

1 HOUSE BILL NO. 378

2 INTRODUCED BY M. THANE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A CONTINUATION OF HEALTH CARE
5 COVERAGE LAW FOR MONTANA; ALLOWING EMPLOYEES OF SMALL EMPLOYERS TO ELECT
6 CONTINUATION OF INSURANCE COVERAGE ON TERMINATION OF EMPLOYMENT; ESTABLISHING
7 THE DURATION OF CONTINUED COVERAGE; ESTABLISHING NOTIFICATION AND PAYMENT
8 REQUIREMENTS; AMENDING SECTION 33-31-111, MCA; AND PROVIDING A DELAYED EFFECTIVE
9 DATE AND AN APPLICABILITY DATE."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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13 NEW SECTION. **Section 1. Continuation of coverage under certain circumstances --**

14 **exceptions.** (1) A health benefit plan issued under this part for an employer with 19 or fewer employees must
15 include a provision allowing a covered employee whose employment is terminated to elect to continue
16 coverage for the employee and the employee's eligible dependents, subject to all of the terms and conditions of
17 the plan and the requirements of [sections 2 and 3] and this section.

18 (2) Except as provided in subsection (4), coverage may continue until the earlier of:

19 (a) 18 months after the date of termination; or

20 (b) the date on which the employee or a dependent becomes eligible for other coverage.

21 (3) An employee may elect continuation of coverage if the employee:

22 (a) has been continuously insured under the health benefit plan during the entire 6 months prior to the
23 date of termination of employment;

24 (b) has paid any required employee contribution through the date of termination;

25 (c) has notified the employer in writing within 30 days of the date of termination of the employee's
26 intent to continue coverage; and27 (d) after the date of termination, pays on a monthly basis in advance the amount of the premium
28 established in accordance with [section 2].

1 (4) (a) An employee or a dependent may continue coverage for up to 29 months from the date of the
2 employee's termination if the individual or dependent becomes disabled within the first 60 days of the
3 continuation of coverage.

4 (b) A dependent may elect to continue coverage for up to 36 months from the date of the first of any
5 of the following events to occur after the continuation of coverage has begun:

6 (i) the death of the employee, if the dependent's coverage terminates on the death of the employee;

7 (ii) the employee's eligibility for coverage under medicare; or

8 (iii) divorce or legal separation of the employee.

9 (5) Continuation of coverage is not available to the employee or a dependent who is:

10 (a) covered by medicare; or

11 (b) covered by any other insured or uninsured arrangement that provides major medical coverage.

12 (6) This section does not apply to accident-only or disease-specific policies.

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14 **NEW SECTION. Section 2. Continuation of coverage -- notification and payment requirements.**

15 (1) An employer shall notify an employee in writing of the right of continued coverage as soon as possible and
16 no later than 10 days following the date of termination. The notification must include:

17 (a) the monthly premium amount and due date;

18 (b) information on how and to whom the premium must be paid; and

19 (c) notice that coverage will terminate if payments are not made as required.

20 (2) An employee electing continuation of coverage shall pay the amount of premium required by the
21 carrier or employer up to a maximum of:

22 (a) 102% of the group rate for the insurance being continued during the first 18 months of coverage;

23 and

24 (b) 150% of the group rate for the insurance being continued for longer than 18 months as allowed
25 under [section 1].

26 (3) A notification of the continuation of coverage privilege must be included in each certificate of
27 coverage.

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1 **NEW SECTION. Section 3. Early termination of continued coverage.** (1) Continuation of coverage
2 terminates earlier than the time periods specified in [section 1] if:

- 3 (a) the employee fails to make timely payment of a required premium;
4 (b) the health benefit plan is terminated by the carrier; or
5 (c) the employer terminates participation under the health benefit plan for all employees.

6 (2) If a health benefit plan is terminated by the carrier or employer but is replaced by similar coverage
7 under another health benefit plan, the employee may become covered under the new plan for the balance of
8 the period that the employee would have remained covered under the prior plan.

9 (3) Continuation of coverage is not required to include dental or vision care benefits unless the health
10 benefit plan included the benefits and the employee requests the benefits.

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12 **Section 4.** Section 33-31-111, MCA, is amended to read:

13 **"33-31-111. Statutory construction and relationship to other laws.** (1) Except as otherwise
14 provided in this chapter, the insurance or health service corporation laws do not apply to a health maintenance
15 organization authorized to transact business under this chapter. This provision does not apply to an insurer or
16 health service corporation licensed and regulated pursuant to the insurance or health service corporation laws
17 of this state except with respect to its health maintenance organization activities authorized and regulated
18 pursuant to this chapter.

19 (2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority or
20 its representatives is not a violation of any law relating to solicitation or advertising by health professionals.

21 (3) A health maintenance organization authorized under this chapter is not practicing medicine and is
22 exempt from Title 37, chapter 3, relating to the practice of medicine.

23 (4) This chapter does not exempt a health maintenance organization from the applicable certificate of
24 need requirements under Title 50, chapter 5, parts 1 and 3.

25 (5) This section does not exempt a health maintenance organization from the prohibition of pecuniary
26 interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701 through 33-3-704.
27 A health maintenance organization must be considered an insurer for the purposes of 33-3-308 and 33-3-701
28 through 33-3-704.

- 1 (6) This section does not exempt a health maintenance organization from:
- 2 (a) prohibitions against interference with certain communications as provided under Title 33, chapter
- 3 1, part 8;
- 4 (b) the provisions of Title 33, chapter 22, parts 7 and 19;
- 5 (c) the requirements of 33-22-134 and 33-22-135;
- 6 (d) network adequacy and quality assurance requirements provided under chapter 36; or
- 7 (e) the requirements of Title 33, chapter 18, part 9.
- 8 (7) Title 33, chapter 1, parts 6, 12, and 13, 33-2-1114, 33-2-1211, 33-2-1212, Title 33, chapter 2,
- 9 parts 13, 19, and 23, 33-3-401, 33-3-422, 33-3-431, Title 33, chapter 3, part 6, Title 33, chapter 10, Title 33,
- 10 chapter 12, 33-15-308, Title 33, chapter 17, Title 33, chapter 19, 33-22-107, 33-22-129, 33-22-131, 33-22-136,
- 11 33-22-137, 33-22-138, 33-22-139, 33-22-141, 33-22-142, 33-22-152, 33-22-153, 33-22-156 through 33-22-159,
- 12 33-22-180, 33-22-244, 33-22-246, 33-22-247, 33-22-514, 33-22-515, 33-22-521, 33-22-523, 33-22-524, 33-22-
- 13 526, sections 1 through 3, and Title 33, chapter 32, apply to health maintenance organizations."

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15 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 3] are intended to be

16 codified as an integral part of Title 33, chapter 22, part 18, and the provisions of Title 33, chapter 22, part 18,

17 apply to [sections 1 through 3].

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19 **NEW SECTION. Section 6. Effective date.** [This act] is effective January 1, ~~2022~~ 2023.

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21 **NEW SECTION. Section 7. Applicability.** [This act] applies to plan years beginning on or after

22 January 1, ~~2022~~ 2023.

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