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BULLETIN NO. 06-14

TO: ALL INSURANCE COMPANIES, HEALTH SERVICE CORPORATIONS, HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, AND HEALTH MAINTENANCE ORGANIZATIONS

FROM: STEVEN M. GOLDMAN, COMMISSIONER

RE: P.L. 2005, C. 375 CONTINUATION COVERAGE FOR ELIGIBLE DEPENDENTS UNTIL 30 YEARS OF AGE ADMINISTRATION – NOTICES

P.L. 2005, c. 375¹ (Chapter 375), enacted on January 12, 2006 and effective on May 12, 2006, permits certain children of persons covered under group health benefits plans the opportunity to maintain dependent coverage after reaching the limiting age specified in the health plan ("Chapter 375 dependents"). Chapter 375 applies to a covered employee's dependents who have lost coverage under a group health benefits plan issued in New Jersey due to age and who: are under 30 years old, are not married, have no children, are either residents of New Jersey or are full-time students, and are not actually provided coverage under any other health benefits plan (eligible dependents). Chapter 375 allows the group contractholder to require an eligible dependent or covered employee to pay up to 102% of the cost of this coverage, as derived from the applicable portion of the charge for dependent coverage. Although the Department of Banking and Insurance (Department) is developing rules implementing Chapter 375, carriers² need to take action in advance of promulgation of the rules in order to assure compliance with the law, which became effective as of May 12, 2006.

Consequently, and as a result of questions the Department has received on how to implement the law, the Department is issuing this bulletin to provide guidance to carriers on the issue of notice about the Chapter 375 continuation election right (Chapter 375 election). Separate bulletins regarding Chapter 375 have been issued to address questions about rating methodology (Bulletin 06-06), general eligibility issues (Bulletin 06-11) and certain claims and billing issues (Bulletin 06-13), and to provide a temporary supplemental enrollment/change form for purposes of compliance with the Health Information Interchange Technology Law (HINT), P.L. 1999, c. 154 (Bulletin 06-12).

¹ Assembly Bill 3759 (Fourth Reprint), in the 2004-2005 Legislative Session. The codified law appears at N.J.S.A. 17:48-6.19, 17:48A-7.13, 17:48E-30.1, 17B:27-30.5, 17B:27A-19.16, and 26:2J-10.3.

² The term carrier includes a health service corporation, hospital service corporation, medical service corporation, health maintenance organization and an insurer authorized to offer group health insurance.

Questions have been raised as to what notice is required to be provided to employees and their dependents regarding the Chapter 375 election, and who is responsible for providing the notices. Paragraph g of each of the amendatory sections of Chapter 375 states that notice regarding the dependent is to be provided to the parent³ via the certificate⁴. Notice is also to be provided to the parent by their employer: prior to age-out; upon a determination of eligibility for a Chapter 375 election for reasons other than age; prior to each open enrollment period; and, immediately upon the effective date of the law. Thus, the law indicates that **both** carriers and employers have a responsibility to provide information to the parent about the Chapter 375 election. The law is not specific as to whether the language contained in the notices required to be distributed based on the occurrence of a specific event should be the same as or different from the language contained in the certificate.

The Department does not anticipate taking any direct action regarding implementation of the provisions of each paragraph g as they relate to employers.⁵ The Department urges carriers issuing group health benefits plans in New Jersey to assist employers in complying with the law whenever necessary, for example by providing an employer with sample notices and accompanying information appropriate to the employer's situation and, when possible, information tracking systems. In particular, notices should be clear about both the limiting age and the actual timing of when a child dependent ages-out (for instance, specify end of the month or end of the year, as appropriate). The Department has developed a notice document that carriers may distribute to employers that have purchased group health benefits plans issued in New Jersey through which employers may provide the information to their employees. The attached document, entitled "Continuation of Dependents – More Choices" is generic in nature and contains variable text and instructions that will enable a carrier or employer to tailor the document to more specific scenarios.

Questions regarding this bulletin may be directed to the Office of Life and Health by phone at (609) 292-5427 x 50340, or by fax at (609) 633-0527. Please specify that the question concerns the Chapter 375 Notice Bulletin 06-14.

The Department intends to propose rules in the near future to implement the provisions of Chapter 375. Notice of the proposed rulemaking will appear on the Department's website at www.state.nj.us/dobi/legsregs.htm. A copy of this bulletin and related bulletins will also be posted to the website.

June 5, 2006
Date

/s/ Steven M. Goldman
Steven M. Goldman
Commissioner

INOORD/CMCD375notice

³ The statutory language refers to a "subscriber," "insured," "covered person," and "enrollee."

⁴ Certificate is used here to refer to an evidence of coverage regardless of the specific term used by particular carriers.

⁵ An argument has been raised regarding the interaction between Chapter 375 and ERISA with respect to employer obligations set forth in an insurance-related law.

Continuation of Dependents – More Choices

You and your grown child have options available for continuing your child's coverage with your group health benefits plan after your child reaches the group's limiting age for children. [6] You may be familiar with the federal [state] law referred to as COBRA [New Jersey Small Group Continuation or NJSGC], which allows you and your dependents to continue to be covered under the group health benefits plan for a period of time when certain events occur that make you or a dependent ineligible for the group. In 2006, another option became available to your adult child that would allow him or her to continue as a dependent under your coverage, *or become a dependent under your coverage again* IF s/he meets certain requirements. This option is sometimes referred to as a Chapter 375 election based on the law (P.L. 2005, c. 375) which established this right.

Requirements for Chapter 375 Eligibility

First, your child must have aged-out of a group health benefits plan issued in New Jersey. Your current coverage is a group health benefits plan issued in New Jersey, *so if your child aged-out from this group health benefits plan, then s/he meets this requirement.*

Please note: your child does not have to age-out of this group health benefits plan in order to be eligible to enroll in this group health benefits plan. S/he just has to have actually aged-out from a group health benefits plan issued in New Jersey. So, if you had coverage with a different employer when your child aged-out, or your child was covered under another parent's group policy when s/he aged-out, you will need to check with that employer or group to find out whether the policy your child aged-out of was a group health benefits plan issued in New Jersey. If not, then your child will not be eligible to make a Chapter 375 election. [If you [7] and your child were covered under your plan there when s/he aged-out, then your child will not be eligible to make a Chapter 375 election.] [If you were covered under [one of] this group's self-funded plan [plans] [8]], then your child will not be eligible to make a Chapter 375 election.]

⁶ [Insert language or add a footnote about eligibility for coverage of child dependents in the group, and whether there are exceptions for continuing education and a secondary limiting age. For example: A child becomes ineligible to continue being covered under this group at the end of the month that s/he turns age 19, unless s/he is enrolled full-time as a student in a post-secondary educational program, including a trade or technical school, until the end of the month that s/he graduates or becomes 23 years old, whichever occurs first.]

⁷ [Insert one of the following, as applicable, ONLY IF coverage in another location is not through a policy issued in New Jersey: worked in one of our locations in another state; worked in our location in [name of state, territory]; worked in one of our locations in [another country] [name of country]; worked in our location [overseas] [name of country]]

⁸ [Identify the self-funded plan(s) parenthetically or in a footnote.]

Second, your child must:

- not be married
- not have children
- live in New Jersey OR be a full-time student in an institution of higher education (including a trade or technical school)
- not actually be covered under another individual or group health plan or Medicare

Making a Chapter 375 Election and Enrollment

If your child

- aged-out prior to May 12, 2006, and meets the eligibility requirements for the Chapter 375 election, s/he may first enroll at any time between May 12, 2006 and May 11, 2007.
- [will age-out on or after May 12, 2006, but before [9], s/he may first make the Chapter 375 election within the 30-day period prior to [10].]
- will age-out [on or after May 12, 2006] [on or after [11]], s/he may first make the Chapter 375 election within 30 days prior to the date he or she would lose coverage due to age.
- becomes eligible for a Chapter 375 election for reasons other than age (for example, your child was living in another state and decides to return to New Jersey), s/he may make a Chapter 375 election within 30 days after establishing eligibility.
- does not make an election upon age-out or upon first becoming eligible for other reasons, then s/he may make a Chapter 375 election [during an annual open enrollment period. The annual open enrollment period for this group is [12].] [annually during the 30 days following the anniversary of his or her age-out date.]¹³

Your child may become eligible multiple times after age-out but before turning 30 years old as his or her life circumstances change, and may enroll or re-enroll without consideration of prior ineligibility, or insurability. Your child does not have

⁹ [Insert the anniversary date or renewal date of the policy]

¹⁰ [Insert the same anniversary date or renewal date]

¹¹ [Insert the anniversary date or renewal date of the policy.]

¹² [Specify the annual open enrollment period for the group]

¹³ This bracket may only be used by employers offering coverage subject to the provisions of Small Employer Health Benefits Program Act, N.J.S.A. 17B:27A-17 et seq.

to exhaust any other continuation right ([COBRA] [NJSGC]) in order to make the Chapter 375 election.

Notify [14] within 30 days prior to the [15], or within 30 days following the date that your child establishes eligibility for reasons other than age (including, for instance, relocation to New Jersey, divorce, discontinuance of coverage under another group health plan or an individual health benefits plan). Upon notice of the event, [16] will provide you, or your child if you prefer, with the appropriate paperwork to make a Chapter 375 election. If the election is being made at the time of age-out, you will also receive information about your child's [COBRA] [NJSGC] rights as well.

To make the election, you or your child will need to complete and submit a [17] and the *Temporary HINT Supplemental Enrollment Information Form*. You must agree to maintain or add dependent coverage for administrative purposes only. You will not be required to contribute [any more] towards coverage for yourself [and any other dependents] [than you already do]. [However, you may elect on the *Temporary HINT Supplemental Enrollment Information Form* to have the premium for the cost of the adult child deducted from your paycheck for remittance.] [DO NOT select the employee payroll deduction option on the *Temporary HINT Supplemental Enrollment Information Form*.] [Your dependent will be responsible for remitting premium directly to [18].]

The Cost of the Chapter 375 Election

The cost for coverage under the Chapter 375 election is equivalent to 102% of the cost for a dependent child under the policy [or 19]. This premium is a little lower than the premium applicable when a [COBRA] [NJSGC] election is made. When continuation is elected using [COBRA] [NJSGC], the premium is 102% of the single person rate. [[Name of employer] does not contribute to the cost of the premium for continuation of coverage under either Chapter 375 or [COBRA] [NJSGC].]

[20]

¹⁴ [Identify the department, carrier, TPA or other entity that should be notified when an adult child is about to age-out, or becomes eligible for other reasons.]

¹⁵ [Choose the appropriate phrase: the end of the month in which your child ages-out; the end of the year in which your child ages-out; date of your child's age-out birthday]

¹⁶ [Identify the department, carrier, TPA or other entity that should be notified when an adult child is about to age-out, or becomes eligible for other reasons.]

¹⁷ [Identify the form used to make coverage selection changes.]

¹⁸ [Explain to whom the premium should be submitted and provide an address]

¹⁹ [Insert the premium amount shown on an identified periodic basis – quarterly, monthly, bi-weekly, etc.]

²⁰ [Insert an explanation about billing and collection if payroll deductions are not being made.]

IMPORTANT!

Keep in mind that, even if your child is not eligible for a Chapter 375 election when s/he first ages out (for instance, he or she is living in California and is not a full-time student), s/he *may be* eligible to continue coverage pursuant to [COBRA] [NJSGC].

If you have questions, contact [21]. You may also review information about the law and how it operates online at www.state.nj.us/dobi by looking for topics related to “Dependents under 30” or Chapter 375.

Comparing [COBRA] [NJSGC] to the Chapter 375 Election

	[COBRA] [NJSGC]	Chapter 375 Election
Initial event giving rise to the continuation right	The child ages-out	The child ages-out
Eligibility requirements	None specific to the child	Child must be unmarried, childless, live in New Jersey or be a full-time student if living elsewhere, and not have other coverage. In addition, the child must have aged-out from a group health benefits plan issued in New Jersey.
Duration of coverage generally	For 36 months	Up to age 30, so long as the child continues to be eligible
When election can be made	Upon age-out	Upon age-out When eligibility for other reasons is established Annually during an open enrollment period

²¹ [Identify the department, carrier, TPA or other entity that should be notified when an adult child is about to age-out, or becomes eligible for other reasons, and a method for making contact.]

	[COBRA] [NJSGC]	Chapter 375 Election
Reasons for losing coverage	<p>Premiums are not paid</p> <p>Employer discontinues the group plan and does not replace it</p> <p>The 36-month period ends</p> <p>Before the 36-month period ends, if the adult child becomes entitled to group coverage that has no pre-existing condition limitation or similar exclusion</p> <p>Before the 36-month period ends, if the adult child becomes entitled to Medicare</p> <p>Moving outside of the HMO's service area</p>	<p>Premiums are not paid</p> <p>Employer discontinues group coverage and does not replace it with another group health benefits plan issued in NJ</p> <p>Employer discontinues offering dependent coverage options</p> <p>Employee discontinues the dependent coverage election (when one or more children who have not already aged-out is/was also covered)</p> <p>The adult child marries</p> <p>The adult child becomes a parent</p> <p>The adult child relocates to another state and does not become a full-time student</p> <p>The adult child lives in another state and stops being a full-time student</p> <p>The adult child becomes covered under another group health plan or Medicare</p> <p>Moving outside of the HMO's service area.</p>
Cost	102% of a single person rate for the group	102% of the cost for a dependent child for the group
Other election opportunity?	No. If the child does not elect [COBRA] [NJSGC] upon age-out, the election right expires.	Yes, the child may establish eligibility multiple times before his or her 30th birthday.

