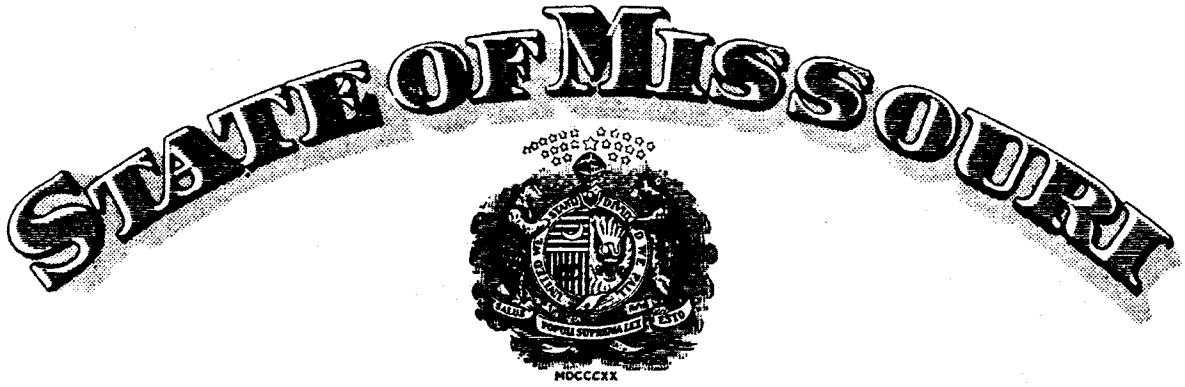

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

P.O. Box 690, Jefferson City, Mo. 65102-0690

INSURANCE BULLETIN 09 –02

Effect of House Bill 231 on State Continuation Insurance Laws

ISSUED September 4, 2009

TO: All Insurers offering Group Health Insurance

FROM: John M. Huff, Director

RE: Changes in State Continuation Laws for Health Insurance

DATE: September 4, 2009

On June 26, 2009, Governor Jay Nixon signed Missouri House Bill 231 into law. This bill revises Missouri law as to the requirements for continuation of health insurance coverage for small employers with less than 20 employees. Federal law, under the Consolidated Omnibus Budget Reconciliation Act, also known as COBRA, governs health insurance continuation requirements for employers with more than 20 employees.

Previously, differences between Missouri law for small employers and federal COBRA laws in both the scope and duration of coverage existed. Because of the passage of HB 231, Missouri law now requires that the employee be offered a continuation of their health insurance coverage "...in the same manner as continuation of coverage is required under the continuation of coverage provisions set forth in the federal Consolidated Omnibus Budget Reconciliation Act (COBRA), as amended."

The statutory language requiring that continuing health insurance coverage be offered in the "same manner as continuation of coverage is required" under federal COBRA means that Missouri state laws regarding continuation of health insurance coverage now mirror those provided under federal COBRA law. Some of the more notable changes as a result of House Bill 231 are:

Employees - Employees covered by their employer's group health, dental or vision insurance plans have the right under HB 231 to choose Continuation Coverage when the employee loses coverage because of a

reduction in hours of employment or the termination of employment for reasons other than gross misconduct.

Spouses and dependents of employees - Spouses and dependents of an employee covered by the employer's group health, dental or vision insurance have the right to choose Continuation Coverage if they lose group health, dental, or vision coverage under the covered employee's plan for any of the following reasons: 1) death of the employee; 2) reduction in the employee's hours of employment or termination of the employee's employment for reasons other than gross misconduct; 3) the employee becomes entitled to Medicare. In the case of a spouse, they are also entitled to Continuation Coverage in the event of divorce or legal separation from the employee. For dependents, they are also entitled to Continuation Coverage when they cease to be a "dependent child" as defined under the employee's group insurance plan. Dependents would include children adopted by the employee.

Scope of coverage – If an employee, spouse or dependent elects Continuation Coverage, the employer is required to offer the same coverage that is provided under its group insurance plan to all other covered employees, spouses and dependents.

Duration of continuation coverage - In the event of a termination of employment or reduction in hours, the required continuation of coverage period for health, dental, or vision is eighteen (18) months. The initial eighteen (18) month coverage period may be extended up to thirty-six (36) months if other qualifying events occur during the initial eighteen (18) month coverage period. These events could include the disability of the employee, or a second qualifying event occurring during the initial period of Continuation Coverage.

COBRA coverage may be terminated early - Continuation Coverage may be terminated for any of the following six reasons: 1) the employer no longer provides the group health insurance plan to any of its employees; 2) the premium for Continuation Coverage is not paid on time; 3) the employee, spouse, or dependent becomes covered under another group health plan that does not contain any exclusion or limitation of any pre-existing condition ; 4) after electing Continuation Coverage, the employee, spouse or dependent becomes qualified for coverage under Medicare; 5) the individual who qualified for Continuation Coverage due to disability is no longer classified as disabled; 6) a covered employee, spouse or dependent files a fraudulent claim.

Proof not required - Proof of insurability is not required to choose Continuation Coverage. However, continuation of coverage is subject to eligibility for coverage. Coverage can be cancelled retroactively if the individual is later determined to be ineligible.

Premiums – Previously, Missouri law required that the premiums for Continuation Coverage were not to exceed that of the group rate paid by other insured members. Under the revisions of HB 231, that limitation no longer applies. However, as the legislation provides, those limitations specified under the federal COBRA, as amended, would apply. Accordingly, those exercising their right to Continuation Coverage may be required to pay the entire premium, up to 102% of the group rate. Premiums could be higher for persons exercising their right to extended Continuation Coverage under the disability provisions. Coverage can be terminated for non-payment of premium. There is, however, a 30-day grace period for the payment of premiums.

Notice – COBRA model continuation notices may be used to notify affected employees of their right to health insurance continuation coverage. The department will not promulgate or mandate the use of a state-specific notice form.

Application of new law to current state continuation coverage enrollees – Because of the emergency clause in House Bill 231 and its stated intent to preserve "public health, welfare, peace and safety", the June 26 effective date applies to those individuals whose employment terminates on or after June 26, 2009, as well as those individuals already receiving continuation benefits as of June 26, 2009.

For those individuals already receiving continuation benefits as of June 26, 2009, they would be entitled to a continuation of benefits up to a maximum of 18 months from the original date they first qualified for continuation benefits. That time frame would only be extended beyond 18 months if there is a second qualifying event. The law does not require a secondary enrollment period if the time to elect continuation benefits has already expired.

For further questions or clarifications on the provisions of House Bill 231, please contact the Consumer Services Section at 573/751-2640.