

FEBRUARY 2006

Littler Mendelson's Employee Benefits Practice Group:

Steven Friedman, *Practice Chair*
212.583.9600

James Boudreau
267.402.3029

Lisa Chagala
925.932.2468

Phil Gordon
303.629.6200

Michael Hoffman
415.433.1940

G. J. MacDonnell
415.433.1940

Darren Nadel
303.629.6200

Nancy Ober
415.433.1940

Adam Peters
415.433.1940

Michelle Pretlow
202.842.3400

Dan Rodriguez
713.951.9400

Rick Roskelley
702.862.8800

Kate Rowan
415.433.1940

Dan Srsic
614.463.4201

Daniel Thieme
206.623.3300

J. René Toadvine
704.972.7000

Kevin Wright
202.842.3400

Employee Benefits

A Littler Mendelson Newsletter

New Jersey Mandates Insurance Coverage for Dependents Under Age 30

By Steven J. Friedman and Bryan M. Churgin

On January 12, 2006, former New Jersey Acting Governor Richard Codey signed into law a bill permitting eligible dependents under health insurance plans issued in New Jersey to remain eligible for continued health insurance coverage, until the dependent's 30th birthday. The law takes effect on May 12, 2006, and applies to medical insurance contracts or plans that are "delivered, issued, executed or renewed, or approved for issuance or renewal" in New Jersey after the law's effective date. Accordingly, this law will affect employers that provide employees with healthcare coverage through insurance policies issued in the State. It will not affect self-insured plans. This law seeks to remedy the problem faced by dependents whose coverage terminated at age 19, or 23, who are still living with their parents, and for whom a stand-alone health insurance policy would be very expensive.

To qualify as a "dependent," the individual must be (i) under 30 years of age; (ii) unmarried; (iii) without a dependent of his or her own; (iv) a resident of the State of New Jersey or enrolled as a full-time student at an accredited public or private institution of higher education; and (v) not covered under any other group or individual health benefits plan or entitled to Social Security benefits.

An eligible individual may elect the extended dependent coverage upon the occurrence of one of the following events: (i) within 30 days prior to "aging out" of plan coverage if the dependent is currently covered by a health insurance plan; (ii) within 30 days after becoming an eligible dependent if the

individual's coverage previously terminated; (iii) during the employer's open enrollment period if the individual previously aged out of the plan's coverage and meets the requirements for dependent status during the open enrollment period; or (iv) within 12 months of the law's effective date to reinstate coverage that had been terminated prior to the effective date.

A health insurer is prohibited, under the law, from refusing a written election for coverage based solely upon the fact that the dependent previously elected and lost coverage under the prior plan. An insurer also may not condition the extension of dependent coverage on evidence of insurability. The coverage provided to the dependent must be identical to the coverage that he or she received before aging out of the plan.

Cost of Coverage

A plan can charge an employee 102% of the "applicable portion" of the premium that the dependent paid under the plan before aging out of the contract. It is not completely clear what this means where an employee has elected "dependent" coverage and has other dependents. However, the law directs the New Jersey Commissioner of Banking and Insurance to promulgate regulations establishing an "applicable portion" formula.

Coverage will terminate, according to the law, when (i) the individual no longer qualifies as a "dependent," (ii) the dependent or subscriber fails to timely make a premium

payment; or (iii) the subscriber loses coverage for any other reason under the health insurance contract.

Notice Requirements for Employers

The law dictates that the subscriber receive notice of the dependent coverage election from two sources. First, the certificate of coverage prepared for the subscriber by the insurance plan when coverage commences must provide notice of the rule. Second, the subscriber's employer must provide notice (i) prior to the time that the dependent's existing coverage terminates, and (ii) when the dependent loses coverage on account of getting married, leaving New Jersey, ending full-time student status or becoming covered under another group health plan. This new law will undoubtedly affect many employers with employees in New Jersey. Please contact a Littler attorney if your organization needs assistance in implementing this law.

Steven J. Friedman is a shareholder in the New York office, and Bryan M. Churgin is an associate in the Newark office, of Littler Mendelson. If you would like further information, please contact your Littler attorney at 1.888.Littler, info@littler.com, Mr. Friedman at sfriedman@littler.com or Mr. Churgin at bchurgin@littler.com.
