

Article - Insurance

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§15-407.

- (a) (1) In this section the following words have the meanings indicated.
- (2) “Dependent child” means a child of the insured who:
- (i) was covered under a group contract as a qualified or eligible dependent of the insured immediately before the death of the insured; or
 - (ii) was born to a qualified secondary beneficiary defined in paragraph (5)(i) of this subsection after the death of the insured.
- (3) “Group contract” means:
- (i) an insurance contract or policy that is issued or delivered in the State to the employer of the insured by an insurer or nonprofit health service plan and that provides group hospital, medical, or surgical benefits to the employees of the employer on an expense-incurred basis; or
 - (ii) a contract between the employer of the insured and a health maintenance organization certified under Title 19, Subtitle 7 of the Health - General Article that provides hospital, medical, or surgical benefits to the employees of the employer.
- (4) “Insured” means an employee who is a resident of the State and covered under a current or predecessor group contract with the same employer for at least 3 months before death.
- (5) “Qualified secondary beneficiary” means an individual who is:
- (i) a beneficiary under the group contract as the spouse of the insured for at least 30 days immediately preceding the death of the insured; or
 - (ii) a dependent child of the insured.
- (b) (1) Each group contract in force on the date of the death of the insured shall provide continuation coverage in accordance with this section.
- (2) Subject to subsection (c) of this section, if continuation coverage is elected by or on behalf of a qualified secondary beneficiary, the group contract shall provide continuation coverage to the qualified secondary beneficiary after the death of the insured.
- (c) Continuation coverage that is elected by or on behalf of a qualified secondary beneficiary under the group contract shall begin on the date of the death of the insured

and end on the earliest of the following:

- (1) 18 months after the date of the death of the insured;
- (2) the date on which the qualified secondary beneficiary fails to make timely payment of an amount required under subsection (d)(2) of this section;
- (3) the date on which the qualified secondary beneficiary becomes eligible for hospital, medical, or surgical benefits under an insured or self-insured group health benefit program or plan, other than the group contract, that is written on an expense-incurred basis or is with a health maintenance organization;
- (4) the date on which the qualified secondary beneficiary becomes entitled to benefits under Title XVIII of the Social Security Act;
- (5) the date on which the qualified secondary beneficiary accepts hospital, medical, or surgical coverage under a nongroup contract or policy that is written on an expense-incurred basis or is with a health maintenance organization;
- (6) the date on which the qualified secondary beneficiary elects to terminate coverage under the group contract;
- (7) the date on which the employer ceases to provide benefits to its employees under a group contract; or
- (8) for an individual who is a qualified secondary beneficiary by reason of having been a dependent child, the date on which the individual would no longer be covered under the group contract if the insured had not died.

(d) Continuation coverage under this section shall:

- (1) be provided without evidence of insurability or additional waiting periods;
- (2) require the qualified secondary beneficiary to pay to the employer an amount that does not exceed:
 - (i) the sum of the employer contribution and any contribution that the insured would have been required to pay if the insured had not died; and
 - (ii) a reasonable administrative fee that is subject to review and approval by the Commissioner;
- (3) allow the payment of the amount specified in paragraph (2) of this subsection in monthly installments if the qualified secondary beneficiary elects to do so; and
- (4) be identical to the coverage offered under the group contract to

similarly situated individuals for whom there has not been a death of the insured.

(e) (1) To elect continuation coverage provided under this section, a qualified secondary beneficiary or authorized representative shall submit a signed election notification form to the insured's employer during the election period.

(2) The election period for continuation coverage under this section begins on the date of the death of the insured and ends at least 45 days after that date.

(3) Within 14 days after receipt of a request for an election notification form, the employer shall deliver or send by first-class mail the election notification form to the qualified secondary beneficiary or authorized representative.

(f) Each certificate issued to an insured under a group contract shall include a statement, in a manner and form approved by the Commissioner, that advises the insured of the following:

(1) the availability of continuation coverage under this section;

(2) a summary of the eligibility for and duration of the continuation coverage; and

(3) the procedure for making an election to receive continuation coverage if the insured dies.

(g) The Commissioner shall:

(1) publish at least annually in the Maryland Register and in a newspaper of general circulation in each county notice that describes the continuation coverage required under this section;

(2) prescribe by regulation the form and content of the election notification form; and

(3) make election notification forms available to each employer whose employees are covered by a group contract.

(h) Notice of the availability of continuation coverage under this section shall be provided by:

(1) the Secretary of Health and Mental Hygiene as specified in § 4-217 of the Health - General Article; and

(2) licensed funeral directors as specified in § 7-407 of the Health Occupations Article.

(i) An employer that fails to provide notice or an election notification form under this section is not liable to a qualified secondary beneficiary or the insured for

benefits that otherwise would have been payable or for other damages that result from the failure to provide the notice or form.

(j) An employer that terminates continuation coverage after notice or nonpayment of an amount required under subsection (d)(2) of this section by a qualified secondary beneficiary, or an insurer that terminates continuation coverage after notice by the employer, is not liable to a qualified secondary beneficiary for benefits that otherwise would have been payable under this section if the termination:

- (1) is made in good faith;
- (2) is reasonable under the circumstances; and
- (3) is not the result of a mutual or material mistake of fact.

(k) This section does not affect or limit the right of a qualified secondary beneficiary to conversion privileges under a group contract.

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