

The House Committee on Insurance offers the following substitute to SB 94:

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 revise the time periods and eligibility for continuation coverage under certain group accident
3 and sickness insurance plans; to provide for additional continuation plan options; to require
4 the Commissioner of Insurance to promulgate rules and regulations to provide for reporting
5 and notification of eligibility requirements for participation in the Georgia Health Insurance
6 Assignment System and the Georgia Health Benefits Assignment System; to provide for
7 related matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

10 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
11 revising Code Section 33-24-21.1, relating to conversion privilege and continuation right
12 provisions in group accident and sickness contracts, as follows:

13 "33-24-21.1.

14 (a) As used in this Code section, the term:

15 (1) 'Assistance eligible individual' shall have the same meaning as provided by
16 Section 3001 of Title III of the federal American Recovery and Reinvestment Act of
17 2009.

18 ~~(1)~~(2) 'Creditable coverage' under another health benefit plan means medical expense
19 coverage with no greater than a 90 day gap in coverage under any of the following:

20 (A) Medicare or Medicaid;

21 (B) An employer based accident and sickness insurance or health benefit arrangement;

22 (C) An individual accident and sickness insurance policy, including coverage issued
23 by a health maintenance organization, nonprofit hospital or nonprofit medical service
24 corporation, health care corporation, or fraternal benefit society;

25 (D) A spouse's benefits or coverage under medicare or Medicaid or an employer based
26 health insurance or health benefit arrangement;

- 27 (E) A conversion policy;
- 28 (F) A franchise policy issued on an individual basis to a member of a true association
29 as defined in subsection (b) of Code Section 33-30-1;
- 30 (G) A health plan formed pursuant to 10 U.S.C. Chapter 55;
- 31 (H) A health plan provided through the Indian Health Service or a tribal organization
32 program or both;
- 33 (I) A state health benefits risk pool;
- 34 (J) A health plan formed pursuant to 5 U.S.C. Chapter 89;
- 35 (K) A public health plan; or
- 36 (L) A Peace Corps Act health benefit plan.

37 ~~(2)~~(3) 'Eligible dependent' means a person who is entitled to medical benefits coverage
38 under a group contract or group plan by reason of such person's dependency on or
39 relationship to a group member.

40 ~~(3)~~(4) 'Group contract or group plan' is synonymous with the term 'contract or plan' and
41 means:

- 42 (A) A group contract of the type issued by a nonprofit medical service corporation
43 established under Chapter 18 of this title;
- 44 (B) A group contract of the type issued by a nonprofit hospital service corporation
45 established under Chapter 19 of this title;
- 46 (C) A group contract of the type issued by a health care plan established under
47 Chapter 20 of this title;
- 48 (D) A group contract of the type issued by a health maintenance organization
49 established under Chapter 21 of this title; or
- 50 (E) A group accident and sickness insurance policy or contract, as defined in
51 Chapter 30 of this title.

52 ~~(4)~~(5) 'Group member' means a person who has been a member of the group for at least
53 six months and who is entitled to medical benefits coverage under a group contract or
54 group plan and who is an insured, certificate holder, or subscriber under the contract or
55 plan.

56 ~~(5)~~(6) 'Insurer' means an insurance company, health care corporation, nonprofit hospital
57 service corporation, medical service nonprofit corporation, health care plan, or health
58 maintenance organization.

59 ~~(6)~~(7) 'Qualifying eligible individual' means:

- 60 (A) A Georgia domiciliary, for whom, as of the date on which the individual seeks
61 coverage under this Code section, the aggregate of the periods of creditable coverage
62 is 18 months or more; and
- 63 (B) Who is not eligible for coverage under any of the following:

- 64 (i) A group health plan, including continuation rights under this Code section or the
65 federal Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA);
66 (ii) Part A or Part B of Title XVIII of the federal Social Security Act; or
67 (iii) The state plan under Title XIX of the federal Social Security Act or any
68 successor program.

69 (a.1) Any group member or qualifying eligible individual who is an assistance eligible
70 individual as provided by Section 3001 of Title III of the federal American Recovery and
71 Reinvestment Act (P.L. 111-5), during the period permitted under such act whose coverage
72 has been terminated and who has been continuously covered under the group contract or
73 group plan, and under any contract or plan providing similar benefits that it replaces, for
74 at least six months immediately prior to such termination, shall be entitled to have his or
75 her coverage and the coverage of his or her eligible dependents continued under the
76 contract or plan. Such coverage shall continue for the fractional policy month remaining,
77 if any, at termination plus nine additional policy months upon payment of the premium to
78 the insurer by cash, certified check, or money order, at the same rate for active group
79 members set forth in the contract or plan, on a monthly basis in advance as such premium
80 becomes due during this coverage period. For the period that the assistance eligible
81 individual is eligible for the premium assistance subsidy as provided in Section 3001 of
82 Title III of the federal American Recovery and Reinvestment Act (P.L. 111-5), such
83 premium payment shall be calculated as 35 percent of the rate for active group members
84 including any portion of the premium paid by a former employer or other person if such
85 employer or other person no longer contributes premium payments for this coverage.

86 (a.2) The rights and benefits under this Code section shall expire when the eligibility for
87 premium assistance subsidy in Section 3001 of Title III of the federal American Recovery
88 and Reinvestment Act (P.L. 111-5) expires. Any extension of such benefits shall require
89 an Act of the Georgia General Assembly. Under no circumstances shall this Code section
90 apply to any eligible person after September 30, 2010.

91 (b) Each group contract or group plan delivered or issued for delivery in this state, other
92 than a group accident and sickness insurance policy, contract, or plan issued in connection
93 with an extension of credit, which provides hospital, surgical, or major medical coverage,
94 or any combination of these coverages, on an expense incurred or service basis, excluding
95 contracts and plans which provide benefits for specific diseases or accidental injuries only,
96 shall provide that members and qualifying eligible individuals whose insurance under the
97 group contract or plan would otherwise terminate shall be entitled to continue their
98 hospital, surgical, and major medical insurance coverage under that group contract or plan
99 for themselves and their eligible dependents.

100 (c)(1) Any group member or qualifying eligible individual whose coverage has been
101 terminated and who has been continuously covered under the group contract or group
102 plan, and under any contract or plan providing similar benefits which it replaces, for at
103 least six months immediately prior to such termination, shall be entitled to have his or her
104 coverage and the coverage of his or her eligible dependents continued under the contract
105 or plan. Such coverage must continue for the fractional policy month remaining, if any,
106 at termination plus three additional policy months, except the period of continuation
107 coverage for assistance eligible individual in subsection (a.1) of this Code section, shall
108 be nine months, upon payment of the premium by cash, certified check, or money order,
109 at the option of the employer, to the policyholder or employer, at the same rate for active
110 group members set forth in the contract or plan, on a monthly basis in advance as such
111 premium becomes due during this coverage period. Such premium payment must include
112 any portion of the premium paid by a former employer or other person if such employer
113 or other person no longer contributes premium payments for this coverage. At the end
114 of such period, the group member shall have the same conversion rights that were
115 available on the date of termination of coverage in accordance with the conversion
116 privileges contained in the group contract or group plan.

117 (2) A covered individual who is an assistance eligible individual has a right to elect
118 continuation of his or her coverage and the coverage of his or her dependents at any time
119 between the effective date of this paragraph and 60 days after receiving notice from the
120 employer's insurer of the right to participate in a second election period for state
121 continuation benefits under this Code section in accordance with Section 3001 of Title III
122 of the federal American Recovery and Reinvestment Act (P.L. 111-5) if:

123 (A) The individual was involuntarily terminated from employment between
124 September 1, 2008, and February 17, 2009, as defined in Section 3001 of Title III of the
125 federal American Recovery and Reinvestment Act (P.L. 111-5);

126 (B) The individual was eligible for state continuation under this chapter at the time of
127 termination;

128 (C) The individual continues to be eligible for state continuation benefits under this
129 chapter, provided that the total period of continuous eligibility shall not exceed nine
130 policy months from the month of the qualifying event making the individual an
131 assistance eligible individual or the date of the election as provided in this paragraph,
132 whichever is later; and

133 (D) The individual or the employer of the individual contacts the insurer and informs
134 the insurer that the individual wants to take advantage of the second election period for
135 state continuation coverage under the provisions of Section 3001 of Title III of the
136 federal American Recovery and Reinvestment Act (P.L. 111-5).

137 (3) In addition to the group policy under which the group member was insured, the group
138 member and any qualifying eligible individual shall, to the extent that such plan is
139 currently offered under the group plans offered by the company, also be offered the
140 option of continuation coverage through a high deductible health plan, or its actuarial
141 equivalent, that is eligible for use with a health savings account under the applicable
142 provisions of Section 223 of the Internal Revenue Code. Such high deductible health
143 plans shall have premiums consistent with the underlying group plan of coverage rated
144 relative to the standard or manual rates for the benefits provided.

145 (4) Claims for a covered individual under continuation of coverage shall not be
146 considered in rating or rerating the group premiums for the group from which the
147 continuation of coverage is provided, except that the pooled experience for all of the
148 insurer's continuation of coverage claims for fully insured claims may impact all such
149 groups on an equal percentage basis.

150 (d)(1) A group member shall not be entitled to have coverage continued if:
151 (A) termination of coverage occurred because the employment of the group member was
152 terminated for cause; (B) termination of coverage occurred because the group member
153 failed to pay any required contribution; or (C) any discontinued group coverage is
154 immediately replaced by similar group coverage including coverage under a health
155 benefits plan as defined in the federal Employee Retirement Income Security Act
156 of 1974, 29 U.S.C. Section 1001, et seq. Further, a group member shall not be entitled
157 to have coverage continued if the group contract or group plan was terminated in its
158 entirety or was terminated with respect to a class to which the group member belonged.
159 This subsection shall not affect conversion rights available to a qualifying eligible
160 individual under any contract or plan.

161 (2) A qualifying eligible individual shall not be entitled to have coverage continued if
162 the most recent creditable coverage within the coverage period was terminated based on
163 one of the following factors: (A) failure of the qualifying eligible individual to pay
164 premiums or contributions in accordance with the terms of the health insurance coverage
165 or failure of the issuer to receive timely premium payments; (B) the qualifying eligible
166 individual has performed an act or practice that constitutes fraud or made an intentional
167 misrepresentation of material fact under the terms of coverage; or (C) any discontinued
168 group coverage is immediately replaced by similar group coverage including coverage
169 under a health benefits plan as defined in the federal Employee Retirement Income
170 Security Act of 1974, 29 U.S.C. Section 1001, et seq. This subsection shall not affect
171 conversion rights available to a group member under any contract or plan.

172 (e) If the group contract or group plan terminates while any group member or qualifying
173 eligible individual is covered or whose coverage is being continued, the group

174 administrator, as prescribed by the insurer, must notify each such group member or
175 qualifying eligible individual that he or she must exercise his or her conversion rights
176 within:

177 (1) Thirty days of such notice for group members who are not qualifying eligible
178 individuals; or

179 (2) Sixty-three days of such notice for qualifying eligible individuals.

180 (f) Every group contract or group plan, other than a group accident and sickness insurance
181 policy, contract, or plan issued in connection with an extension of credit, which provides
182 hospital, surgical, or major medical expense insurance, or any combination of these
183 coverages, on an expense incurred or service basis, excluding policies which provide
184 benefits for specific diseases or for accidental injuries only, shall contain a conversion
185 privilege provision.

186 (g) Eligibility for the converted policies or contracts shall be as follows:

187 (1) Any qualifying eligible individual whose insurance and its corresponding eligibility
188 under the group policy, including any continuation available, elected, and exhausted
189 under this Code section or the federal Consolidated Omnibus Budget Reconciliation Act
190 of 1986 (COBRA), has been terminated for any reason, including failure of the employer
191 to pay premiums to the insurer, other than fraud or failure of the qualifying eligible
192 individual to pay a required premium contribution to the employer or, if so required, to
193 the insurer directly and who has at least 18 months of creditable coverage immediately
194 prior to termination shall be entitled, without evidence of insurability, to convert to
195 individual or group based coverage covering such qualifying eligible individual and any
196 eligible dependents who were covered under the qualifying eligible individual's coverage
197 under the group contract or group plan. Such conversion coverage must be, at the option
198 of the individual, retroactive to the date of termination of the group coverage or the date
199 on which continuation or COBRA coverage ended, whichever is later. The insurer must
200 offer qualifying eligible individuals at least two distinct conversion options from which
201 to choose. One such choice of coverage shall be comparable to comprehensive health
202 insurance coverage offered in the individual market in this state or comparable to a
203 standard option of coverage available under the group or individual health insurance laws
204 of this state. The other choice may be more limited in nature but must also qualify as
205 creditable coverage. Each coverage shall be filed, together with applicable rates, for
206 approval by the Commissioner. Such choices shall be known as the 'Enhanced
207 Conversion Options';

208 (2) Premiums for the enhanced conversion options for all qualifying eligible individuals
209 shall be determined in accordance with the following provisions:

210 (A) Solely for purposes of this subsection, the claims experience produced by all
211 groups covered under comprehensive major medical or hospitalization accident and
212 sickness insurance for each insurer shall be fully pooled to determine the group pool
213 rate. Except to the extent that the claims experience of an individual group affects the
214 overall experience of the group pool, the claims experience produced by any individual
215 group of each insurer shall not be used in any manner for enhanced conversion policy
216 rating purposes;

217 (B) Each insurer's group pool shall consist of each insurer's total claims experience
218 produced by all groups in this state, regardless of the marketing mechanism or
219 distribution system utilized in the sale of the group insurance from which the qualifying
220 eligible individual is converting. The pool shall include the experience generated under
221 any medical expense insurance coverage offered under separate group contracts and
222 contracts issued to trusts, multiple employer trusts, or association groups or trusts,
223 including trusts or arrangements providing group or group-type coverage issued to a
224 trust or association or to any other group policyholder where such group or group-type
225 contract provides coverage, primarily or incidentally, through contracts issued or issued
226 for delivery in this state or provided by solicitation and sale to Georgia residents
227 through an out-of-state multiple employer trust or arrangement; and any other
228 group-type coverage which is determined to be a group shall also be included in the
229 pool for enhanced conversion policy rating purposes; and

230 (C) Any other factors deemed relevant by the Commissioner may be considered in
231 determination of each enhanced conversion policy pool rate so long as it does not have
232 the effect of lessening the risk-spreading characteristic of the pooling requirement.
233 Duration since issue and tier factors may not be considered in conversion policy rating.
234 Notwithstanding subparagraph (A) of this paragraph, the total premium calculated for
235 all enhanced conversion policies may deviate from the group pool rate by not more than
236 plus or minus 50 percent based upon the experience generated under the pool of
237 enhanced conversion policies so long as rates do not deviate for similarly situated
238 individuals covered through the pool of enhanced conversion policies;

239 (3) Any group member who is not a qualifying eligible individual and whose insurance
240 under the group policy has been terminated for any reason, including failure of the
241 employer to pay premiums to the insurer, other than eligibility for medicare (reaching a
242 limiting age for coverage under the group policy) or failure of the group member to pay
243 a required premium contribution, and who has been continuously covered under the
244 group contract or group plan, and under any contract or plan providing similar benefits
245 which it replaces, for at least six months immediately prior to termination shall be
246 entitled, without evidence of insurability, to convert to individual or group coverage

247 covering such group member and any eligible dependents who were covered under the
 248 group member's coverage under the group contract or group plan. Such conversion
 249 coverage must be, at the option of the individual, retroactive to the date of termination
 250 of the group coverage or the date on which continuation or COBRA coverage ended,
 251 whichever is later. The premium of the basic converted policy shall be determined in
 252 accordance with the insurer's table of premium rates applicable to the age and
 253 classification of risks of each person to be covered under that policy and to the type and
 254 amount of coverage provided. This form of conversion coverage shall be known as the
 255 'Basic Conversion Option'; and

256 (4) Nothing in this Code section shall be construed to prevent an insurer from offering
 257 additional options to qualifying eligible individuals or group members.

258 (h) Each group certificate issued to each group member or qualifying eligible individual,
 259 in addition to setting forth any conversion rights, shall set forth the continuation right in a
 260 separate provision bearing its own caption. The provisions shall clearly set forth a full
 261 description of the continuation and conversion rights available, including all requirements,
 262 limitations, and exceptions, the premium required, and the time of payment of all premiums
 263 due during the period of continuation or conversion.

264 (i) This Code section shall not apply to limited benefit insurance policies. For the
 265 purposes of this Code section, the term 'limited benefit insurance' means accident and
 266 sickness insurance designed, advertised, and marketed to supplement major medical
 267 insurance. The term limited benefit insurance includes accident only, CHAMPUS
 268 supplement, dental, disability income, fixed indemnity, long-term care, medicare
 269 supplement, specified disease, vision, and any other accident and sickness insurance other
 270 than basic hospital expense, basic medical-surgical expense, and comprehensive major
 271 medical insurance coverage.

272 (j) The Commissioner shall adopt such rules and regulations as he or she deems necessary
 273 for the administration of this Code section. Such rules and regulations may prescribe
 274 various conversion plans, including minimum conversion standards and minimum benefits,
 275 but not requiring benefits in excess of those provided under the group contract or group
 276 plan from which conversion is made, scope of coverage, preexisting limitations, optional
 277 coverages, reductions, notices to covered persons, and such other requirements as the
 278 Commissioner deems necessary for the protection of the citizens of this state.

279 (k)(1) This Except as provided in paragraph (2) of this subsection, this Code section shall
 280 apply to all group plans and group contracts delivered or issued for delivery in this state
 281 on or after July 1, ~~1998~~ 2009, and to group plans and group contracts then in effect on the
 282 first anniversary date occurring on or after July 1, ~~1998~~ 2009.

283 (2) The provisions of paragraphs (2) and (3) of subsection (c) of this Code section shall
284 apply to all group plans and group contracts in effect on September 1, 2008.

285 (1) As soon as practicable, but no later than 30 days after the effective date of this
286 subsection, the Commissioner shall develop and direct insurers to issue notices for
287 assistance eligible individuals regarding availability of expanded eligibility, second
288 election, and continuation coverage assistance to be sent to the last known addresses of
289 such assistance eligible individuals.

290 (m) Nothing in this chapter shall imply that individuals entitled to continuation coverage
291 who are not assistance eligible individuals shall receive benefits beyond the period of
292 coverage provided in paragraph (1) of subsection (c) of this Code section or that assistance
293 eligible individuals are entitled to any continuation benefit period beyond what is provided
294 by Section 3001 of Title III of the federal American Recovery and Reinvestment Act of
295 2009."

296 **SECTION 2.**

297 This Act shall become effective upon its approval by the Governor or upon its becoming law
298 without such approval.

299 **SECTION 3.**

300 All laws and parts of laws in conflict with this Act are repealed.