

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 215

H.P. 145

House of Representatives, January 30, 1991

Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative McHENRY of Madawaska.  
Cosponsored by Representative PINEAU of Jay.

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STATE OF MAINE

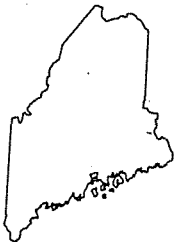
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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**An Act Concerning Employee Benefits for Workers' Compensation  
Recipients.**

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

2           Sec. 1. 24 MRSA §2330, sub-§10, as enacted by PL 1983, c. 91,  
4 §1, is repealed.

6           Sec. 2. 24 MRSA §2330, sub-§11, as amended by PL 1989, c. 447,  
8 §1, is further amended to read:

10           11. Continued group coverage; certain circumstances.  
12 Notwithstanding this section, if the termination of an  
14 individual's group insurance coverage is a result of the member  
16 or employee being temporarily laid off ~~ex--losing--employment~~  
18 ~~because of an injury or disease that the employee claims to be~~  
20 ~~compensable under Title 39~~, the insurer shall allow the member or  
22 employee to elect, within the time period prescribed by paragraph  
24 B, to continue coverage under the group policy at no higher level  
26 than the level of benefits or coverage received by the employee  
28 immediately before termination and at the member's or employee's  
30 expense or, at the member's or employee's option, to convert to a  
32 policy of individual coverage without evidence of insurability in  
34 accordance with this section.

36           A. For the purposes of this subsection, the term "member or  
38 employee" includes only ~~these persons~~ a person who have has  
40 been a member or employee for at least 6 months.

42           B-1. The member or employee shall ~~have~~ has 31 days from the  
44 termination of coverage in which to elect and make the  
46 initial payment under this subsection.

48           C. An insurer is not required to continue coverage under a  
50 group policy if the member or employee meets the conditions  
52 set out in subsection 3, paragraph A.

          D. The payment amount for continued group coverage under  
this subsection may not exceed 102% of the group rate in  
effect for a group member, including an employer's  
contribution, if any.

          E. At the option of the member or employee, the continued  
group coverage may cover the member or employee, the member  
or employee and any dependents or only the dependents of the  
member or employee, ~~provided that if~~, in the latter 2 cases,  
the dependents have been covered for a period of at least 3  
months under the group policy, unless the dependents were  
not eligible for coverage until after the beginning of the  
3-month period.

          F. Except as provided in paragraph G, coverage provided  
under this section shall ~~continue~~ continues and may not be  
terminated until one year from the last day of work.

2 G. Coverage provided under this section may be terminated  
sooner than provided under paragraph F if:

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

8 (2) The member or employee becomes eligible for  
coverage under another group policy; ~~or.~~

10 ~~(3) The Workers' Compensation Commission determines  
12 that the injury or disease which entitled the employee  
to continue coverage under this section is not  
14 compensable under Title 39.~~

16 H. At the expiration of any continued group coverage  
obtained under this subsection, the member or employee has  
18 the same conversion privileges as otherwise granted under  
this section.

20 I. This subsection shall ~~may~~ not be construed to:

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

26 (2) Require coverage beyond the time limits set in  
28 paragraph F; or

30 (3) Permit an employee to increase the level of  
32 benefits or coverage that the employee received  
immediately before the termination of the employee's  
coverage.

34 J. This subsection does not apply to any group policy  
36 subject to the United States Consolidated Omnibus Budget  
Reconciliation Act, Public Law 99-272, Title X, Private  
38 Health Insurance Coverage, Sections 10001 to 10003.

40 **Sec. 3. 24-A MRSA §2809-A, sub-§10**, as enacted by PL 1983, c.  
91, §2, is repealed.

42 **Sec. 4. 24-A MRSA §2809-A, sub-§11**, as amended by PL 1989, c.  
447, §2, is further amended to read:

46 **11. Continued group coverage; certain circumstances.**  
Notwithstanding this section, if the termination of an  
48 individual's group insurance coverage is a result of the member  
or employee being temporarily laid off ~~or losing employment~~  
50 ~~because of an injury or disease that the employee claims to be~~  
~~compensable under Title 39~~, the insurer shall allow the member or  
52 employee to elect, within the time period prescribed by paragraph  
B, to continue coverage under the group policy at no higher level

2 than the level of benefits or coverage received by the employee  
3 immediately before termination and at the member's or employee's  
4 expense or, at the member's or employee's option, to convert to a  
5 policy of individual coverage without evidence of insurability in  
6 accordance with this section.

7 A. For the purposes of this subsection, the term "member or  
8 employee" includes only ~~these persons~~ a person who have has  
9 been a member or employee for at least 6 months.

10 B-1. The member or employee ~~shall have~~ has 31 days from the  
11 termination of coverage in which to elect and make the  
12 initial payment under this subsection.

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

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

20 E. At the option of the member or employee, the continued  
21 group coverage may cover the member or employee, the member  
22 or employee and any dependents or only the dependents of the  
23 member or employee, ~~provided that~~ if, in the latter 2 cases,  
24 the dependents have been covered for a period of at least 3  
25 months under the group policy, unless the dependents were  
26 not eligible for coverage until after the beginning of the  
27 3-month period.

28 F. Except as provided in paragraph G, coverage provided  
29 under this section ~~shall continue~~ continues and may not be  
30 terminated until one year from the last day of work.

31 G. Coverage provided under this section may be terminated  
32 sooner than provided under paragraph F if:

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

35 (2) The member or employee becomes eligible for  
36 coverage under another group policy; ~~or~~.

37 (3) ~~The Workers' Compensation Commission determines  
38 that the injury or disease which entitle the employee  
39 to continue coverage under this section is not  
40 compensable under Title 39.~~

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

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

4 I. This subsection shall ~~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 F; or

12 (3) Permit an employee to increase the level of  
13 benefits or coverage that the employee received  
14 immediately before the termination of the employee's  
15 coverage.

16  
18 J. 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.

22 Sec. 5. 39 MRSA §52-C is enacted to read:

24 **§52-C. Continued employee benefits**

26 **1. Definitions.** As used in this section, unless the  
27 context otherwise indicates, the following terms have the  
28 following meanings.

30 **A. "Accident and health expense coverage" means coverage**  
31 **provided by an employer through an insurance contract or**  
32 **policy or directly by the employer for any expenses of**  
33 **bodily injury, sickness, disablement or death by accident or**  
34 **accidental means, including any of the following:**

36 (1) **Medical, surgical, dental, nursing and hospital**  
37 **care and treatment;**

38 (2) **Drugs;**

40 (3) **Diagnosis or treatment of mental conditions or**  
41 **substance abuse; and**

42 (4) **Pregnancy and child care.**

44  
46 **B. "Compensable injury" means a personal injury arising out**  
47 **of and in the course of the employee's employment or**  
48 **disability by occupational disease within the meaning of**  
49 **section 51.**

2 C. "Employee welfare benefit fund" has the same meaning as  
3 found in 29 United States Code, Section 1002, subsection 1.

4 2. Benefits continued. In order to maintain, as nearly as  
5 possible, the income of employees who suffer compensable  
6 injuries, any employer who provides, to employees in positions  
7 comparable to the injured employee's former position, accident  
8 and health expense or life insurance coverage or makes payments  
9 or contributions for those purposes at the regular hourly or  
10 weekly rate for employees to an employee welfare benefit fund  
11 shall provide to the injured employee or the employee's surviving  
12 spouse equivalent coverage or welfare benefit fund payments or  
13 contributions while the employee or surviving spouse is eligible  
14 to receive or is receiving compensation under this Act.

15 If an employer offers additional or extended coverage to working  
16 employees at the working employee's expense, the injured employee  
17 or surviving spouse may obtain that coverage in the same manner  
18 and at the same cost as a working employee. If the injured  
19 employee or surviving spouse fails to make timely payments of any  
20 additional cost, the employer may terminate the additional or  
21 extended coverage.

22 3. Methods of coverage. An employer may provide equivalent  
23 accident and health expense coverage, life insurance coverage or  
24 welfare fund payments or contributions by:

25 A. Insuring the employer's full liability under this  
26 section with any insurer authorized to write those risks in  
27 this State;

28 B. Creating an injured employee's plan as an extension of  
29 any existing plan for working employees;

30 C. Self-insuring; or

31 D. Any combination of these methods.

32 4. Employee welfare benefit fund payments. In the case of  
33 an employee welfare benefit fund, an employer may provide any  
34 equivalent coverage by making payments or contributions for those  
35 hours of contributions established by the trustees of the  
36 employee welfare benefit fund as necessary to maintain  
37 continuation of the coverage when that amount is less than the  
38 amount of regular hourly or weekly contributions for full-time  
39 employees.

40 5. Benefits obtained from other sources. This section does  
41 not apply during any time in which an injured employee or  
42 surviving spouse eligible for continued coverage under this  
43 section is eligible, at no cost to the employee or surviving  
44 spouse, for equivalent coverage under a similar plan offered by  
45 the employer.

2 the employee's new employer or the employer of the employee's  
3 spouse.

4 6. Multiple compensable injuries. If an employee suffers  
5 multiple compensable injuries for which apportionment is required  
6 under section 104-B, the most recent employer is solely  
7 responsible for complying with this section.

8  
9 **Sec. 6. Application.** This Act applies only to covered events  
10 occurring or services provided on or after the effective date of  
11 this section.

12  
13  
14 **STATEMENT OF FACT**

15  
16 The purpose of this bill is to address the problem created  
17 when injured workers are dismissed from employment and lose the  
18 employment benefits previously provided by the employer. A  
19 particular problem exists when an injured employee loses health  
20 insurance coverage and must obtain similar coverage at the  
21 employee's expense after the employee's earnings have been  
22 reduced.

23  
24 The bill requires an employer who provides health and  
25 accident insurance or life insurance to the employees who work in  
26 positions similar to that in which the injured employee worked to  
27 continue providing that same level of coverage to the injured  
28 employee. If an employee is killed on the job, the employee's  
29 surviving spouse may claim these benefits. If the employer  
30 offers additional or extended coverage to employees at the  
31 employee's expense, such as health insurance coverage for the  
32 employee's family, the injured employee or the surviving spouse  
33 can obtain these additional benefits at their own expense. The  
34 employer may satisfy the continued coverage requirement by  
35 purchasing insurance, creating an extension of existing employee  
36 plans to include injured employees, self-insuring or by any  
37 combination of these methods. The continued coverage provided by  
38 the bill does not apply if the injured employee is covered by an  
39 equivalent plan offered by the injured employee's new employer or  
40 the employer of the injured employee's spouse. Finally, if the  
41 employee has suffered multiple injuries, only the last employer  
42 is responsible for providing continued coverage under the bill.  
43  
44