



# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 60

H.P. 53

House of Representatives, January 11, 2011

### An Act To Extend Coverage under the State's Mini-COBRA Law

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative LOVEJOY of Portland.  
Cosponsored by Senator BRANNIGAN of Cumberland and  
Representatives: CAIN of Orono, MORRISON of South Portland, RICHARDSON of Carmel,  
TREAT of Hallowell, Senator: ALFOND of Cumberland.

1 **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 2009, c. 574, §1, is  
3 further amended to read:

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

12 A. For the purposes of this subsection, the term "member or employee" includes  
13 only those persons who have been a member or employee for at least 6 months.

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

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

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

23 (3) The member or employee lost employment because of an injury or disease  
24 that the employee claims to be compensable under former Title 39 or Title 39-A.

25 B-1. The member or employee has 31 days from the termination of coverage in  
26 which to elect and make the initial payment under this subsection.

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

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

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

38 F. Except as provided in paragraph G, coverage provided under this section  
39 continues and may not be terminated until ~~one year~~ 36 months from the last day of  
40 work.

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

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

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

7 (3) The Workers' Compensation Board determines that the injury or disease that  
8 entitles the employee to continue coverage under this section is not compensable  
9 under Title 39-A.

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

13 I. This subsection may not be construed to:

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

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

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

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

23 K. An insurer that provides coverage shall offer a member or employee who has  
24 exhausted continuation coverage under a group policy subject to the United States  
25 Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law 99-272, Title  
26 X, Sections 10001 to 10003 the opportunity to continue coverage pursuant to this  
27 subsection for up to 36 months from the date the member's or employee's  
28 continuation coverage began if the member's or employee is entitled to less than 36  
29 months of continuation coverage under federal law. The insurer shall offer coverage  
30 pursuant to this subsection.

31 **Sec. 2. Special enrollment period.** An insurer or health maintenance  
32 organization that provides group health insurance policies subject to the requirements of  
33 this Act shall offer the opportunity to elect continuation coverage to a member or  
34 employee who, prior to the effective date of this Act, has exhausted continuation  
35 coverage as described in the Maine Revised Statutes, Title 24-A, section 2809-A,  
36 subsection 11 or in the United States Consolidated Omnibus Budget Reconciliation Act  
37 of 1985, Public Law 99-272, Title X, Sections 10001 to 10003 but who would otherwise  
38 be eligible for an additional period of coverage as provided in this Act. The special  
39 enrollment period begins on the effective date of this Act and ends 60 days after notice is  
40 mailed to the member or employee as required by this section. Insurers and health  
41 maintenance organizations shall provide notice by first-class mail in a form specified by

1 the Superintendent of Insurance to members or employees eligible for continuation  
2 coverage.

3

### **SUMMARY**

4 Under existing federal and state law, employees who are laid off are eligible to  
5 continue health coverage under their employers' group health insurance plans at their  
6 own expense. The federal Consolidated Omnibus Budget Reconciliation Act of 1985,  
7 known as COBRA, contains provisions that apply to employers with 20 or more  
8 employees and generally allows coverage to continue for up to 18 months. Current state  
9 law, which applies to employers with fewer than 20 employees, allows the employee to  
10 continue coverage for up to 12 months. This bill extends the availability of coverage up to  
11 36 months for those eligible under state law and, to the extent possible, for those eligible  
12 under federal law. The bill also provides a special enrollment period for those employees  
13 who have exhausted coverage under existing law but who would otherwise be eligible to  
14 continue coverage for an additional period.