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## **NEW YORK - GOVERNOR PATERSON SIGNS NEW HEALTHCARE BILLS**

On July 30, 2009, Governor Paterson signed into law two bills that will extend healthcare coverage to certain individuals covered by insurance contracts issued in New York State. In addition, on July 11, 2009 the Governor made Timothy's Law permanent. Timothy's Law, which requires mental health benefits be included in all New York State insurance contracts, was originally scheduled to expire on December 31, 2009.

The laws only apply to insured plans (individual and group) written in New York State. Self-insured plans as well as fully insured plans under insurance contracts issued in other states (even if these contracts cover New York employees) are not impacted by these laws. This *Insights* will summarize the key provisions of these healthcare bills pertaining to group health insurance contracts.

## **COBRA Benefits Extended To 36 Months**

Effective **July 1, 2009**, employers subject to New York State "mini"-COBRA (small employers with 2 – 19 employees) must provide up to 36 months of continuation health coverage to individuals who lose coverage as a result of job loss, reduction in hours or loss of eligibility. Under prior law, the coverage would be exhausted after 18 months. The law only applies to health insurance contracts (hospital, medical or surgical benefits) issued, renewed, modified or amended on or after July 1, 2009. Dental and vision benefits are not subject to state continuation requirements.

As under existing law, eligible individuals must elect the continuation coverage and remit the initial payment within 60 days of the qualifying event or within 60 days of receiving the notice of the right to elect the coverage. The individual will continue to be responsible to pay 102% of the applicable premium.

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The law also allows all individuals covered by federal COBRA (employers with more than 20 employees) the right to extend coverage for up to 36 months from the initial qualifying event. In other words, employees who exhaust their COBRA benefits after 18 months may extend coverage for an additional 18 months due to a loss of employment, reduction in hours or loss of eligibility. The law applies to:

- All qualified beneficiaries covered by insurance policies issued in New York State, and
- All plans subject to federal COBRA continuation including dental and vision benefits.

### Coverage Extended To Unmarried Children Through Age 29

Prior to enactment, unmarried dependent children who attain a certain limiting age would lose group health coverage, unless COBRA or state continuation coverage was elected. The age restriction is generally tied to full-time student status - age 19 (high school) or 23 (post-secondary education). Effective **September 1, 2009**, unmarried children of individuals covered by a group health insurance policy (hospital, surgical or medical benefits, only) issued in New York State must be allowed to continue that coverage, (beyond the current limiting ages) up to age 29 without evidence of insurability. The law generally creates a COBRA-like benefit for young adults without the 36 month limitation or the additional 2% COBRA administration charge. The young adult does not need to be financially dependent on their parents in order to elect the coverage, however, the young adult:

- Must be unmarried,
- Cannot be eligible or covered under any health insurance plan (insured or self-insured),
- Cannot be covered by Medicare, and
- Must live, work, or reside in New York State or the service area of the insurer.

The law contains certain obligations and timetables as follows:

- The coverage offered to the young adult must be identical to the coverage offered to the parent.
- The employer is not responsible to pay any portion of the required premium.

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- The young adult (or parent) must elect the continuation coverage within 60 days of when coverage would otherwise terminate due to aging off of the parent's plan. Coverage will be retroactive to the date coverage would otherwise have been lost.
- The young adult may elect coverage within an annual 30-day open enrollment period under the plan. Coverage will be prospective and must commence within 30 days after the election and payment of the first premium.
- The young adult or parent must pay the required monthly premium in advance of the coverage being extended with an allowable 30-day grace period.

For the first 12 months of enactment, September 1, 2009 – August 30, 2010, young adults who have lost coverage under a parent's plan and meet the eligibility criteria will have the opportunity to elect coverage under the parent's plan without having to wait for the next open enrollment period. Insurance companies have 30 days after the effective date to provide information concerning a dependent child's opportunity to make a written election to obtain coverage under the parent's policy. Coverage will be prospective and must commence within 30 days after the election and payment of the first premium.

The law applies to contracts issued, renewed, modified, altered and amended on or after September 1, 2009.

Contact your Chernoff Diamond representative for more information.

**This brief summary is not intended to be a comprehensive legislative analysis. Chernoff Diamond is a benefits advisory firm and does not provide tax or legal advice. Employers should consult with qualified legal and/or tax counsel for guidance in respect of matters of law, tax and related regulation.**