



## Two New Insurance Laws Adopted in New York State

Two new laws were signed into effect in New York on July 29, 2009. The first extends dependent coverage through age 29 under certain circumstances and the second extends New York State "mini-COBRA" and COBRA coverage from 18 to 36 months.

### 1. Extended Dependent Coverage

The law extending dependent coverage through age 29 has two components: (1) a make available option and (2) a mandatory right of election.

- **Make Available Option** - The law requires insurers and HMOs to offer a "make available" option to increase the dependent coverage age through 29. Beginning with new sales and renewals on and after September 1, 2009, direct pay and group contract holders will have the right to extend coverage for their subscribers' eligible dependents through age 29. This is at the option of the contract-holder and is not mandatory.
- **Mandatory Right of Election** - If an insured or HMO group contract-holder does not elect to extend the dependent coverage age through 29, the law allows covered employees to buy extended continuation coverage through age 29 for their eligible dependents who have "aged-out" under the policy. This right of election will become available on September 1, 2009 as contracts are issued or renewed. This COBRA-like right applies to all groups, regardless of size and requires the subscriber to pay the full premium for this extension. The coverage provided to the dependent child will be the same as the coverage provided to the employee/parent.
- **Eligibility**
  - To be eligible for either of these continuation rights, a dependent must be:
    - Unmarried\*
    - under 30
    - not covered by or eligible for employer sponsored insurance, Medicare or by a self-insured employer plan, and
    - live, work or reside in New York State or the plan's service area.
  - \* For the mandatory right of election, the dependent must be the unmarried child of the employee/member of the group.  
*(Financial dependence and student status does not impact on eligibility)*
- **Notifications**
  - Insurers will provide advance notice of the availability of the make-available benefit to increase dependent age to direct pay and group policyholders as required by the law.
  - Insurers will provide notice of the COBRA-like continuation benefit available to dependents as required by the law before a dependent "ages out" under the policy; in a one-time notice with details regarding a special 12-month enrollment period; and in the policy certificate.

### 2. Extended New York State COBRA Coverage Period to 36 Months

- This law extends state continuation coverage from 18 to 36 months when an employee, member or dependent that is eligible for NYS "mini-COBRA", i.e., an insured group of under 20, loses coverage.
- Additionally, if an individual has exhausted federal COBRA coverage under a group insured plan, he or she may receive an additional 18 months of continuation coverage under state law, for up to a total of 36 months from the date federal COBRA continuation coverage began.
- This means essentially that a 36-month continuation period now applies to all New York group policies, whether large or small.
- The law is retroactively effective for contracts issued or renewed on or after July 1, 2009.

**Empire is currently working on implementation plans and details. We will provide additional details and information as available.**