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## INSURANCE

### *Group Health Insurance: Continued Coverage After Cancellation*

CODE SECTIONS:	O.C.G.A. §§ 33-24-21 (amended), and 30-30-12 (repealed)
BILL NUMBER:	HB 212
ACT NUMBER:	1455
SUMMARY:	The Act requires insurance companies to continue coverage under group accident and insurance policies for three months after cancellation, and provides conversion rights at the end of the three-month period. The Act also repeals requirements for notice of coverage termination under certain group accident and sickness policies.
EFFECTIVE DATE:	July 1, 1986, for new policies delivered or issued, and on the first anniversary date on or after July 1, 1986, for policies then in effect. Repeal effective April 1, 1986.

### *History*

The Act is consistent with a trend in the Georgia General Assembly to regulate health insurance for the protection of individual insurance consumers.<sup>1</sup> Generally, when group insurance is cancelled, coverage is not automatically extended during the period in which a member has an option to convert to an individual policy. Therefore, there is no recovery if injury or death occurs during this period. The intent behind extending the time period for termination of coverage is to give members continued coverage for pre-existing and new conditions and to provide an opportunity to assess carefully the desirability of a converted policy.<sup>2</sup>

HB 212 is similar to recently enacted federal law, the Comprehensive Omnibus Budget Reconciliation Act of 1985 (COBRA).<sup>3</sup> COBRA requires employers with twenty or more employees to provide an option in their group health insurance plans which permits their employees (or, when applicable, spouses or children) to continue coverage under the group

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1. Pock, *Insurance*, 33 MERCER L. REV. 143, 143 (1981).

2. Telephone interview with Representative Claude A. Bray, Jr., House District No. 91 (Apr. 22, 1986) [hereinafter cited as Bray Interview].

3. Pub. L. No. 98-270.

plan after the occurrence of a "qualifying event". Georgia employers not covered by COBRA are covered by the new O.C.G.A. § 33-24-21.1.

### *HB 212*

As originally introduced in the House of Representatives, HB 212 was broader in scope than the enacted version.<sup>4</sup> The original bill provided automatic continued coverage for any existing condition for which medical treatment had been given within one year prior to cancellation or the thirty days immediately following. The coverage continued for as long as the condition or any complications therefrom persisted. It further required the payment of benefits on the same basis as if there had been no cancellation of the policy. This would have eliminated any need for conversion provisions in the policy. It did not require the assessment of further costs, nor did it contain provisions to distribute any running costs.

In the original bill, coverage was to continue whenever there was a cancellation of part or all of the policy, including the involuntary removal of a beneficiary from the policy. The Senate Committee Substitute and O.C.G.A. § 33-24-21.1(c) reflect the influence of the major sector affected by group health policy changes: employers seeking to control costs and monitor potentially limitless claims. Employers supported the legislation as amended to include restrictive measures which exclude members terminated for cause and reduce the availability of the coverages from six months to three months.<sup>5</sup>

The new O.C.G.A. § 33-24-21.1 enables members of group health insurance policies or contracts to continue coverage under certain circumstances when it would otherwise be terminated. It further provides that members are entitled to continued hospital, surgical, and major medical insurance coverage for themselves and their eligible dependents if their coverage has been terminated and they have been continuously covered under the plan for at least six months prior to such termination. Coverage must continue for the fractional policy month remaining at termination, plus three additional policy months upon payment by the member.

During the period of continued coverage, the premium rate paid by the former employee must be the same as that paid by active group members and must be paid in advance on a monthly basis. The member is required to pay the portion of the premium previously paid by the employer. At the end of the three-month period, the member is entitled to the same conversion rights and privileges that were available under the policy on the date of the termination of coverage.

Definitions contained within the new O.C.G.A. § 33-24-21.1(a) specify that the contracts or plans applicable include: 1) group contracts issued

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4. HB 212, 1986 Ga. Gen. Assem.

5. Bray Interview, *supra* note 2.

by non-profit medical service corporations,<sup>6</sup> organized for the purpose of operating and maintaining a medical service plan; 2) group contracts issued by non-profit hospital service corporations,<sup>7</sup> organized for the purpose of operating and maintaining a hospital service plan; 3) health care plans;<sup>8</sup> 4) group contracts issued by health maintenance organizations,<sup>9</sup> and 5) group accident and sickness insurance policies<sup>10</sup> issued to employers, associations (such as credit unions), and other organizations.

Group insurance plans issued in connection with an extension of credit are specifically excluded from application of the Act.<sup>11</sup> Additionally, group policy plans providing benefits for specific diseases or accidental injuries only are not covered. Group members will not be entitled to continued coverage under O.C.G.A. § 33-24-21.1(d) if: 1) the member's termination from employment was for cause, 2) the member failed to pay the required premium contributions, or 3) the employer discontinued the entire policy covering the class to which the member belonged.

O.C.G.A. § 33-24-21.1(g) further provides that the same defined policies must contain a separately captioned conversion privilege provision. Conversion rights must be available to any member whose coverage is terminated for any reason other than eligibility for Medicare or failure of the member to pay a required premium. The member is entitled to convert to an individual policy for that member and eligible dependents without evidence of insurability.

The administration of the Act is assigned to the Commissioner of Insurance. Adoption of rules and regulations prescribing minimum conversion standards and benefits is permitted, but such rules may not require benefits greater than those provided under the policy or contract from which conversion is made. Normally, where the rate upon conversion is higher and the coverage may be less according to the terms of the original group contract, the insurer also is not required to provide coverage under an individual conversion policy coextensive with the previous group policy.<sup>12</sup>

The Act repeals O.C.G.A. § 33-30-12, a section of the law which was to become effective March 1, 1986,<sup>13</sup> requiring notification of policy cancellation without a replacement policy. This section was added to the bill originally introduced in the General Assembly. The new measure requiring offer and notice of conversion rights was deemed to be adequate noti-

6. Established under O.C.G.A. §§ 33-18-2—33-18-3 (1982).

7. Established under O.C.G.A. § 33-19-1 (1982).

8. Established under O.C.G.A. § 33-20-3(3) (1982).

9. Established under O.C.G.A. §§ 33-21-1(6) and 33-21-2 (1982).

10. Defined in O.C.G.A. § 33-30-1 (1982).

11. O.C.G.A. § 33-24-21.1(b) (Supp. 1986).

12. *See, e.g.,* MacDonal v. Penn. Mut. Life Ins. Co., 276 So. 2d 232 (Fla. 1973) (privilege of conversion was not extended to major medical group insurance in effect during employment).

13. 1985 Ga. Laws 1039.

fication to consumers.<sup>14</sup> The repeal became effective upon approval of the Governor. The remainder of the Act went into effect July 1, 1986, for all newly issued or delivered group health contracts, and is applicable to group contracts already in effect on the first anniversary occurring on or after July 1, 1986.

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14. Bray Interview, *supra* note 2.