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ADVISORY BULLETIN
06-SEH-03

September 22, 2006

To: Carriers that Issue or Renew Coverage in the SEH Market

From: Ellen DeRosa, Executive Director

Re: Dependent to Age 30 Continuation Rights (P.L. 2005, c. 375)

P.L. 2005, c. 375, effective May 12, 2006, amended the SEH Act by creating N.J.S.A. 17B:27A-19.16, a provision providing an option to elect group health coverage for certain dependents until age 30. The SEH Board proposed amendments to N.J.A.C. 11:21 Appendix Exhibits A, F, G, V, W, Y, HH and II to expand the continuation rights provision in the standard small employer health benefits plans to include a provision entitled "New Jersey Continuation Rights for Over-Age Dependents." The Board also proposed a new rule, Exhibit D, the Over-Age Dependent Rider. During its September 20, 2006 meeting, the SEH Board adopted the proposed amendments and new rule. Since P.L. 2005, c. 375 was effective May 12, 2006, the amendments and new rule are effective immediately.

The SEH Board believes that the amendments to the continuation rights provision can appropriately be accomplished using the Compliance and Variability Rider set forth at Appendix Exhibit DD. Carriers that wish to amend the standard plans using the Compliance and Variability Rider must use the text included at the end of this Advisory Bulletin on Appendix Exhibit DD. Carriers that prefer to re-issue the plans should refer to the web site, <http://www.state.nj.us/dobi/sehpage.htm> for the text of the standard plans which includes the amended Continuation Rights provisions. The amended documents contain the suffix "0706."

All carriers that elected to use the "stand-alone" option must include the Over-Age Dependent Rider, Exhibit D, with the certificates issued to all over-age dependents. Refer to the web site, <http://www.state.nj.us/dobi/sehpage.htm>, for the text of the Over-Age Dependent Rider.

Since P.L. 2005, c. 375 was effective May 12, 2006, the Board recognizes that carriers have issued and renewed plans without the amended continuation rights provisions. The

Board expects that carriers will promptly amend those plans, using either the Compliance and Variability Rider, or by re-issuing the plans in their entirety. Prospectively, carriers must issue and renew the standard plans using the amended continuation rights provision, and may use the Compliance and Variability Rider or may choose to update their issue systems to incorporate the amended continuation rights text.

If you have any questions, please feel free to contact me.

[Carrier]

AMENDMENT

[Policyholder]

Group [Policy] No.

Effective Date:

This Amendment is part of the [Policy].

I. The **CONTINUATION RIGHTS** provision entitled **COORDINATION AMONG CONTINUATION RIGHTS SECTIONS**, is deleted and replaced with the following provision.

COORDINATION AMONG CONTINUATION RIGHTS SECTIONS

As used in this section, COBRA means the Consolidated Omnibus Budget Reconciliation Act of 1985 as enacted, and later amended.

A [Member] may be eligible to continue his or her group health benefits under [this Contract's] **COBRA CONTINUATION RIGHTS (CCR)** section and under other continuation sections of [this Contract] at the same time.

Continuation Under CCR and **NEW JERSEY GROUP CONTINUATION RIGHTS (NJGCR)**: A [Member] who is eligible to continue his or her group health benefits under CCR is not eligible to continue under NJGCR.

Continuation under CCR and NJGCR and **NEW JERSEY CONTINUATION RIGHTS FOR OVER-AGE DEPENDENTS (NJCROD)**: A Dependent who has elected to continue his or her coverage under the group policy under which his or her parent is currently covered pursuant to NJCROD shall not be entitled to further continue coverage under CCR or NJGCR when continuation pursuant to NJCROD ends.

Continuation Under CCR and any other continuation section of [this Contract]:

If a [Member] elects to continue his or her group health benefits under [this Contract's] CCR or NJGCR, as applicable, and any other continuation other than NJCROD, the continuations:

- a) start at the same time;
- b) run concurrently; and
- c) end independently on their own terms.

While covered under more than one continuation section, the [Member]:

- a) will not be entitled to duplicate benefits; and
- b) will not be subject to the premium requirements of more than one section at the same time.

II. The following provision is added immediately following the New Jersey Group Continuation Rights (NJGCR) provision:

NEW JERSEY CONTINUATION RIGHTS FOR OVER-AGE DEPENDENTS

(Applies to all size groups):

As used in this provision, “Over-Age Dependent” means an Employee’s child by blood or law who:

- a) has reached the limiting age under the group plan, but is less than 30 years of age;
- b) is not married;
- c) has no Dependents of his or her own;
- d) is either a resident of New Jersey or is enrolled as a full-time student at an Accredited School; and
- e) is not covered under any other group or individual health benefits plan, group health plan, church plan or health benefits plan, and is not entitled to Medicare.

If A Dependent Loses Eligibility

If a Dependent child's group health benefits end or have ended due to his or her attainment of the limiting age, he or she may elect to continue such benefits until his or her 30th birthday, subject to the Conditions for Election, Election of Continuation and When Continuation Ends sections below.

Conditions for Election

An Over-Age Dependent is only entitled to make an election for continued coverage if all of the following conditions are met.

- a) The group policy under which the Dependent child was covered immediately prior to reaching the limiting age must have been a fully-insured group policy issued in New Jersey.
- b) The Dependent child must actually have been covered under the group policy on the date he or she reached the limiting age under such group policy.
- c) A parent of an Over-Age Dependent must be enrolled as having elected Dependent coverage at the time the Over-Age Dependent elects continued coverage. Except, if the Employee has no other Dependents, the Over-Age Dependent may nevertheless elect continued coverage

Election of Continuation

To continue group health benefits, the Over-Age Dependent must make written election to [the Carrier]. The effective date of the continued coverage will be the later of:

- a) the date the Over-Age Dependent gives written notice to [the Carrier]; or
- b) the date the Over-Age Dependent pays the first premium; or
- c) the date the Dependent would otherwise lose coverage due to attainment of the limiting age.

For a Dependent whose coverage has not yet terminated due to the attainment of the limiting age, the written election must be made within 30 days prior to termination of coverage due to the attainment of the limiting age.

For a person who did not qualify as an Over-Age Dependent because he or she fails to meet all the requirements of an Over-Age Dependent, but who subsequently meets all of the requirements for an Over-Age Dependent, written election must be made within 30 days after the person first subsequently meets all of the requirements for an Over-Age Dependent.

This election opportunity is explained in greater detail as follows:

- a) If a person did not qualify because he or she was married, the notice must be given within 30 days of the date he or she is no longer married.
- b) If a person did not qualify because he or she had a Dependent of his or her own, the election must be made within 30 days of the date he or she no longer has a Dependent.
- c) If a person did not qualify because he or she either was not a resident of New Jersey or was not a full-time student at an Accredited school, the election must be made within 30 days of the date he or she becomes a resident of New Jersey, or becomes a full-time student at an accredited school.
- d) If a person did not qualify because he or she was covered under any other group or individual health benefits plan, group health plan, church plan or health benefits plan, or was entitled to Medicare, the election must be made within 30 days of the date he or she is no longer covered under any other group or individual health benefits plan, group health plan, church plan or health benefits plan, or is no longer entitled to Medicare.

An Over-Age Dependent may make written election to continue coverage during a 30 day period beginning on each anniversary date of the date the dependent lost coverage due to attaining the limiting age, provided he or she meets the definition of an "Over-Age Dependent" during that 30-day period.

[Special Enrollment Period: May 12, 2006 – May 11, 2007

A person who qualifies as an Over-Age Dependent as of May 12, 2006, having reached the limiting age under a group plan and lost coverage under such group plan prior to May 12, 2006, may give written notice of an election for continued coverage at any time beginning May 12, 2006 and continuing until May 11, 2007.]

Note to carriers: This Special Enrollment Period text may be deleted for plans issued after May 11, 2007.

Application of a Pre-Existing Conditions Exclusion

An Over-Age Dependent who was covered under prior Creditable Coverage that terminated no more than 90 days prior to making an election for continuation under this section will be given credit for the time he or she was covered under the Creditable Coverage toward the application of the Pre-Existing Conditions Exclusion under [the Contract.]

Payment of Premium

The first month's premium must be paid within 30 days of the date the Over-Age Dependent elects continued coverage.

The Over-Age Dependent must pay subsequent premiums monthly, in advance, [at the times and in the manner specified by [the Carrier]] [and will be remitted by the Employer]. The monthly premium will be set by [the Carrier], and must be consistent with the requirements of P.L. 2005, c. 375.

Grace in Payment of Premiums

An Over-Age Dependent's premium payment is timely if, with respect to the first payment after the Over-Age Dependent elects to continue, such payment is made no later than 30 days after such election. In all other cases, such premium payment is timely if it is made within 30 days of the date it is due.

The Continued Coverage

The continued coverage shall be identical to the coverage provided to the Over-Age Dependent's parent who is covered as an Employee under [the Contract] [and will be evidenced by a separate [Certificate] and ID card being issued to the Over-Age Dependent.]. If coverage is modified for Dependents who are under the limiting age, the coverage for Over-Age Dependents shall also be modified in the same manner. Evidence of insurability is not required for the continued coverage.

When Continuation Ends

An Over-Age Dependent's continued group health benefits end on the first of the following:

- a) the date the Over-Age Dependent:
 1. attains age 30
 2. marries
 3. acquires a Dependent;
 4. is no longer either a resident of New Jersey or enrolled as a full-time student at an Accredited School; or
 5. becomes covered under any other group or individual health benefits plan, group health plan, church plan or health benefits plan, or becomes entitled to Medicare
- b) the end of the period for which premium has been paid for the Over-Age Dependent, subject to the Grace Period for such payment;
- c) the date [the Contract] ceases to provide coverage to the Over-Age Dependent's parent who is the Employee under [the Contract].
- d) The date [the Contract] under which the Over-Age Dependent elected to continue coverage is amended to delete coverage for Dependents.
- e) The date the Over-Age Dependent's parent who is covered as an Employee under [the Contract] waives Dependent coverage. Except, if the Employee has no other Dependents, the Over-Age Dependent's coverage will not end as a result of the Employee waiving Dependent coverage.

Except as stated above, nothing in this Amendment changes or affects any other terms of the [Policy].

[Carrier shall insert its standard amendment closure and signature blocks.]