§2809-A. Conversion on termination of policy or eligibility

1. A group policy issued prior to January 1, 1996, that provides hospital, surgical or major medical expense insurance or any combination thereof, other than a policy that provides benefits for specific diseases or accidental injuries only, must contain a provision that if the insurance on an employee or member ceases because of termination of employment or termination of the policy or any portion of a policy, and the person has been continuously insured for a period of at least 3 months under the group policy or under the group policy and any prior group policy or contract providing similar benefits that it replaces, that person is entitled to have issued to that person by the insurer, without evidence of insurability, an individual policy or, at the insurer's option, a group certificate of health insurance, provided that application is made and the first premium paid to the insurer within 90 days after that termination. At the option of the employee or member, the converted policy may cover the employee or member, the employee or member and the employee or member's dependents or the dependents of the employee or member 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 dependent persons were not eligible for coverage until after the beginning of the 3-month period. The insurer has the option to provide the required coverage upon conversion through either a group or individual policy, and may issue a separate converted policy to cover any dependent. An insurer is not required to provide a conversion privilege if termination of insurance under the group policy occurred because the employee or member failed to pay any required contribution or if any discontinued group coverage is replaced by continuous and substantially similar group coverage within 31 days.
[PL 1995, c. 332, Pt. A, §8 (AMD).]

1-A. Notification of cancellation. An insurer may not cancel or refuse to renew any policy for hospital, surgical, dental or major medical expense insurance until the insurer has provided by first class mail at least 10 days' prior notification according to this section. The notice must include the date of cancellation of coverage and, if applicable, the time period for exercising policy conversion rights. The notice also must include an explanation of any applicable grace period. Notification is not required when the insurer has received written notice from the group policyholder that replacement coverage has been obtained.

A. Notice must be mailed to the group policyholder or subgroup sponsor. [PL 1995, c. 625, Pt. A, §25 (RPR).]

B. [PL 2003, c. 156, §2 (RP).]

B-1. At the time of notification under paragraph A, notice must be mailed to the certificate holder at the last address provided to the insurer by the subgroup sponsor, the group policyholder or the certificate holder. If the insurer does not have an address on file for the certificate holder, the notice must be mailed to the office of the subgroup sponsor, if any, or the group policy holder. The notice must also include information to the certificate holder about the availability of individual coverage as described in subsection 1-B. [PL 2003, c. 428, Pt. B, §2 (AMD).]

B-2. All notices of cancellation sent to certificate holders pursuant to paragraph B-1 must include a toll-free telephone number that certificate holders can call to determine if the policy has been cancelled for nonpayment of premium or if the policy has been reinstated because the premium has been paid. [PL 2009, c. 439, Pt. A, §1 (NEW).]

C. [PL 2003, c. 428, Pt. B, §2 (RP).]
[PL 2009, c. 439, Pt. A, §1 (AMD).]

1-B. Notification of availability of individual coverage. An insurer shall provide forms to group policyholders, and certificate holders when required by subsection 1-A, for the purpose of informing terminating group members of their right to purchase any individual health plan available in this State, including their eligibility for any special enrollment period to purchase an individual health plan

pursuant to the federal Affordable Care Act, and of the availability of public health coverage options available in this State, including but not limited to MaineCare coverage. An adequate supply of forms must be provided to each group policyholder when the policy is issued and at least annually after the policy is issued. The superintendent may prescribe the content of the form by routine technical rule pursuant to Title 5, chapter 375, subchapter 2-A. The form must include at least the following:

A. A statement that all state residents not eligible for Medicare have a right to purchase any individual health plan available in this State; [PL 1997, c. 604, Pt. B, §3 (NEW).]

B. A statement that in order to avoid a gap in coverage, the individual should apply for individual coverage prior to termination of group coverage; [PL 1997, c. 604, Pt. B, §3 (NEW).]

C. [PL 2021, c. 80, §1 (RP).]

D. A statement that information concerning individual coverage is available from the Bureau of Insurance. The bureau's toll-free telephone number must also be provided; [PL 2021, c. 80, §1 (AMD).]

E. A statement that termination of coverage may be a qualifying life event for a special enrollment period to purchase an individual health plan. The length of time for the relevant special enrollment period and the dates for the next annual open enrollment must also be provided; [PL 2021, c. 80, §1 (NEW).]

F. A statement that financial assistance may be available to eligible individuals to purchase a qualified health plan through the Maine Health Insurance Marketplace established in Title 22, section 5403. The marketplace's publicly accessible website and the toll-free telephone number must also be provided; [PL 2021, c. 80, §1 (NEW).]

G. A statement that eligible individuals may qualify for free health coverage through MaineCare. The MaineCare program's publicly accessible website and toll-free telephone number must also be provided; and [PL 2021, c. 80, §1 (NEW).]

H. A statement that the individual may contact the Health Insurance Consumer Assistance Program established in section 4326 for help obtaining health insurance coverage, including additional information and assistance enrolling in coverage. The program's publicly accessible website, toll-free telephone number and e-mail address must also be provided. [PL 2021, c. 80, §1 (NEW).]
[PL 2021, c. 80, §1 (AMD).]

2. If a conversion privilege is applicable pursuant to subsection 1, it must also be available:

A. Upon the death of an employee or member, to the surviving spouse with respect to the spouse and the children whose coverage terminates by reason of that death, or if there is no surviving spouse to each surviving child whose coverage so terminates. If the group policy provides for continuation of dependents' coverage upon the death of the employee or member, the conversion privilege must be made available at the end of that continuation; [PL 1995, c. 332, Pt. A, §10 (AMD).]

B. To the spouse of a member or employee upon termination of coverage by reason of ceasing to be a qualified family member under the group policy whether by divorce or otherwise, whether or not the employee or member remains insured, with respect to the spouse and the children whose coverage terminates at the same time; [PL 1981, c. 606, §2 (NEW).]

C. To a child upon termination of coverage by reason of ceasing to be a qualified family member under the group policy if a conversion privilege is not otherwise provided with respect to that child in this subsection; or [PL 1995, c. 332, Pt. A, §10 (AMD).]

D. To an employee or member whose coverage would otherwise continue under the group policy upon retirement prior to eligibility for coverage under Medicare,"United States Insurance for the Aged Act," Title XVIII of the Social Security Amendments of 1965, Public Law 89-97, as

amended, at the option of that employee or member in lieu of continued coverage under the group policy. [PL 1981, c. 606, §2 (NEW).]
[PL 1995, c. 332, Pt. A, §10 (AMD).]

3. The insurer shall not be required to issue a converted policy covering an otherwise eligible person:

A. If:

(1) That person is eligible for Medicare; or

(2) That person:

(a) Is covered for similar benefits by any other plan or program;

(b) Is eligible for similar benefits under any group coverage arrangement whether on an insured or uninsured basis; or

(c) Has similar benefits provided for or available to the person pursuant to requirements of any state or federal law; and [RR 2021, c. 1, Pt. B, §243 (COR).]

B. The benefits as described in paragraph A, subparagraph 2, division (a) (b) or (c) provided for or available to the person together with the benefits provided by the converted policy would result in overinsurance according to standards which have been filed by the insurer prior to denial of coverage and approved by the superintendent. [PL 1981, c. 606, §2 (NEW).]
[RR 2021, c. 1, Pt. B, §243 (COR).]

3-A. Policies issued or renewed on or after January 1, 1996. An insurer that offers individual health plans pursuant to section 2736-C is permitted, but not required, to include a conversion privilege in group policies issued or renewed on or after January 1, 1996. If the insurer does include a conversion privilege in those policies, individuals exercising these rights must be offered a choice of any individual health plan offered by the insurer. An insurer that does not offer individual health plans pursuant to section 2736-C may not include a conversion privilege in group policies issued or renewed on or after January 1, 1996.
[PL 1995, c. 332, Pt. A, §11 (NEW).]

4. The premium on the converted policy must be determined in accordance with premium rates applicable to individually underwritten standard risks for the age and class of risk of each person to be covered and the type and amount of insurance provided. Experience under converted policies is not an acceptable basis for establishing rates for converted policies, except to the extent permitted by rules adopted by the superintendent.

The superintendent may establish maximum rates by rule for standard benefit options.

Maximum rates do not apply if all of the following conditions are met:

A. Conversion is provided through a form that is also issued to members of the general public applying for an individual health plan pursuant to section 2736-C; [PL 1995, c. 332, Pt. A, §12 (AMD).]

B. The rates for that form comply with section 2736-C; and [PL 1995, c. 332, Pt. A, §12 (AMD).]

C. The rates have been filed pursuant to section 2736. [PL 1991, c. 668, §2 (NEW).]
[PL 1995, c. 332, Pt. A, §12 (AMD).]

5. The effective date of the converted policy shall be the date of termination of the individual's insurance under the group policy.
[PL 1981, c. 606, §2 (NEW).]

6. A converted policy issued under this section must conform to rules adopted by the superintendent. These rules must ensure that continuity of coverage with similar benefits as determined

by the superintendent is offered. The rules must also specify plans with more limited benefits that must be offered, but may not require an insurer to provide benefits in excess of those provided under the group policy from which conversion is made.
[PL 1991, c. 668, §2 (AMD).]

7. Notice. Notice of the conversion privilege, if one is applicable, must be included in each certificate of coverage.
[PL 1995, c. 332, Pt. A, §13 (AMD).]

8. A converted policy issued pursuant to this section which is delivered outside this State may be on such form as the insurer may then be offering for that conversion in the jurisdiction where the delivery is to be made.
[PL 1981, c. 606, §2 (NEW).]

9. Refusal to renew. A policy issued pursuant to the conversion privilege provided by this section may provide that the insurer may refuse to renew the policy or coverage of any person insured only as permitted by section 2736-C.

A. [PL 1995, c. 332, Pt. A, §13 (RP).]

B. [PL 1995, c. 332, Pt. A, §13 (RP).]
[PL 1995, c. 332, Pt. A, §13 (AMD).]

10. Additional conversion period for injured workers.
[PL 1995, c. 332, Pt. A, §14 (RP).]

11. Continued group coverage; certain circumstances. Notwithstanding this section, if the termination of an individual's group insurance coverage is for one of the reasons listed in paragraph A-1, the insurer shall allow the member or employee to elect, within the time period prescribed by paragraph B, to continue coverage under the group policy at no higher level than the level of benefits or coverage received by the employee immediately before termination and at the member's or employee's expense or, at the member's or employee's option, to convert to a policy of individual coverage without evidence of insurability in accordance with this section.

A. For the purposes of this subsection, the term "member or employee" includes only those persons who have been a member or employee for at least 6 months. [PL 1985, c. 684, §2 (NEW).]

A-1. A member or employee is eligible for continued coverage under this section only if the member or employee's group insurance coverage terminated for one of the following reasons:

(1) The member or employee was temporarily laid off;

(2) The member or employee was permanently laid off on or after the effective date of this paragraph and is eligible for premium assistance pursuant to federal law providing premium assistance for laid-off employees who continue coverage under their former employer's group health plan as determined by the superintendent; or

(3) The member or employee lost employment because of an injury or disease that the employee claims to be compensable under former Title 39 or Title 39-A. [PL 2009, c. 574, §1 (NEW).]

B. [PL 1989, c. 447, §2 (RP).]

B-1. The member or employee has 31 days from the termination of coverage in which to elect and make the initial payment under this subsection. [PL 1991, c. 885, Pt. E, §30 (AMD); PL 1991, c. 885, Pt. E, §47 (AFF).]

C. An insurer is not required to continue coverage under a group policy if the member or employee meets the conditions set out in subsection 3, paragraph A. [PL 1985, c. 684, §2 (NEW).]

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. [PL 1987, c. 25, §3 (AMD).]

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, 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. [PL 1989, c. 447, §2 (AMD).]

F. Except as provided in paragraph G, coverage provided under this section continues and may not be terminated until one year from the last day of work. [PL 1991, c. 885, Pt. E, §30 (AMD); PL 1991, c. 885, Pt. E, §47 (AFF).]

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

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

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

(3) The Workers' Compensation Board determines that the injury or disease that entitles the employee to continue coverage under this section is not compensable under Title 39-A. [PL 1991, c. 885, Pt. E, §30 (AMD); PL 1991, c. 885, Pt. E, §47 (AFF).]

H. At the expiration of any continued group coverage obtained under this subsection, the member or employee has the same conversion privileges as otherwise granted under this section. [PL 1985, c. 684, §2 (NEW).]

I. This subsection may not be construed to:

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

(2) Require coverage beyond the time limit set in paragraph F; or

(3) Permit an employee to increase the level of benefits or coverage that the employee received immediately before the termination of the employee's coverage. [PL 1991, c. 885, Pt. E, §30 (AMD); PL 1991, c. 885, Pt. E, §47 (AFF).]

J. This subsection does not apply to any group policy subject to the United States Consolidated Omnibus Budget Reconciliation Act, Public Law 99-272, Title X, Private Health Insurance Coverage, Sections 10001 to 10003. [PL 1987, c. 25, §4 (NEW).]

[PL 2009, c. 574, §1 (AMD).]

12. This section applies to all policies issued in other states to the extent they cover employees whose primary workplace is in this State.

[PL 1991, c. 668, §3 (NEW).]

SECTION HISTORY

PL 1981, c. 606, §2 (NEW). PL 1983, c. 91, §2 (AMD). PL 1985, c. 684, §2 (AMD). PL 1987, c. 25, §§3,4 (AMD). PL 1989, c. 447, §2 (AMD). PL 1991, c. 668, §§2,3 (AMD). PL 1991, c. 822, §§3,4 (AMD). PL 1991, c. 822, §6 (AFF). PL 1991, c. 885, §§E29,30 (AMD). PL 1991, c. 885, §E47 (AFF). PL 1995, c. 189, §2 (AMD). PL 1995, c. 189, §4 (AFF). PL 1995, c. 332, §§A8-14 (AMD). PL 1995, c. 625, §A25 (AMD). PL 1997, c. 604, §B3 (AMD). PL 2003, c. 156, §§2-4 (AMD). PL 2003, c. 428, §B2 (AMD). PL 2007, c. 199, Pt. F, §1 (AMD). PL 2009, c. 439, Pt. A, §1 (AMD). PL 2009, c. 574, §1 (AMD). PL 2021, c. 80, §1 (AMD). RR 2021, c. 1, Pt. B, §243 (COR).