

**A-Engrossed**  
**House Bill 2433**

Ordered by the House March 27  
Including House Amendments dated March 27

Sponsored by COMMITTEE ON CONSUMER PROTECTION

**SUMMARY**

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

*[Lists factors that Director of Department of Consumer and Business Services may consider in reviewing schedules and tables of premium rates for certain health insurance plans.]*

*[Requires licensed health insurers to include statement of administrative expenses in rate filings. Requires director to approve or disapprove increases in administrative expenses.]*

*[Becomes operative April 1, 2010.]*

**Authorizes Director of Department of Consumer and Business Services to increase availability of state continuation of health care coverage for qualified persons whose employment has been terminated.**

**Sunsets extended continuation coverage January 2, 2012.**

**Declares emergency, effective on passage.**

**A BILL FOR AN ACT**

1  
2 Relating to health insurance; creating new provisions; amending ORS 743.610; and declaring an  
3 emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2009 Act is added to and made a part of the Insurance Code.**

6 **SECTION 2. (1) Notwithstanding the limitations of ORS 743.610, the Director of the De-**  
7 **partment of Consumer and Business Services by rule may extend the period of time during**  
8 **which coverage is available to a certificate holder and may open a new period of time during**  
9 **which a certificate holder may request continuation of health benefit coverage under the**  
10 **state continuation of benefits program described in ORS 743.610 if:**

11 (a) **The establishment of the extension and new request period is in response to and**  
12 **consistent with federal legislation relating to the continuation of health benefit coverage; and**

13 (b) **The director finds that the rule is necessary to take advantage of a benefit provided**  
14 **to insurers, employers or employees by the federal legislation relating to the continuation**  
15 **of health benefit coverage.**

16 (2) **The rules adopted by the director under subsection (1) of this section may include but**  
17 **need not be limited to:**

18 (a) **Changes to the maximum period of coverage;**

19 (b) **Adoption of notice requirements for insurers, plan administrators, employers, group**  
20 **policyholders and certificate holders;**

21 (c) **Criteria to determine if a certificate holder is eligible for a benefit;**

22 (d) **Procedures to allow an additional opportunity to request continuation coverage under**  
23 **ORS 743.610 (5) to a certificate holder whose employment was involuntarily terminated be-**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **tween September 1, 2008, and the effective date of this 2009 Act;**

2 (e) **Any necessary extension of the time by which the certificate holder must pay the first**  
3 **premium as required under ORS 743.610; and**

4 (f) **Any necessary extension of the time by which the certificate holder must request or**  
5 **elect continuation coverage.**

6 **SECTION 3.** ORS 743.610 is amended to read:

7 743.610. (1) A group health insurance policy providing coverage for hospital or medical expenses,  
8 other than coverage limited to expenses from accidents or specific diseases, [shall] **must** contain a  
9 provision that certificate holders whose coverage under the policy otherwise would terminate be-  
10 cause of termination of employment or membership may continue coverage under the policy for  
11 themselves and their eligible dependents as provided in this section.

12 (2) Continuation of coverage [shall be] **is** available only to a certificate holder who has been  
13 insured continuously under the policy or similar predecessor policy during the three-month period  
14 ending on the date of the termination of employment or membership.

15 (3) Continuation of coverage [shall not be] **is not** available to a certificate holder who is eligible  
16 for:

17 (a) Federal Medicare coverage; or

18 (b) Coverage for hospital or medical expenses under any other program which was not covering  
19 the certificate holder immediately before the certificate holder's termination of employment or  
20 membership.

21 (4) The continued coverage need not include benefits for dental, vision care or prescription drug  
22 expense, or any other benefits under the policy additional to hospital and medical expense benefits.

23 (5) **Except as provided by rule by the Director of the Department of Consumer and**  
24 **Business Services under section 2 of this 2009 Act,** a certificate holder who has terminated em-  
25 ployment or membership and who wishes to continue coverage must request continuation in  
26 writing:

27 (a) Not later than 10 days after the later of the date on which employment or membership ter-  
28 minated and the date on which the employer or group policyholder gave the certificate holder notice  
29 of the right to continue coverage[. *However, a certificate holder*]; **and**

30 (b) [*May not make a request for continuation*] **Not** more than 31 days after the date of termi-  
31 nation of employment or membership.

32 (6) A certificate holder who requests continuation of coverage [must] **shall** pay the premium on  
33 a monthly basis and in advance, as provided in this subsection. The certificate holder shall pay the  
34 premium to the insurer or to the employer or policyholder, whichever the group policy provides. The  
35 required premium payment may not exceed the group premium rate[,] for the insurance being con-  
36 tinued under the group policy[,] as of the date the premium payment is due. **Except as otherwise**  
37 **provided by rule by the director under section 2 of this 2009 Act,** the certificate holder must  
38 pay the first premium not later than 31 days after the date on which the certificate holder's cover-  
39 age under the policy otherwise would end.

40 (7) **Except as otherwise provided by rule by the director under section 2 of this 2009 Act,**  
41 continuation of coverage as provided under this section [shall end upon] **ends on** the earliest of the  
42 following dates:

43 (a) [*Six*] **Nine** months after the date on which the certificate holder's coverage under the policy  
44 otherwise would have ended because of termination of employment or membership.

45 (b) The end of the period for which the certificate holder last made timely premium payment, if

1 the certificate holder fails to make timely payment of a required premium payment.

2 (c) The premium payment due date coinciding with or next following the date the certificate  
3 holder becomes eligible for federal Medicare coverage.

4 (d) The date on which the policy is terminated or the certificate holder's employer terminates  
5 participation under the policy. However, if the employer replaces the coverage which is terminating  
6 for the certificate holder with similar coverage under another group policy:

7 (A) The certificate holder may obtain coverage under the replacement group policy for the bal-  
8 ance of the period that the certificate holder would have remained covered under the replaced group  
9 policy under this section;

10 (B) *[The minimum level of benefits to be provided the certificate holder by the replacement group*  
11 *policy shall be]* **The replacement group policy must provide, at a minimum,** the applicable level  
12 of benefits of the replaced policy reduced by any benefits still payable under that policy; and

13 (C) The replaced policy *[shall]* **must** continue to provide benefits to the certificate holder to the  
14 extent of that policy's accrued liabilities and extensions of benefits as if the replacement had not  
15 occurred.

16 (8) The group health insurance policy *[also shall]* **must** contain a provision that:

17 (a) The surviving spouse of a certificate holder, if any, who is not eligible for continuation of  
18 coverage under ORS 743.600 may continue coverage under the policy, at the death of the certificate  
19 holder, with respect to the spouse and any dependent children whose coverage under the policy  
20 otherwise would terminate because of the death, in the same manner that a certificate holder may  
21 exercise the right under this section.

22 (b) The spouse of a certificate holder, if any, who is not eligible for continuation of coverage  
23 under ORS 743.600 may continue coverage under the policy, upon dissolution of marriage with the  
24 certificate holder, with respect to the spouse and any children whose coverage under the policy  
25 otherwise would terminate because of the dissolution of marriage, in the same manner that a cer-  
26 tificate holder may exercise the right under this section.

27 (c) A spouse who requests continuation of coverage under this subsection must pay the premium  
28 for the spouse and any dependent children, on a monthly basis and in advance, as provided in this  
29 paragraph. The spouse shall pay the premium to the insurer or to the employer or policyholder,  
30 whichever the group policy provides. The required premium payment under this subsection may not  
31 exceed the group premium rate, for the insurance being continued under the group policy, as of the  
32 date the premium payment is due.

33 (9) A certificate holder who has terminated employment by reason of layoff *[shall not be]* **may**  
34 **not be** subject upon any rehire that occurs within *[six]* **nine** months of the time of the layoff to any  
35 waiting period prerequisite to coverage under the employer's group health insurance policy if the  
36 certificate holder was eligible for coverage at the time of the termination and regardless of whether  
37 the certificate holder continued coverage during the layoff.

38 (10) This section applies only to employers who are not required to make available continuation  
39 of health insurance benefits under Titles X and XXII of the Consolidated Omnibus Budget Recon-  
40 ciliation Act of 1985, as amended, P.L. 99-272, April 7, 1986.

41 **SECTION 4.** ORS 743.610, as amended by section 3 of this 2009 Act, is amended to read:

42 743.610. (1) A group health insurance policy providing coverage for hospital or medical expenses,  
43 other than coverage limited to expenses from accidents or specific diseases, must contain a provision  
44 that certificate holders whose coverage under the policy otherwise would terminate because of ter-  
45 mination of employment or membership may continue coverage under the policy for themselves and

1 their eligible dependents as provided in this section.

2 (2) Continuation of coverage is available only to a certificate holder who has been insured  
3 continuously under the policy or similar predecessor policy during the three-month period ending  
4 on the date of the termination of employment or membership.

5 (3) Continuation of coverage is not available to a certificate holder who is eligible for:

6 (a) Federal Medicare coverage; or

7 (b) Coverage for hospital or medical expenses under any other program which was not covering  
8 the certificate holder immediately before the certificate holder's termination of employment or  
9 membership.

10 (4) The continued coverage need not include benefits for dental, vision care or prescription drug  
11 expense, or any other benefits under the policy additional to hospital and medical expense benefits.

12 (5) *[Except as provided by rule by the Director of the Department of Consumer and Business Ser-*  
13 *vices under section 2 of this 2009 Act,]* A certificate holder who has terminated employment or  
14 membership and who wishes to continue coverage must request continuation in writing:

15 (a) Not later than 10 days after the later of the date on which employment or membership ter-  
16 minated and the date on which the employer or group policyholder gave the certificate holder notice  
17 of the right to continue coverage; and

18 (b) Not more than 31 days after the date of termination of employment or membership.

19 (6) A certificate holder who requests continuation of coverage shall pay the premium on a  
20 monthly basis and in advance, as provided in this subsection. The certificate holder shall pay the  
21 premium to the insurer or to the employer or policyholder, whichever the group policy provides. The  
22 required premium payment may not exceed the group premium rate for the insurance being contin-  
23 ued under the group policy as of the date the premium payment is due. *[Except as otherwise provided*  
24 *by rule by the director under section 2 of this 2009 Act,]* The certificate holder must pay the first  
25 premium not later than 31 days after the date on which the certificate holder's coverage under the  
26 policy otherwise would end.

27 (7) *[Except as otherwise provided by rule by the director under section 2 of this 2009 Act,]* Con-  
28 tinuation of coverage as provided under this section ends on the earliest of the following dates:

29 (a) Nine months after the date on which the certificate holder's coverage under the policy oth-  
30 erwise would have ended because of termination of employment or membership.

31 (b) The end of the period for which the certificate holder last made timely premium payment, if  
32 the certificate holder fails to make timely payment of a required premium payment.

33 (c) The premium payment due date coinciding with or next following the date the certificate  
34 holder becomes eligible for federal Medicare coverage.

35 (d) The date on which the policy is terminated or the certificate holder's employer terminates  
36 participation under the policy. However, if the employer replaces the coverage which is terminating  
37 for the certificate holder with similar coverage under another group policy:

38 (A) The certificate holder may obtain coverage under the replacement group policy for the bal-  
39 ance of the period that the certificate holder would have remained covered under the replaced group  
40 policy under this section;

41 (B) The replacement group policy must provide, at a minimum, the applicable level of benefits  
42 of the replaced policy reduced by any benefits still payable under that policy; and

43 (C) The replaced policy must continue to provide benefits to the certificate holder to the extent  
44 of that policy's accrued liabilities and extensions of benefits as if the replacement had not occurred.

45 (8) The group health insurance policy must contain a provision that:

1 (a) The surviving spouse of a certificate holder, if any, who is not eligible for continuation of  
2 coverage under ORS 743.600 may continue coverage under the policy, at the death of the certificate  
3 holder, with respect to the spouse and any dependent children whose coverage under the policy  
4 otherwise would terminate because of the death, in the same manner that a certificate holder may  
5 exercise the right under this section.

6 (b) The spouse of a certificate holder, if any, who is not eligible for continuation of coverage  
7 under ORS 743.600 may continue coverage under the policy, upon dissolution of marriage with the  
8 certificate holder, with respect to the spouse and any children whose coverage under the policy  
9 otherwise would terminate because of the dissolution of marriage, in the same manner that a cer-  
10 tificate holder may exercise the right under this section.

11 (c) A spouse who requests continuation of coverage under this subsection must pay the premium  
12 for the spouse and any dependent children, on a monthly basis and in advance, as provided in this  
13 paragraph. The spouse shall pay the premium to the insurer or to the employer or policyholder,  
14 whichever the group policy provides. The required premium payment under this subsection may not  
15 exceed the group premium rate, for the insurance being continued under the group policy, as of the  
16 date the premium payment is due.

17 (9) A certificate holder who has terminated employment by reason of layoff may not be subject  
18 upon any rehire that occurs within nine months of the time of the layoff to any waiting period  
19 prerequisite to coverage under the employer's group health insurance policy if the certificate holder  
20 was eligible for coverage at the time of the termination and regardless of whether the certificate  
21 holder continued coverage during the layoff.

22 (10) This section applies only to employers who are not required to make available continuation  
23 of health insurance benefits under Titles X and XXII of the Consolidated Omnibus Budget Recon-  
24 ciliation Act of 1985, as amended, P.L. 99-272, April 7, 1986.

25 **SECTION 5. Section 2 of this 2009 Act is repealed on January 2, 2012.**

26 **SECTION 6. The amendments to ORS 743.610 by section 4 of this 2009 Act become oper-  
27 ative on January 2, 2012.**

28 **SECTION 7. This 2009 Act being necessary for the immediate preservation of the public  
29 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect  
30 on its passage.**

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