coverage by reason of ceasing to be a qualified family member under the group policy, if a conversion privilege is not otherwise provided in this subsection with respect to the termination.

If the benefit levels required in subsection 9 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 subsection 9.

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

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

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. 2. Effective date. This chapter shall take effect January 1, 1981 and shall apply to group policies delivered, issued for delivery or amended on or after that date.

STATEMENT OF FACT

The purpose of this bill is to enact a model group health insurance continuation and conversion law.