

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

400L0245

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB 50** - 01/20/2005

Introduced by: The Committee on Commerce at the request of the Department of Revenue
and Regulation

1 FOR AN ACT ENTITLED, An Act to remove certain references regarding conversion from the
2 requirements for continuation of group health coverage.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-18-7 be amended to read as follows:

5 58-18-7. Any group health policy which contains provisions for the payment by the insurer
6 of benefits for expenses incurred on account of hospital, nursing, medical, or surgical services
7 shall provide for the continuation ~~or conversion~~ of benefit provisions, or any part or parts
8 thereof, without evidence of insurability. ~~Sections~~ The provisions of §§ 58-18-7.4 to 58-18-7.15,
9 inclusive, apply to employers that have fewer than twenty employees employed.

10 Section 2. That § 58-18C-3 be amended to read as follows:

11 58-18C-3. Continuation ~~and conversion shall only be~~ is only available to an employee who
12 has been continuously insured under the group policy and for similar benefits under any group
13 policy which it replaced during the entire six-month period ending with such termination.

14 Section 3. That § 58-18C-5 be amended to read as follows:

15 58-18C-5. Any employee may exercise the right to continuation ~~or conversion~~ within thirty



1 days of receipt of due notice of termination of coverage of the group and upon payment of
2 premiums from the date of termination.

3 Section 4. That § 58-18C-7 be amended to read as follows:

4 58-18C-7. No insurer may be required to offer or renew a continuation ~~or conversion~~ policy
5 covering any person if:

6 (1) The person is covered for similar benefits by another individual or group policy;

7 (2) Similar benefits are provided for or available to such person, by reason of any state
8 or federal law;

9 (3) The benefits under sources of the kind referred to in subdivision (1) for such person
10 or benefits provided or available under sources of the kind referred to in subdivision

11 (2) for such person, together with the continued ~~or converted~~ policy's benefits, would
12 result in overinsurance according to the insurer's standards for overinsurance;

13 (4) There has been fraud or material misrepresentation in applying for any benefits under
14 continued or converted policy;

15 (5) The person failed to pay any required contribution; or

16 (6) Cancellation of all similar insurance policies in the entire state.

17 Section 5. That § 58-18C-8 be amended to read as follows:

18 58-18C-8. ~~The premium for the conversion policy shall be determined in accordance with~~
19 ~~the insurer's table of premium rates applicable to the age and class of risk for each person to be~~

20 ~~covered under that policy and to the type and amount of insurance provided.~~ The premium for
21 a continuation policy may not be greater than one hundred twenty-five percent of the group rate
22 under which a person is covered.

23 Section 6. That § 58-18C-9 be amended to read as follows:

24 58-18C-9. A notification of the continuation ~~and conversion~~ rights shall be included in each

1 certificate of coverage.

2 Section 7. That § 58-18C-2 be repealed.

3 ~~58-18C-2. Every policy stated in § 58-18C-1 shall also provide an employee with the right,~~
4 ~~upon the employer ceasing operations and the termination of the policy or contract, to an~~
5 ~~individual conversion policy or contract without additional underwriting restrictions. The~~
6 ~~conversion policy shall consist of a plan of individual coverage that closely approximates the~~
7 ~~coverage provided under the group, and shall be renewable at the option of the insured.~~

8 Section 8. That § 58-18C-6 be repealed.

9 ~~58-18C-6. The conversion policy shall cover the employee who was covered by the group~~
10 ~~policy on the date of termination of insurance. At the option of the insurer, a separate conversion~~
11 ~~policy may be issued to cover any dependent.~~

12 Section 9. That § 58-18C-10 be repealed.

13 ~~58-18C-10. The insurer may elect to provide group insurance coverage in lieu of the~~
14 ~~issuance of a converted individual policy.~~

15 Section 10. That § 58-18C-1 be amended to read as follows:

16 58-18C-1. Every policy of group health insurance providing benefits for hospital or medical
17 expenses delivered or issued for delivery in this state, by a commercial health insurance
18 company, by a nonprofit medical and surgical service plan corporation, by a nonprofit hospital
19 service plan corporation, by a health maintenance organization, or by any other similar
20 mechanism shall, in addition to the provisions required by law, include the right of each
21 employee, upon their employer ceasing operations and the termination of the policy or contract,
22 to have the coverage continue for themselves and their eligible dependents, effective as of the
23 date of loss of the previous group coverage, for a period of twelve months for which the
24 employee shall be financially responsible. In addition, if an employer either fails to submit

1 premium payment to the insurance company resulting in loss of coverage to its employees or
2 cancels the coverage and does not notify the employees of such loss of coverage, the employees
3 and their dependents are then eligible for continuation pursuant to this section if election is
4 made within sixty days of the date of their being notified of the loss of coverage. The employer
5 shall provide notice of any nonpayment of premiums or cancellation of coverage to employees
6 as soon as reasonably possible but no later than ten days after the date of cancellation. If the
7 employer fails to notify the employees and their dependents of the termination of coverage
8 within ten days, the employees and dependents may not be denied coverage by the insurer
9 provided timely election is made after actual receipt of notice. Whether notice is provided or
10 not, the election period for continuation of coverage may expire ninety days from the date the
11 group coverage terminated. Any premiums due for the continuation of coverage may be required
12 to be paid by the employee or dependent as a condition of providing continuation coverage.

13 Any former employee who is under continuation coverage at the time an employer ceases
14 operation and terminates the policy, or fails to make premium payments resulting in loss of
15 coverage, or cancels the insurance without notice, is eligible to remain on continuation coverage
16 for the remainder of the continuation term or twelve months, whichever is less, if timely election
17 is made and continuation payments received.