

111TH CONGRESS
2D SESSION

H. R. 5324

To provide for extension of COBRA continuation coverage until coverage is available otherwise under either an employment-based health plan or through an American Health Benefit Exchange under the Patient Protection and Affordable Care Act.

IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2010

Mrs. DAVIS of California (for herself, Mr. GEORGE MILLER of California, Mr. ANDREWS, Mr. COURTNEY, Mr. STARK, Ms. SUTTON, and Mr. WU) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on Energy and Commerce and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for extension of COBRA continuation coverage until coverage is available otherwise under either an employment-based health plan or through an American Health Benefit Exchange under the Patient Protection and Affordable Care Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “COBRA Health Bene-
5 fits Extension Act of 2010”.

1 **SEC. 2. EXTENSION OF COBRA CONTINUATION COVERAGE.**

2 (a) EXTENSION OF CURRENT PERIODS OF CONTINU-
3 ATION COVERAGE.—

4 (1) IN GENERAL.—In the case of any individual
5 who is, under a COBRA continuation coverage pro-
6 vision, covered under COBRA continuation coverage
7 on or after the date of the enactment of this Act,
8 the required period of any such coverage which has
9 not subsequently terminated under the terms of such
10 provision for any reason other than the expiration of
11 a period of a specified number of months shall, not-
12 withstanding such provision and subject to sub-
13 section (b), extend to the earlier of—

14 (A) the first date, occurring after the date
15 of the expiration of a period of months specified
16 as a terminating event in the applicable con-
17 tinuation coverage provision, as of which the in-
18 dividual is eligible for coverage under an em-
19 ployment-based health plan, or

20 (B) the date on which such individual be-
21 comes eligible for health insurance coverage
22 through an American Health Benefit Exchange
23 operating in a State or group of States under
24 subtitle D of title I of the Patient Protection
25 and Affordable Care Act.

1 (2) NOTICE.—As soon as practicable after the
2 date of the enactment of this Act, the Secretary of
3 Labor, in consultation with the Secretary of the
4 Treasury and the Secretary of Health and Human
5 Services, shall provide rules setting forth the form
6 and manner in which prompt notice to individuals of
7 the continued availability of COBRA continuation
8 coverage to such individuals under paragraph (1).

9 (3) ENFORCEMENT OF EXTENDED CONTINU-
10 ATION COVERAGE UNDER STATE PROGRAMS.—A
11 State may enforce the provisions of this section with
12 respect to COBRA continuation coverage provided
13 under a State program of such State. Nothing in
14 this paragraph shall be construed to affect or modify
15 section 514 of the Employee Retirement Income Se-
16 curity Act of 1974 (29 U.S.C. 1144).

17 (b) CONTINUED EFFECT OF OTHER TERMINATING
18 EVENTS.—Notwithstanding subsection (a), any required
19 period of COBRA continuation coverage which is extended
20 under such subsection shall terminate upon the occur-
21 rence, prior to the date of termination otherwise provided
22 in such subsection, of any terminating event specified in
23 the applicable continuation coverage provision other than
24 the expiration of a period of a specified number of months.

1 (c) ACCESS TO STATE HIGH RISK POOLS.—This sec-
 2 tion shall supersede any provision of the law of a State
 3 or political subdivision thereof to the extent that such pro-
 4 vision has the effect of limiting or precluding access by
 5 a qualified beneficiary, whose COBRA continuation cov-
 6 erage has been extended under this section, to a State high
 7 risk pool established under section 1101 of the Patient
 8 Protection and Affordable Care Act solely by reason of the
 9 extension of such coverage beyond the date on which such
 10 coverage otherwise would have expired.

11 (d) DEFINITIONS.—For purposes of this section—

12 (1) COBRA CONTINUATION COVERAGE.—The
 13 term “COBRA continuation coverage” means con-
 14 tinuation coverage provided pursuant to part 6 of
 15 subtitle B of title I of the Employee Retirement In-
 16 come Security Act of 1974 (other than under section
 17 609), title XXII of the Public Health Service Act,
 18 section 4980B of the Internal Revenue Code of 1986
 19 (other than subsection (f)(1) of such section insofar
 20 as it relates to pediatric vaccines), or section 905a
 21 of title 5, United States Code, or under a State pro-
 22 gram that provides comparable continuation cov-
 23 erage. Such term does not include coverage under a
 24 health flexible spending arrangement under a cafe-

1 teria plan within the meaning of section 125 of the
2 Internal Revenue Code of 1986.

3 (2) COBRA CONTINUATION PROVISION.—The
4 term “COBRA continuation provision” means the
5 provisions of law described in paragraph (1).

6 (3) EMPLOYMENT-BASED HEALTH PLAN.—The
7 term “employment-based health plan”—

8 (A) means a group health plan (as defined
9 in section 733(a)(1) of the Employee Retirement
10 Income Security Act of 1974), excluding
11 coverage consisting of only dental, vision, coun-
12 seling, or referral services (or a combination
13 thereof), coverage under a flexible spending ar-
14 rangement (as defined in section 106(c)(2) of
15 the Internal Revenue Code of 1986), or cov-
16 erage of treatment that is furnished in an on-
17 site medical facility maintained by the employer
18 and that consists primarily of first-aid services,
19 prevention and wellness care, or similar care (or
20 a combination thereof); and

21 (B) includes such a plan that is the fol-
22 lowing:

23 (i) FEDERAL, STATE, AND TRIBAL
24 GOVERNMENTAL PLANS.—A governmental
25 plan (as defined in section 3(32) of the

1 Employee Retirement Income Security Act
2 of 1974), including a health benefits plan
3 offered under chapter 89 of title 5, United
4 States Code.

5 (ii) CHURCH PLANS.—A church plan
6 (as defined in section 3(33) of the Em-
7 ployee Retirement Income Security Act of
8 1974).

9 (4) STATE.—The term “State” includes the
10 District of Columbia, the Commonwealth of Puerto
11 Rico, the Virgin Islands, Guam, American Samoa,
12 and the Commonwealth of the Northern Mariana Is-
13 lands.

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