

Issue Brief

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PRIVATE HEALTH INSURANCE CONTINUATION COVERAGE

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PRIVATE HEALTH INSURANCE CONTINUATION COVERAGE

SUMMARY

Most Americans with private group health insurance are covered through an employer. In the past, that coverage was generally dependent on being employed or being related to the employed worker. A change in the individual's work or family status often resulted in the loss of that coverage. In April 1986, a new law was enacted which should help most individuals retain their health insurance in the event of a change in their work or family status for 18 or 36 months, depending on the nature of the event. Under Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA, P.L. 99-272), and subsequent amendments, an employer with 20 or more employees is required to provide his or her employees and their families the option of continued coverage under the employer's group health insurance plan in the case of certain designated events. The employer is not required to pay for this coverage. Employers who fail to provide the continued health insurance option are subject to penalties under the Internal Revenue Code, and the Employee Retirement Income Security Act (ERISA); State and local governments are subject to penalties under the Public Health Service Act.

COBRA was signed into law on Apr. 7, 1986. Before the end of the year, Title X was modified twice: The Tax Reform Act of 1986 (P.L. 99-514) included technical corrections, and the Omnibus Budget Reconciliation Act of 1986 (P.L. 99-509) provided for continuation coverage for retirees in cases of bankruptcy. The Departments of Labor and Treasury have provided preliminary guidance on implementation of the Title X provisions.

Title X was enacted in response to increasing congressional concern about the large number of Americans who lack health insurance. In 1985, an estimated 35 million Americans under age 65 were without any health insurance coverage. Some of these individuals would have retained health insurance had they not lost it as a result of a lay-off, or as a result of the death of or divorce from the covered worker. Congress considered and enacted continuation coverage legislation with the expectation that it would help expand access to health insurance coverage for at least these individuals.

The 100th Congress is faced with competing pressures in respect to the new continued health insurance coverage law. Some Members of Congress believe that COBRA went too far in mandating that employers provide their employees and their employees' families continued coverage. They argue that Title X has resulted in extra costs for employers as well as added administrative burdens. They also argue that the penalties for violating Title X are too severe. In contrast, others in Congress believe that COBRA should be expanded to include new eligibility categories.

ISSUE DEFINITION

Most Americans with private group health insurance are covered through an employer. In the past, that coverage was generally dependent on being employed or being related to the employed worker. A change in the individual's work or family status often resulted in the loss of coverage. In April 1986, a new law was enacted which should help most individuals retain their health insurance in the event of a change in their work or family status. Under Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA, P.L. 99-272), and subsequent amendments, an employer with 20 or more employees is required to provide his or her employees and their families the option of continued coverage under the employer's group health insurance plan in the case of certain designated events. The employer is not required to pay for this coverage.

The 100th Congress is faced with competing pressures in respect to Title X and its amendments. Some in Congress believe that COBRA went too far in mandating that employers provide their employees and their employees' families continued coverage. They argue that Title X has resulted in new costs for employers as well as additional administrative burdens; legislation has been introduced to pare back eligibility for Title X. Legislation has also been introduced to modify the sanctions for violating Title X. In contrast, some Members believe that COBRA should be expanded to bring additional individuals under the continuation of coverage option. In any event, Members of Congress have received, and are likely to continue to receive, numerous inquiries from the public about the Title X provisions, because the law did not elaborate on many of the details relating to eligibility and enforcement. In addition, many employers were not aware of the enactment of the continuation of coverage requirement.

BACKGROUND AND ANALYSIS

Expanding Access to Private Health Insurance

Title X of COBRA is one of a number of recent laws mandating that private employers who offer health insurance conform to certain Federal requirements. (See CRS Issue Brief 87168, Mandated Employer Provided Health Insurance.) One of the factors leading to new Federal benefit requirements on employers is the concern of Congress about the large number of medically uninsured Americans. While most Americans under age 65 obtain private health insurance coverage through the workplace, in 1986 there were an estimated 25 to 37 million Americans under age 65 who were without any health insurance coverage. Surveys indicated that a substantial number of the uninsured lost coverage as a result of the termination of employment or a change in family status. For example, many workers and their families lost access to an employer's health insurance plan when the workers were laid off. Coverage for the family was also lost if the worker died. Congress considered and enacted continuation coverage legislation with the expectation that it would help expand access to coverage for at least these individuals. Continuation coverage was

not, however, expected to lead to coverage of the vast majority of uninsured Americans, a goal for which other solutions would be more appropriate.

Prior to the enactment of Title X of COBRA, if an employee's job was terminated (voluntarily or involuntarily), the insurance offered by the employer also terminated. While there were exceptions, paid benefits usually terminated within 30 to 60 days after leaving the job. Continued coverage, where the employee would have the option to buy into the employer's group plan, might be of longer duration, but there was no certainty that an employer would provide such an option. In addition, in 1985, 10 States mandated that insurance policies sold in their States had to include a continuation of coverage option for laid-off workers. However, self-insured employers (employers which assume the risk of the health care costs of their employees rather than passing the risk onto insurers) were not regulated by these State-mandated benefit laws, thus leaving a large portion of the workforce unaffected by the mandates. Self-insured plans are considered employee welfare benefit plans and are regulated by the Federal Government under the Employee Retirement Income Security Act (ERISA). According to researchers from the National Center for Health Services Research, 13% or 1.4 million unemployed workers lost health insurance in 1982 as a direct result of unemployment. These individuals had private health insurance prior to the date of unemployment and were without such coverage for several months after the termination of employment.

Also, prior to COBRA, employer practices varied greatly as to whether any continuation of coverage would be available in the event of a change in family status. For example, data from the Bureau of Labor Statistics for 1985 indicate that a majority of medium and large sized firms offered some continued coverage to the families of deceased workers. That coverage ranged, however, from less than 30 days to indefinite coverage, sometimes lasting until the widow became eligible for Medicare. About 12% of the firms for which there were data reported no continuation coverage.

Women were especially likely to have been affected by a change in family status because, traditionally, their health insurance was dependent on both marital and employment status. Most married women, whether or not in the paid labor force, have private insurance. However, in 1977 (the last year for which data are available), only 50% of all widows and 33% of all divorced women, ages 35-64, who did not have paid jobs had private insurance (1977 National Medical Care Expenditure Survey). A large number of these women and their dependent children relied on Medicaid for health insurance. Of those women not in the paid labor force, more than 40% of all divorced women and about 25% of all widows, ages 35 to 64, depended on Medicaid as their only source of insurance.

Debate over Health Insurance Continuation

The principal advocates for legislation to provide for federally mandated continuation coverage were women's organizations, although they were later joined by other groups concerned about the medically uninsured.

The arguments for and against the continued coverage legislation changed as the various proposals were broadened to include coverage for terminated employees.

Proponents of a Federal health insurance continuation law observed that for a large percentage of women, access to health insurance was through their husband's employer-based group. It followed that a Federal continuation provision was necessary to protect women and their families from losing access to this health insurance when the husband died, became eligible for Medicare or retired. In addition, it was important to protect women from the loss of coverage that resulted from a divorce or legal separation. At best, the loss of the husband's coverage could result in major increases in insurance costs if the woman attempted to buy coverage through the private individual insurance market. At worst, the woman might not be able to obtain any private coverage at all if she had a preexisting illness. She might then go on the Medicaid rolls or remain uninsured.

Proponents of continuation also asserted that a Federal mandate would not necessarily cost employers any money. Beneficiaries could be asked by employers to pay the total cost of the premium, and any administrative costs. In addition, reporting and other administrative requirements could be designed to ensure that employers did not incur major new burdens. Finally, it was argued that employers would ultimately share in the savings to the community that would result from reduced stress on Medicaid and lower levels of uncompensated care, through lower taxes and lower health insurance premiums for their active workers.

Those who strongly opposed the continuation of coverage legislation argued that it was not appropriate for the Federal Government to regulate employer-sponsored benefits. They pointed to data showing that large numbers of employers already offered continuation of coverage. They also argued that by forcing employers to offer continuation, the Federal Government would be discouraging employers from providing health benefits, and that increasing numbers of employers, especially smaller ones, would drop their health benefits entirely.

However, most of the groups who were opposed to continuation indicated a willingness to accept the legislation if certain modifications were incorporated. They unsuccessfully pressed for a shorter duration of coverage, the elimination of coverage for laid-off employees and those who voluntarily terminated their jobs, higher beneficiary premiums to allow for what they argued would be increased administrative costs, and enactment of a preemption of State-mandated benefits to allow uniform administration of health benefit plans that encompassed employees in more than one State. In pressing for these changes, these groups argued that most people who were laid off would obtain coverage through their spouse's employer-provided plan. In addition, they said that a shorter duration of coverage and more narrow definitions of qualified beneficiaries were needed to prevent adverse selection into their plans, in which there would be an above-average probability that individuals enrolling in the plan would use its coverage. This argument was most often used in efforts to reduce coverage for widows, divorced spouses and dependents. The rationale was that these individuals were likely to be higher users of

health care than, for example, active workers. The theory was that women and children used health services more frequently than working males. They therefore, would be likely to elect the continuation of coverage option. The insurers would factor in this higher utilization in the rating of the employers' premiums, thereby driving up the costs of the employers' plans.

Legislative History of Continued Private Health Insurance Coverage

The principal health insurance continuation proposals were included in the budget reconciliation bills for the FY86 budget (H.R. 3128, H.R. 3500, and S. 1730) and, after a set of complex procedural steps, were incorporated in the House and Senate versions of H.R. 3128. The final version of Title X of COBRA was the product of conference committee negotiations among five committees: three from the House (Education and Labor, Energy and Commerce, and Ways and Means) and two from the Senate (Finance, and Labor and Human Resources). (See CRS Report 87-613, Private Health Insurance Continuation Coverage: Legislative History of Title X of COBRA.)

COBRA was signed into law on Apr. 7, 1986. Before the end of the year, Title X was modified twice: The Tax Reform Act of 1986 (P.L. 99-514) included technical corrections, and the Omnibus Budget Reconciliation Act of 1986 (P.L. 99-509) provided for continuation coverage for retirees in cases of bankruptcy. Proposals (H.R. 4333, H.R. 4845, H.R. 5080, and S. 2238) are moving in the 100th Congress to change the sanctions and make a variety of technical modifications.

Regulatory Actions

Title X amends three statutes: the Internal Revenue Code, administered by the Internal Revenue Service of the Department of the Treasury; ERISA, administered by the Department of Labor; and the Public Health Service Act, administered by the Public Health Service of the Department of Health and Human Services. In this regard, the conference report for COBRA (H.Rept. 99-453, p. 562) states:

To avoid the issuance of duplicate and perhaps inconsistent regulations, the conferees authorized the Secretary of Labor to promulgate regulations implementing the disclosure and reporting requirements, and the Secretary of the Treasury to issue regulations defining required coverage, deductions and inclusions. The Secretary of Health and Human Services is to issue regulations regarding the requirement that State and local governments provide continuation coverage for qualified beneficiaries. The conferees intend that any regulation issued by the Secretary will conform (in terms of actual requirements) with those regulations issued by the Secretary of the Treasury and Labor....

The conference report also says that "pending the promulgation of regulations, employers are required to operate in good faith compliance with a reasonable interpretation of these substantive rules, notice requirements, etc. (p. 563)."

On June 26, 1986, the Department of Labor issued a technical bulletin to assist employers and group health plans in informing workers about the availability of extended health care coverage under Title X. The bulletin contains a model notice summarizing the rights and obligations of employees and their families under Title X. Employers may use this model notice to satisfy the general notification requirements of the law.

On June 15, 1987, the Internal Revenue Service issued proposed regulations relating to Title X and the relevant provisions in the Tax Reform Act of 1986, which "clarify which plans must offer COBRA continuation coverage and the tax consequences of failing to do so. They also provide guidance on a variety of details, including the scope of the continuation coverage, who is a qualified beneficiary, what is a qualifying event, how elections [of continued coverage] are made, and when payment must be made." The Internal Revenue Service has not yet issued proposed rules regarding computation of the applicable premium to be charged for the continuation coverage, something that is especially relevant to the calculation of premiums for self-insured plans. In addition, the proposed regulations do not cover the amendments made by OBRA of 1986 relating to certain bankruptcies as qualifying events.

In compliance with the language of the conference report on COBRA, the Public Health Service does not plan to issue regulations until final regulations have been promulgated by the Departments of Treasury and Labor. The Department of Labor is currently considering whether regulations are necessary regarding Title X's disclosure and reporting requirements.

New Law

What Does Title X of COBRA Do?

COBRA requires employers with 20 or more employees that offer a group health insurance plan to offer qualified employees and their families the option of continued health insurance at group rates when faced with loss of their coverage because of certain events. Self-insured firms (ones which assume the risk of paying for their employees' health care costs rather than passing that risk onto insurers) are also covered under Title X. An employer is considered as having normally employed 20 or more employees during a particular year if it had 20 employees on at least 50% of its working days during that year.

An employer must comply with COBRA even if he does not contribute to the health plan; he need only maintain such a plan to come under the statute. Church plans, the Federal Government, the government of the District of Columbia, and territories and possessions of the United States are excluded from the COBRA continuation requirement.

The events that trigger COBRA continuation of coverage are defined to include: (1) termination or reduction in hours of employment (for reasons other than gross misconduct), (2) the death of the employee, (3) divorce or legal separation from the employee, (4) the employee becomes eligible for Medicare, and (5) the end of a child's dependency under a parent's health insurance policy. An event will trigger continuation if, under the terms of the employer's group health plan, the event causes the employee, or the spouse, or a dependent child of the employee, to lose coverage under the plan. The loss of coverage need not occur immediately after the event, so long as the loss of coverage will occur before the end of the maximum coverage period. Title X has very specific effective dates (see below). An event that occurred prior to the effective date will not be considered a qualifying event for continuation of coverage purposes. When a covered employee experiences termination or reduction in hours of employment, then the continued coverage of the employee and any qualified beneficiaries must continue for 18 months. For all the other qualifying events, the coverage for the qualified beneficiaries must be continued for 3 years.

The Internal Revenue Service's proposed regulations for Title X provide guidance on who is eligible for COBRA continuation coverage and what constitutes a qualifying event. For example, voluntary termination of employment is a qualifying event. With the exception of gross misconduct, it does not matter whether the employee voluntarily quit, retired, or was discharged. A strike or reduction of work hours also are qualifying events if they result in the loss of coverage. Newborn children, adopted children and spouses who join the family of a qualified beneficiary after the day before a qualifying event are not included as beneficiaries for COBRA continuation purposes.

The continuation coverage must be identical to that provided to similarly situated beneficiaries who did not lose coverage, and it must generally be the same as the group health plan coverage enjoyed by the qualified beneficiary immediately before the qualifying event. The term "similarly situated" is intended to ensure that beneficiaries who elect, for example, continued coverage under the employer's family option (as opposed to the self-only option) receive the identical coverage as active workers who elect the family option.

The employer's health plan may require the employee or beneficiary to pay the premium for the continuation coverage, but the premium may not exceed 102% of the otherwise applicable premium for that period. The plan must allow a qualified beneficiary to pay for the coverage in monthly installments, although alternative intervals may also be offered.

Title X spells out specific rules for notice and election of continuation coverage. Once an employer's health insurance plan becomes subject to the Title X provisions, the plan is required to notify in writing each covered employee and his or her spouse of their rights to continued coverage. The plan is also required to give such notice when an employee begins to be covered under the health plan. A person qualified to elect continuation coverage must do so within 60 days of the date after which coverage under the group plan would otherwise terminate, or the date that the beneficiary is sent notice of his or her right to elect COBRA.

In general, the employer or plan administrator is responsible for determining when a qualifying event has occurred and notifying the eligible beneficiaries. However, each covered employee or qualified beneficiary is responsible for notifying the employer or other plan administrator when the event is a dependent child ceasing to be a dependent child of the covered employee or a divorce or legal separation of a covered employee.

The duration of COBRA continuation coverage is for at least the period beginning on the date of the qualifying event and ending not before the earlier of the following dates: (a) the last day of the maximum coverage period (for example, 18 months for a covered worker who has terminated employment), (b) the first day for which timely payment of the premium is not made to the plan with respect to the qualified beneficiary, (c) the date on which the employer ceases to maintain any group health plan, (d) the first date after the date of the election on which the qualified beneficiary elects coverage (that is, is actually covered and not just eligible to be covered) under any group health plan that is not maintained by the employer, and (e) the date the qualified beneficiary is entitled to Medicare benefits.

COBRA also requires that, in some cases, the employer's group health plan offer qualified beneficiaries the option of converting to an individual policy at the end of the COBRA continuation period. This is only true for those plans which provide a conversion option to similarly situated active employees. Conversion enables an individual to buy health insurance from the employer's plan without being subject to medical screening. While the premiums for an individual policy are higher than for the group policy, the conversion option may be attractive to a person who would otherwise have difficulty obtaining health insurance because he or she has a major illness or disability.

Employers who fail to provide continued health coverage could lose their tax deductibility for employer contributions to their employees' health insurance, and be subject to penalties. Specifically, if a group health plan subject to COBRA fails to comply with the law, the IRS can disallow deductions for contributions or other expenses paid or incurred in connection with any group health plan that the employer maintains. In addition, the income exclusion under section 106(a) of the Internal Revenue Code is denied to certain highly compensated employees of that employer. (This means that for plans out of compliance, the IRS can deny to highly compensated employees the exclusion from taxable gross income payments made by the employer for health insurance coverage.) For group health plans covered under ERISA, the general enforcement provisions of ERISA apply: employers and plan administrators are subject to civil and/or criminal legal action (depending on the alleged violation), and civil penalties of up to \$100 per day would apply for failure to provide the required notification. In addition to the new requirements imposed on private sector employees, Title X also imposes similar requirements on group health plans maintained by any State or political subdivision that receives funds under the Public Health Service Act.

Title X became effective for health plan years beginning on or after July 1, 1986 (generally, health insurance coverage is on a yearly basis and may start at any point during the calendar year). In the case of plans established under collective bargaining agreements ratified before COBRA was enacted, there is a special rule. The continuation provisions do not apply to plan years beginning before the date on which the agreement terminates, or before Jan. 1, 1987, whichever is later. The IRS has provided the following example to help clarify. Assume that the plan year of a collectively bargained group health plan is the calendar year and that, as of Apr. 7, 1986, the plan is maintained pursuant to three collective bargaining agreements having expiration dates in October 1987, February 1988 and July 1988. The plan must offer health insurance continuation beginning on Jan. 1, 1989. But the plan must begin to comply by Jan. 1, 1987, with respect to a collective bargaining unit that was not, as of Apr. 7, 1986, covered by one of those three agreements.

Tax Reform Act of 1986

In the Tax Reform Act of 1986 (P.L. 99-514), Congress included a number of technical corrections to Title X of COBRA. Some of the provisions were clarifications and some imposed new parameters on the nature of the continued health insurance benefit. Specifically, the provisions (1) establish a 60-day notification period for certain potential beneficiaries of continuation (eg., divorced and legally separated spouses of covered employees), (2) specify the maximum duration of continued health coverage when there is more than one qualifying event (in no event may the coverage period exceed 36 months), (3) clarify that each qualified beneficiary is entitled to a separate election of continuation coverage, (4) specify the length of the grace period for non-payment of premiums, (5) clarify that the continued health benefits are to be treated in the same manner as benefits for similarly situated beneficiaries under the plan, (6) define health benefits to mean health benefit plans, including dental and vision care, and (7) exclude a non-resident alien with no earned income from sources within the United States from the definition of "qualified beneficiary." The effective date for these provisions is the same as for Title X of COBRA.

OBRA of 1986

In 1986, Congress considered an expansion of COBRA to require that employers provide continued health coverage to laid-off workers for 4 months, during which time the employer would continue to pay whatever portion of the health insurance premium he or she was paying before the layoff (See H.R. 4742 (Stark), S. 2402 (Kennedy), and S. 2403 (Durenberger)). While this provision did not pass, Congress did enact as a part of the OBRA of 1986 (P.L. 99-509) an expansion of Title X to require continuation coverage for retirees in cases where the employer files for bankruptcy. This provision was motivated largely by the bankruptcy filing of LTV Corporation, one of the Nation's major steel manufacturers. LTV had 78,000 retirees who were receiving health benefits under the company's plan, and who were threatened with the termination of benefits as a result of the bankruptcy action.

Specifically, OBRA adds a new qualifying event which consists of a proceeding in a case under the bankruptcy provisions of Title XI of the United States Code, commencing on or after July 1, 1986. In such cases, a loss of a retiree's coverage means a substantial elimination of the beneficiary's coverage within one year before or after the date the bankruptcy proceedings commenced. The continued coverage extends until the death of the retiree. For the surviving spouse or the dependent children of the covered employee, the coverage is limited to 36 months. These amendments apply in any plan years ending during the 12-month period beginning July 1, 1986, but only with respect to Title II bankruptcy qualifying events or the death of a covered employee after the date of bankruptcy. (See CRS Report 87-196 A.)

Action in the 100th Congress

Congress is currently considering several changes to Title X of COBRA. Because House jurisdiction over Title X is shared by three committees (Education and Labor, Ways and Means, and Energy and Commerce), proposed changes on which action is anticipated are found in bills three different bills (H.R. 4333, H.R. 4845, and H.R. 5080). The Senate's proposed changes are contained in S. 2238.

House Action

On July 26, 1988, the House Ways and Means Committee reported H.R. 4333, the "Miscellaneous Revenue Act of 1988" (H.Rept. 100-795). It was passed by the House on August 4 (380-25). H.R. 4333 would replace the current sanctions under the Internal Revenue Code for employers that violate Title X with an excise tax of \$100 per day during the period of noncompliance. The tax would apply separately with respect to each qualified beneficiary for whom there was a failure to satisfy the health care continuation rules. H.R. 4333 would limit the liability for employers to a specified maximum, and would also provide that in specified cases, persons other than the employer (such as the plan administrator) would be liable for the excise tax.

On July 27, the House Ways and Means Committee reported H.R. 4845, the "Pension Related Technical Corrections" bill (H.Rept. 100-801, Part I). H.R. 4845 includes changes to Title X that amend the Internal Revenue Code and ERISA. It does not include changes to the sanctions for noncompliance (see H.R. 4333). H.R. 4845 would (1) allow persons to keep their continued coverage for 18 or 36 months regardless of whether they became newly covered under an employer's group health plan (this provision is intended to allow continuation coverage to fill gaps created by preexisting condition coverage exclusions in the new employer's policy); (2) modify the definition of employer (for purposes of Title X only) to include persons receiving or performing services other than in an employer-employee relationship; (3) clarify that a plan may not require the payment of any premium until 45 days after the day on which the qualified beneficiary made the election for continuation coverage; and (4) provide that the maximum period of continuation coverage available to a person as a result of a reduction of hours followed by job termination is 18 months.

On August 10, the Education and Labor Committee ordered reported its version of H.R. 4845. The bill would modify the current sanctions to provide for a civil penalty of \$100 per day for noncompliance under Title I of ERISA, and would authorize the Secretary of Labor to sue any person liable under the new civil penalty section to collect the penalty. Additional provisions relating to sanctions are similar to the Ways and Means version of H.R. 4845. Also similar are provisions relating to the definition of an employer, and the 45 day allowance for payment. In addition, the Education and Labor Committee's bill would provide special notice rules for multiemployer plans, and require the GAO to conduct a study (due to Congress by Aug. 30, 1989) on the extent to which employers have established or lengthened the eligibility period for group health coverage as a result of Title X. Finally, the bill provides that a person who is not eligible for continuation coverage because of coverage from another plan may elect continuation coverage under the prior employer's plan if, within one year from the date of the qualifying event (for example, termination from employment), the new employer's plan rejects a claim for payment based on a preexisting condition. However, the prior employer's coverage would only be required to continue if that condition would have been covered under the prior employer's plan had a qualifying event not occurred.

H.R. 5080, introduced by Representative Rostenkowski on July 14, 1988, would amend the Public Health Service Act to make technical changes in Title X of COBRA. Included are changes to modify the definition of employer and covered employee and the 45 day payment rule. H.R. 5080 was referred to the House Energy and Commerce Committee.

Senate Action

On Aug. 3, 1988, the Senate Finance Committee reported S. 2238, the "Technical Corrections Act of 1988" (S.Rept. 100-445). In respect to Title X, S. 2238 is similar to H.R. 4845 as reported by the Ways and Means Committee. It would (1) allow persons to keep their continued coverage for 18 or 36 months regardless of whether they became newly covered under an employer's group health plan; (2) modify the definition of employer to include persons receiving or performing services other than in an employer-employee relationship; (3) clarify that a plan may not require the payment of any premium until 45 days after the qualified beneficiary made the election for continuation coverage; and (4) provide that the maximum period of continuation coverage available to a person as a result of a reduction of hours followed by job termination is 18 months.

LEGISLATION

H.R. 1072 (Henry)

Amends the Internal Revenue Code of 1986, the Employee Retirement Income Security Act of 1974, and the Public Health Service Act with respect to two aspects of continuation of health care coverage. The bill provides that (1) continuation of coverage is terminated upon eligibility of an individual to participate under another group plan, and (2) an

employee's right to continuation of coverage does not go into effect until the employee has worked for an employer for a period of 90 days. Introduced Feb. 10, 1987; referred to Committees on Education and Labor, on Energy and Commerce, and on Ways and Means.

H.R. 4136 (Pelosi)

Requires employers to extend health insurance continuation coverage for up to 29 months to former employees on Social Security disability insurance. Permits employers to charge these former employees a premium equal to 152% of the cost of coverage during the 11 additional months of coverage. Introduced Mar. 10, 1988; referred to Committees on Energy and Commerce, on Education and Labor, and on Ways and Means.

H.R. 4333 (Rostenkowski), S. 2238 (Bentsen)

Technical Corrections Act of 1988. Includes technical corrections to the Title X provisions of COBRA relating to (1) the definition of "covered employees," and (2) the timing of the payment of the premium after initial election of continuation coverage. Also deletes the provision allowing continuation coverage to be terminated upon the coverage of the qualified beneficiary under a new employer's group health plan. H.R. 4333 introduced Mar. 31, 1988; referred to Committee on Ways and Means. Reported, amended (H.Rept. 100-795) July 26. Passed House, amended (380-25), Aug. 4. S. 2238 introduced Mar. 31, 1988; referred to Committee on Finance.

H.R. 4829 (Morella)

Amends Title 5 of the U.S. Code (relating to the Federal Civil Service) to allow for temporary continuation of health benefits coverage for separated employee and certain family members. Introduced June 15, 1988; referred to Committee on Post Office and Civil Service.

H.R. 4845 (Rostenkowski)

Makes technical corrections in pension-related provisions in the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974. Includes technical changes to Title X of COBRA. Introduced June 16, 1988; referred to Committees on Ways and Means, and on Education and Labor. Reported by Committee on Ways and Means (H.Rept. 100-801, Part I) July 27. Ordered to be reported by Committee on Education and Labor Aug. 10, 1988.

H.R. 5080 (Rostenkowski)

Amends the Public Health Service Act to make technical corrections in the continuation coverage requirements of group health plans. Introduced July 14, 1988; referred to Committee on Energy and Commerce.

H.R. 5102 (Ackerman)

Amends provisions of Title 5, U.S. Code, relating to the health benefits program for Federal employees. Provides for temporary continuation of coverage for separated employees and certain family members. Introduced July 28, 1988; referred to Committee on Post Office and Civil Service. Ordered to be reported Aug. 10, 1988.

S. 2401 (Harkin)

Amends the Internal Revenue Code, the Employee Retirement Income Security Act, and the Public Health Services Act to provide that a person's eligibility to receive continued health benefits (under Title X of COBRA) ceases as soon as that person becomes eligible for coverage under another group health plan. Introduced May 16, 1988; referred to Committee on Finance.

CHRONOLOGY**Title X of COBRA**

- 04/07/86 --- President signed H.R. 3128 into law as P.L. 99-272 (COBRA).
- 03/20/86 --- House agreed to Senate version of H.R. 3128, clearing the bill for the President's signature.
- 12/19/85 --- Conference report for H.R. 3128 filed in House (H.Rept. 99-453). Senate agreed to conference report but House rejected it.
- 12/05/85 --- House incorporated H.R. 3500 (containing Committee on Education and Labor's health insurance continuation provisions) into H.R. 3128. House asked for a conference on H.R. 3128.
- 11/14/85 --- Senate amended and passed H.R. 3128 (93-6) by substituting the text of S. 1730 for House-passed provisions.
- 10/31/85 --- H.R. 3128 passed House (245-174).
- 10/24/85 --- H.R. 3500, as amended, passed House (228-199).
- 10/03/85 --- H.R. 3500 (Omnibus Budget Reconciliation Act) introduced in House, containing Committee on Education and Labor's health insurance continuation provision.
- 10/02/85 --- S. 1730 (Consolidated Omnibus Budget Reconciliation Act) introduced in Senate containing a health insurance continuation provision that was a modification of several bills: S. 1211, Health Equity and Fairness Act; S. 1615, Health Care Improved Access Act; and S. 1632.
- 09/11/85 --- H.R. 3128 reported from House Committee on Education and Labor containing a health insurance continuation coverage provision.
- 07/31/85 --- H.R. 3128, Deficit Reduction Amendments of 1985, introduced in House incorporating continuation provisions of H.R. 3210 and H.R. 21, Continued Access to Group Health Insurance Act. Reported by Committee on Ways and Means to the House.

Amendments to Title X**Coverage of Retirees of Firms in Bankruptcy**
(H.R. 5300, OBRA of 1986)

- 10/21/86 --- President signed H.R. 5300 into law as P.L. 99-509 (OBRA).
- 10/17/86 --- House agreed to conference report (H.Rept. 99-1012). Senate agreed to conference report.
- 09/25/86 --- Senate passed H.R. 5300 with Senate amendments. H.R. 5300 sent to conference.
- 09/24/86 --- H.R. 5300 passed in House.

Technical Corrections to Title X
(H.R. 3838, Tax Reform Act of 1986)

- 10/22/86 --- President signed H.R. 3828 into law as P.L. 99-514.
- 09/27/86 --- Senate agreed to conference report for H.R. 3838.
- 09/25/86 --- House agreed to conference report for H.R. 3838 (H.Rept. 99-841).
- 07/16/86 --- H.R. 3838 sent to conference.
- 06/24/86 --- Senate passed H.R. 3838 with Senate amendments.
- 12/17/85 --- H.R. 3838 passed in the House.

Regulatory Actions

- 06/15/87 --- Department of Treasury published proposed rules in the Federal Register for Continued Private Health Insurance Coverage as per P.L. 99-272 and P.L. 99-514.
- 06/26/86 --- Department of Labor issued ERISA Technical Release providing guidance on group health insurance continuation coverage notification provisions.
- 11/04/86 --- Department of Treasury held public hearings in Washington, DC, for continued private Health Insurance Coverage.

CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS

- U.S. Congress. House. Providing for reconciliation pursuant to section 2 of the Concurrent Resolution on the Budget for Fiscal Year 1987; conference report to accompany H.R. 5300. Washington, U.S. Govt. Print. Off., Oct. 17, 1986. (99th Congress, 2d session. House. Report no. 99-1012)
- U.S. Congress. House. Committee of Conference. Consolidated Omnibus Budget Reconciliation Act of 1985. Washington, U.S. Govt. Print. Off., Dec. 19, 1985. (99th Congress, 1st session. House. Report no. 99-453)
- U.S. Department of Labor. Office of Pension and Welfare Benefit Programs. ERISA Technical Release no. 86-2. Guidance on group health continuation coverage notification provisions. Washington, June 26, 1986.
- U.S. Department of the Treasury. Internal Revenue Service. 26 CFR Part 1. Income tax; continuation coverage requirements of group health plans; notice of proposed rulemaking, Federal register, June 15, 1987: 22716-22732.

FOR ADDITIONAL READING

- U.S. Library of Congress. Congressional Research Service. Employees group health insurance benefits continuation, by Vincent E. Treacy. [Washington] July 11, 1986, updated Feb. 20, 1987.
CRS Report 87-196 A
- Private health insurance continuation coverage: legislative history of Title X of COBRA, by Beth C. Fuchs. [Washington] July 15, 1987.
CRS Report 87-613 EPW