

# Enrolled House Bill 2433

Sponsored by COMMITTEE ON CONSUMER PROTECTION

CHAPTER .....

AN ACT

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

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

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

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

- (a) The establishment of the extension and new request period is in response to and consistent with federal legislation relating to the continuation of health benefit coverage; and
- (b) The director finds that the rule is necessary to take advantage of a benefit provided to insurers, employers or employees by the federal legislation relating to the continuation of health benefit coverage.

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

- (a) Changes to the maximum period of coverage;
- (b) Adoption of notice requirements for insurers, plan administrators, employers, group policyholders and certificate holders;
- (c) Criteria to determine if a certificate holder is eligible for a benefit;
- (d) Procedures to allow an additional opportunity to request continuation coverage under ORS 743.610 (5) to a certificate holder whose employment was involuntarily terminated between September 1, 2008, and the effective date of this 2009 Act;
- (e) Any necessary extension of the time by which the certificate holder must pay the first premium as required under ORS 743.610; and
- (f) Any necessary extension of the time by which the certificate holder must request or elect continuation coverage.

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

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

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

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

(a) Federal Medicare coverage; or

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

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

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

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

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

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

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

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

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

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

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

(A) The certificate holder may obtain coverage under the replacement group policy for the balance of the period that the certificate holder would have remained covered under the replaced group policy under this section;

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

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

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

(a) The surviving spouse of a certificate holder, if any, who is not eligible for continuation of coverage under ORS 743.600 may continue coverage under the policy, at the death of the certificate

holder, with respect to the spouse and any dependent children whose coverage under the policy otherwise would terminate because of the death, in the same manner that a certificate holder may exercise the right under this section.

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

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

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

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

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

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

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

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

(a) Federal Medicare coverage; or

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

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

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

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

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

(6) A certificate holder who requests continuation of coverage shall pay the premium on a monthly basis and in advance, as provided in this subsection. The certificate holder shall pay the premium to the insurer or to the employer or policyholder, whichever the group policy provides. The required premium payment may not exceed the group premium rate for the insurance being continued under the group policy as of the date the premium payment is due. [*Except as otherwise provided by rule by the director under section 2 of this 2009 Act,*] The certificate holder must pay the first

premium not later than 31 days after the date on which the certificate holder's coverage under the policy otherwise would end.

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

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

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

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

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

(A) The certificate holder may obtain coverage under the replacement group policy for the balance of the period that the certificate holder would have remained covered under the replaced group policy under this section;

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

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

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

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

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

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

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

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

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

**SECTION 6. The amendments to ORS 743.610 by section 4 of this 2009 Act become operative on January 2, 2012.**

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

**Passed by House April 1, 2009**

.....  
Chief Clerk of House

.....  
Speaker of House

**Passed by Senate April 22, 2009**

.....  
President of Senate

**Received by Governor:**

.....M,....., 2009

**Approved:**

.....M,....., 2009

.....  
Governor

**Filed in Office of Secretary of State:**

.....M,....., 2009

.....  
Secretary of State