



The Benefits Group

October, 2008

New Connecticut law regarding *dependents* effective January 1, 2009

Effective January 1, 2009, a new Connecticut law will allow parents to cover certain unmarried dependents **up to age 26** under a parent's individual policy or group insurance policy. Except for full time students, the child must be a resident of Connecticut.

This is new legislation created as an effort to decrease the number of uninsured people in CT. Please review the attached Q & A from the State of CT website that may answer many of your questions along with contact names, phone numbers and email addresses.

The law has several notable points:

- The new law, for group insurance policies, is effective 1/1/09.
- For individual policies issued in CT on or after 1/1/09, the changes take place on the effective date.
- For *existing* individual policies, the changes take effect on the first day of the policy renewal *on or after* 1/1/09.
- The child does not have to be financially dependent; IRS rules do not apply.
- Dependents will be subjected to late entrant rules if they do not enroll within 31 days of when they are first eligible.
- For group policies, coverage terminates at the end of the following month they reach age 26. (e.g. Child's birthday is July 1, 2009 coverage ends August 31, 2009.)
- For individual policies, coverage terminates no earlier than the policy anniversary date after the child is no longer eligible. (e.g. Policy anniversary date is April 1, 2009 and child turns 26 on April 2, 2009, the dependent can remain on the policy as a dependent through March 31, 2010.)
- After reaching age 26 and the child is no longer eligible, they would be eligible for COBRA coverage (from group policies only).
- The State of CT insurance department is encouraging employers to utilize the month of December, 2008 as the 'open enrollment period' for eligible dependents so that they are processed by January 1, 2009.
- This law does not apply to self insured plans.

There are good reasons to take advantage of this new law:

- Obtain or retain coverage for a new graduate currently without coverage, and
- Unmarried children in between jobs.

However, there are also reasons to keep your existing coverage. If you, or your child, currently have an individual policy (i.e. not through an employer's group plan) you may not want to cancel your coverage if:

- Your health history has changed since you took out the individual policy. If a child goes back on the parents coverage you, they may not be eligible for an individual policy in the future, or
- An individual premium may be less than having a parent's status change (from single to 2 person, or 2 person to family).
- The individual coverage may have benefits that suit your needs better. Please compare coverage before making changes.

Also, please note that there may be tax implications in certain situations. Please review the attached "Notice of Dependent Eligibility Change" which describes taxable dependents and the sample "Certification of Tax Dependent Status". All of the above mentioned information can also be found on our website.

We realize there is a lot of information pertaining to this new law; please review it and let us know if you have any questions.

Sincerely,

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TO: All Health Insurers and Health Care Centers Authorized to Conduct Business in Connecticut
SUBJECT: New Dependent Definition under Public Act No. 08-147

Beginning January 1, 2009, a new Connecticut Law (Public Act No. 08-147) allows parents to cover certain unmarried dependents up to age 26, under a parent's individual or group health insurance plan.

The new law has generated many inquiries. The Insurance Department is providing the following Questions and Answers containing the Department's interpretation of the new law to assist health insurers and health care centers in complying with the new law.

DEPENDENT DEFINITION QUESTIONS

1. What is the effective date of the law?

The law takes effect for group health plans on January 1, 2009. This means that all group health insurance policies issued in Connecticut in effect on January 1, 2009 must comply on January 1, 2009. All new group health insurance policies issued after January 1, 2009 must be in compliance on the effective date of the new group health insurance policy.

The changes for individual policies take effect for new policies issued in Connecticut on or after January 1, 2009 and for existing policies on the first date of policy renewal on or after January 1, 2009.

This law is only applicable to individual and group policies subject to Connecticut jurisdiction.

2. Does the statute contemplate that carriers must allow persons who ceased to be eligible under the prior version of Conn. Gen. Stat. §38a-554, to now be permitted to re-enroll under the group plan to continue until they no longer meet eligibility pursuant to PA 08-147 changes?

Yes

3. When does the coverage end?

Coverage ends when the dependent:

- marries;
- ceases to be a resident of the state (except for dependents under 19 years of age or full-time students);
- becomes covered under a group health plan through the dependent's own employment; or,
- attains the age of twenty-six.

4. Do dependents lose their eligibility as soon as they reach age 26?

For group policies, the amended statute provides that coverage must continue until the end of the month following the month the dependent marries, attains age 26, ceases to be a resident (except for dependents under 19 years of age or full-time students), or becomes covered under a group health plan through the dependent's own employment. This could mean that if the dependent's change event occurs on January 1, the coverage actually goes through February 28 (except of course leap year when it goes to Feb 29). It doesn't cut off the day of the change event.

For individual policies, the new statute provides that coverage shall terminate no earlier than the policy anniversary date on or after whichever of the following occurs first:

- marries;
- ceases to be a resident of the state (except for dependents under 19 years of age or full-time students);
- becomes covered under a group health plan through the dependent's own employment; or,
- attains the age of twenty-six.

This means that if the policy anniversary date is February 1, 2009, and the dependent attains age 26 on February 2, 2009, the dependent can remain on the policy as a dependent through January 31, 2010.

5. **It appears that coverage for dependents in Connecticut is not a mandatory component to a health insurance policy. Certain dependents (e.g.; Section 38a-549 re: adopted children) are required to be covered; however there is no requirement as to dependents generally.**

Correct. There is no specific overall mandate that requires health insurance policies to cover dependents. However, if and when dependents are covered, certain conditions and requirements would become effective, such as coverage of adopted children under group policies pursuant to Section 38a-549.

6. **What if the plan is self insured, will this change apply?**

No, this is a state insurance law and it will not apply to self insured plans.

7. **What if the dependent has his or her own job and doesn't live home?**

The statute will still apply. If the child is under age 26 and lives in the State of Connecticut, and is unmarried, the child can enroll as a dependent under the employee's plan if the dependent is not **covered** as an employee under other group insurance through the dependent's employment.

8. **Can the dependent be covered under both parents' group policies?**

Yes, the dependent can be covered under multiple group policies as a dependent. However, Coordination of Benefits ("COB") rules would apply. A dependent cannot be covered under any group policies as a dependent if the dependent has group coverage on his/her own right as an employee through his or her own employment. There may be special group plan rules when both parents are covered under the same employer group plan, such as a rule that only one parent may enroll a dependent. This new law does not override such a group plan rule.

9. **Can the dependent be covered under a group plan other than through his/her employment (such as association, school plans, group trust) and still be eligible as a dependent under the parents' plan(s)?**

Yes. The law only excludes the dependent from eligibility as a dependent if he/she is covered by a group health plan through the dependent's own employment. If the dependent is covered under a group plan that is not obtained through his/her employment, then the dependent retains eligibility as a dependent of the parent.

10. **What if the child is not a dependent in the economic sense? Doesn't the child have to rely on the employee-parent for support in order to be a dependent?**

No, the definition of dependent does not require an economic relationship. There is no requirement under the law that the dependent be financially supported by the parent/insured. The law is not based on an Internal Revenue Service definition of dependent.

11. **What if the child goes to school out of state, does that mean the child will not be a dependent?**

No, the dependent child in this situation is eligible. The Connecticut residency requirement does not apply to dependent children under nineteen years of age or full-time students attending an accredited institution of higher education.

12. **What if an employee has a dependent who works for another employer and is under age 26 and is covered under another group health plan; can the dependent drop the coverage with his or her employer and then enroll as a dependent under the employee's plan at open enrollment?**

If the dependent is under age 26, single, residing in Connecticut (or a student out of state), and not enrolled under another group health plan obtained through the dependent's own employment, the dependent can be enrolled as a dependent under your employee's plan.

13. **If a dependent reached age 23 and ceased to be eligible under the plan under the old version of the law, will he/she be permitted to re-enroll if he/she is under age 26? How much time would he/she be given to re-enroll? Can the plan limit their enrollment to 31 days once they become eligible?**

If a dependent has aged off under the terms of the old law, he/she could come back on to the parent's plan if he or she is under age 26 and meets the requirement of the new law. The Department will permit health insurers to limit the enrollment to 31 days once eligible, provided there is good clear communication to policyholders and certificate holders in a meaningful way (in a mailing, newsletter, or other format), that the law has changed and what the time frame requirements are, for enrollment.

The Department prefers that health insurers utilize the month of December 2008 as an open enrollment period for newly eligible dependents under the law, for coverage for immediately eligible dependents to be effective on January 1, 2009. Some carriers, however, have notified the Department that because of operational issues, they plan to conduct an open enrollment period during the month of January 2009 for those immediately eligible for dependent coverage under the amended eligibility rules and will back date effective dates of coverage to January 1, 2009, no matter when enrollment takes place in January. The Department does not object to this enrollment approach provided the coverage is retroactive to January 1, 2009 and no claims are denied for the interim period.

Carriers may administer late entrant requirements if the dependent does not enroll within the 31 day period, again provided that there has been good clear communication to policyholders and certificate holders of the change in law and the time frames for enrollment.

- 14. Can a health insurer or health care center use an earlier enrollment period for newly eligible dependents as of January 1st under the new law, in place of the special enrollment period in December or January as described in the preceding Question and Answer 13? As an example, if a health insurer or health care center and its employer/group policyholders normally have an open enrollment period in October for employees/group certificate holders to choose health coverage for themselves and their families for the following January 1st, can the health insurer or health care center permit employees to enroll their newly eligible dependents under the new law along with the other selections the employee is making?**

The Department does not object, and in fact, would support a health insurer or health care center permitting "early" enrollment of newly eligible dependents, as described in the example. However, due to the importance of the legislation and due to concern that information on the new law may not reach all impacted parties, the Department still requires an enrollment period in December or January, for newly eligible dependents under the new law.

- 15. What happens if a dependent is not eligible on January 1, 2009 but becomes eligible thereafter? For instance, an unmarried child over age 19 but under age 26 who moves back to Connecticut after January 1st and is not covered through the child's employment?**

The Department expects health insurers to follow the same rules as for other life status changes, such as marriage of an employee or birth of a newborn. The employee, in this example, will have 31 days to enroll the dependent. Once enrolled the effective date of the dependent's coverage will be retroactive to the date of the change (date the eligible dependent moved back to Connecticut).

- 16. If a child attains age 26 and is terminated from the parent's plan, is there a right to continue under COBRA?**

Yes, it would be a qualifying event entitling the child to COBRA coverage.

- 17. Does this change in dependent definition apply only to medical? Would dental, vision, and prescription drug coverage also qualify?**

All Connecticut individual and group medical policies are required to follow the new dependent definition. If the dental, vision or prescription drug coverage is combined with the group health benefits in a policy or a rider to a policy, the new dependent definition would also apply. However, if the dental, vision or prescription drug coverage is "free-standing" in a separate policy, these new rules are optional for the health insurer for those benefits.

- 18. Are employers required to contribute toward the cost of this extended dependent age, if they contribute toward the cost of dependent children?**

There is no requirement for employers to contribute to the cost for dependent children; however, employers need to be careful not to discriminate between individuals in the same class.

- 19. Does the dependent need to have been previously covered as an eligible dependent under the parent's plan to qualify?**

No.

- 20. If the dependent is under age 26, unmarried, and a state resident, but is working and becomes covered under a self-insured health plan through his or her employment, is the dependent eligible for individual or group health insurance coverage under a parent's plan?**

No. Public Act 08-147 provides that dependent eligibility terminates when a dependent "becomes covered under a *group health plan* through the dependent's own employment". With respect to this statutory provision only, the Department interprets the term "group health plan" to include insured and self-insured plans. Therefore, the dependent is not eligible under a parent's plan if the dependent becomes covered under a "group health plan" through the dependent's own employment.

Please contact the Insurance Department Consumer Affairs Division at ctinsdept.consumeraffairs@ct.gov or at 1-800-203-3447 or 860-297-3900 with any questions.

Notice of Dependent Eligibility Change

New Dependent Eligibility:

Health coverage is available for the dependents of eligible employees under our plan through the operation of Connecticut Public Act 08-147, effective on January 1, 2009. Dependents under this law are defined as the dependent of the employee who is under age 26, not married, not covered under another group health plan by virtue of the dependent's own employment, and a resident of the State of Connecticut, or a dependent who is under age 26, not married, not covered under another group health plan by virtue of the dependent's own employment, but who does not reside in Connecticut because he or she is a full time student at an accredited institution outside the State of Connecticut.

Open Enrollment

The Company will hold an open enrollment for employee dependents between _____ and _____. Thereafter, dependents will be eligible for enrollment at our annual open enrollment in _____.

Tax Consequences for Non-Qualifying Dependent

Under federal tax law, if your dependent does not qualify as a tax dependent as defined below, then the portion of the premiums the company pays for coverage of your dependent will be included in your gross income subject to federal income tax withholding and employment taxes, as will be reported on your Form W-2. You will also be unable to claim expenses for your dependent under the Flex Program.

Tax Consequences Where Dependent is a Tax Dependent

If your dependent qualifies as your tax dependent, no portion of the premium paid by the company will be subject to federal withholding for employment taxes.

Who is a Tax Dependent?

The following provides only a brief explanation of certain portions of the applicable tax law; you should consult with your tax advisor for a more complete explanation and determination of your dependent's tax status.

Your dependent may qualify as a tax dependent under the Internal Revenue Code, for health coverage purposes only, if the following conditions are met: the dependent is a qualifying child or a qualifying relative. A qualifying child is: your child, adopted child, step child or foster child who is under age 19, or who is a full time student under age 24, or who is permanently or totally disabled; who lives with you for at least half the year; and, who relies on one or more of the parents for at least half of his or her support. A qualifying relative is: your child or other close family member who relies on you for at least half of his or her support, lives in your abode for the entire calendar year, and whose relationship to you does not violate local law.

Filing a Certification of Dependent Status

If your dependent qualifies as your tax dependent, the company-paid premiums for health coverage for that dependent will not be treated as taxable income. To avoid taxation, you must complete and return a Certification of Dependent Status at the time you enroll your dependent. Because the company cannot determine whether your dependent is a dependent for tax purposes, the company cannot make this determination for you. If the company does not receive a properly completed Certification form from you, we will assume that your dependent does not qualify as a tax dependent.

Certification of Tax Dependent Status

I declare, under the penalty of perjury under the laws of the State of Connecticut, that the statements below are true and accurate. I understand the requirements for qualifying another person as my federal tax dependent.

My dependent, (name and address) _____

qualifies as a federal tax dependent in the current tax year. I agree to notify the Plan Administrator of the Group Health Plan in writing as soon as there is any change in the above person's status as my tax dependent.

As provided under the Internal Revenue Code, the above named dependent is a qualifying child (a child, adopted child, step child or foster child who is under age 19, or who is a full time student under age 24, or who is permanently or totally disabled; who lives with you for at least half the year; and, who relies on one or more of the parents for at least half of his or her support) or a qualifying relative (a child or other close family member who relies on you for at least half of his or her support, lives in your abode for the entire calendar year, and whose relationship to you does not violate local law).

I understand that, on the basis of the above statements, the above named person may be considered a tax dependent by the Company for all federal income and employment tax purposes. I agree to reimburse the Company for any and all taxes, penalties, or other losses (including reasonable attorney's fees) that the Company may incur as a result of reliance on this Certificate if it untrue in any respect or if I fail to provide notice as required herein.

Signature

Print Name

Date