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Date

2/6/91

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by SENATOR RICHARD L. BOND at
Chairperson

9:00 a.m./~~p.m.~~ on TUESDAY, FEBRUARY 5, 1991 in room 529-S of the Capitol.

All members were present ~~except~~

Committee staff present:

Bill Wolff, Research Department
Fred Carman, Revisors Office
Louise Bobo, Secretary

Conferees appearing before the committee:

Tim Elliott, Kansas Insurance Department

Chairman Bond called the meeting to order at 9:12 a.m.

SB 66 - relating to accident and health insurance: continuation and conversion.

Tim Elliott, Kansas Insurance Department, addressed the committee in support of this bill. Mr. Elliott advised the committee that this bill would make several amendments to the statutes governing continuation and conversion policies and that most of the proposed amendments involve provisions that have been difficult to administer or provisions that are not producing the results originally intended. Mr. Elliott added that these changes would also clarify the statutes so Kansas insureds will receive the continuation and conversion rights to which they are entitled. Attachment 1)

During the discussion period, Chairman Bond asked Mr. Elliott to explain COBRA (Consolidated Omnibus Budget Reconciliation Act). He said that it was a federal law stipulating that the employer has the obligation to provide continuing coverage if there is a "qualifying event" (such as a change in family structure). He also added that COBRA provided for no conversion rights to an individual policy. Staff added that COBRA amends a lot of other statutes so you have to look at a lot of Acts in order to explain the relationship. Mr. Elliott further explained that COBRA refers to companies with twenty or more employees--if under twenty employees, then state law is effective and the insurer has the authority to make the decisions. A committee member inquired if the insurer judges each case individually or makes decisions across the board. Mr. Elliott said that they should treat each the same so as not to be accused of discrimination. A committee member asked the Chairman his opinion of this bill. Chairman Bond responded that he thought the committee should probably pass the bill out of committee. In answer to an inquiry about the reason for delaying the effective date of the bill until July, Mr. Elliott answered that the insurance companies would need time to prepare new policies with the new conversion rights and make needed administrative changes.

Senator Kerr made a motion to pass SB 66 out of committee favorably. Senator Reilly seconded the motion. The motion carried.

Minutes of the Monday, February 4, 1991 meeting were approved on a motion by Senator Reilly with Senator Strick seconding the motion. The motion carried.

The meeting adjourned at 9:59 a.m.

Testimony By
Kansas Insurance Department
Before the Senate Financial Institutions & Insurance Committee
on Senate Bill No. 66
February 5, 1991

Mr. Chairman, members of the committee, Senate Bill No. 66 suggests several amendments to the statutes governing the continuation and conversion of group accident and health insurance policies issued by Blue Cross and Blue Shield organizations and commercial insurance companies.

As you review the bill, it will be obvious that some of the suggested changes are of an editorial nature but most of the proposed amendments involve provisions that we have had difficulty administering or provisions that are not producing the results originally intended. Senate Bill No. 66 is therefore being proposed and supported by the Insurance Department as a means of alleviating these administrative difficulties but, even more important, as a means of clarifying the statutes so Kansas insureds will consistently receive the continuation and conversion rights to which they are entitled.

A more specific explanation of the substantive changes and the reasons therefor follows:

Section 1(e)(2)- In 1987 an exception to continuation and conversion rights under state law was created for policies or subscription agreements issued to employers subject to continuation requirements imposed by the federal law known as COBRA. The exception was intended to eliminate confusion over complying with two sets of mandates. Since the federal requirements provided a longer continuation period, it was believed there would be no adverse impact to consumers.

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Attachment 1

However, in applying the law after enactment of the exception for COBRA groups, it became apparent there were "gaps" which left certain persons without or with less continuation or conversion rights than they had prior to the 1987 legislation. The most common examples include:

- change in family structure*
- (1) COBRA group ceases to provide any coverage which would not be a "qualifying event" needed to trigger COBRA, and
 - (2) COBRA provides no conversion rights.

This amendment would restore rights under state law to persons covered through groups subject to COBRA to the extent COBRA does not provide equal or greater rights.

Section 1(e)(2)(B) - Amendment provides an exception to Blue Cross and Blue Shield organizations' obligations to provide continuation and conversion rights for persons eligible for Medicare. A similar provision currently exists in the statutes governing continuation and conversion for other insurers (K.S.A. 1989 Supp. 40-2209(D)(c)).

Section 1(e)(2)(C) - The first amendment to this paragraph clarifies the covered person must be covered to the same extent by the replacement coverage in order to relieve the replaced insurer from its obligation to provide continuation and conversion rights to that covered person. This should close the gap which exists for a person who had been receiving benefits under a replaced plan, but is not eligible for such benefits under the new plan (even though it may be identical) because of pre-existing condition limitations, waiting periods, etc.

The second amendment to this paragraph merely clarifies replacement coverage which is not insured must be a lawful self-insured arrangement

technical requirement

in order to terminate the replaced insurer's continuation and conversion obligations.

The third amendment to this paragraph clarifies an ambiguity relative to issuing a conversion in lieu of continuation and allows the insurer to issue an individual policy if the coverage is substantially similar and at the same or a lesser premium. This should provide consumers with equal or greater substantive coverage rights while allowing insurers the option to provide such coverage in a manner more administratively feasible. The employee or member retains the right to be issued a conversion policy (which generally has lesser benefits) in lieu of continuation, in case the conversion policy would be more affordable than continuing the group policy.

*State Law
contingent
limited
to 6 mos.*

Section 2(D) and 2(D)(d) - The amendments in section 2(D) and 2(D)(d) are the same as those discussed above with respect to section 1(e)(2) and 1(e)(2)(C) except section 1 applies to Blue Cross and Blue Shield organizations and section 2 applies to traditional insurers.

Section 2(D)(9) - This amendment requires the converted policy issued by either traditional insurers or Blue Cross and Blue Shield organizations to provide credit for deductibles, copayments and other conditions satisfied under the group policy if benefits under the converted policy are reduced by payments and benefits payable under the group policy.

As I noted earlier, enactment of these amendments will, we believe, clarify the law, simplify its administration, and provide more consistent and more equitable treatment of persons who are terminated from group coverage and need to utilize this law.