STATE OF CONNECTICUT
INSURANCE DEPARTMENT

BULLETIN HC – 71 (rev)
January 22, 2009

TO: All Health Insurers and Health Care Centers Authorized to Conduct Business in Connecticut

SUBJECT: New Dependent Definition under Public Act No. 08-147

Beginning January 1, 2009, a new Connecticut Law (Public Act No. 08-147) allows parents to cover certain unmarried dependents up to age 26, under a parent's individual or group health insurance plan.

The new law has generated many inquiries. The Insurance Department is providing the following Questions and Answers containing the Department's interpretation of the new law to assist health insurers and health care centers in complying with the new law.

The purpose of this revised Bulletin is to clarify and provide further guidance in question and answer 4 on when dependent coverage ends under a group policy.

The Insurance Department had earlier interpreted that for group plans, the child would continue on the group plan until the end of the month following the month of loss of eligibility for coverage. Once this period elapsed, COBRA or the equivalent state continuation benefits would commence, if elected by the former insured. However, we have been asked to re-evaluate this issue. Based on an extensive re-review, we have now determined that the requirement is that the plan must provide the option for the child to continue coverage for the longer of: (1) the end of the month following the month of loss of eligibility, or (2) the periods set forth by COBRA. Therefore, where the COBRA continuation period is offered (which is longer), the group plan is not required to continue a child for the additional month after the loss of eligibility of coverage.

DEPENDENT DEFINITION QUESTIONS

1. **What is the effective date of the law?**
   The law takes effect for group health plans on January 1, 2009. This means that all group health insurance policies issued in Connecticut in effect on January 1, 2009 must comply on January 1, 2009. All new group health insurance policies issued after January 1, 2009 must be in compliance on the effective date of the new group health insurance policy.

   The changes for individual policies take effect for new policies issued in Connecticut on or after January 1, 2009 and for existing policies on the first date of policy renewal after January 1, 2009.

   This law is only applicable to individual and group policies subject to Connecticut jurisdiction.

For your information and reference, attached to this bulletin is the applicable statutory language.

2. **Does the statute contemplate that carriers must allow persons who ceased to be eligible under the prior version of Conn. Gen. Stat. §38a-554, to now be permitted to re-enroll under the group plan to continue until they no longer meet eligibility pursuant to PA 08-147 changes?**
   Yes

3. **When does the coverage end?**
   Coverage ends when the dependent:
   - marries;
   - ceases to be a resident of the state (except for dependents under 19 years of age or full-time students);
   - becomes covered under a group health plan through the dependent's own employment; or,
   - attains the age of twenty-six.

4. **Do dependents lose their eligibility as soon as they reach age 26?**
   Group
   For group policies, the statute refers to the longer of two time periods. The first is for a plan to continue coverage until the end of the month following the month the dependent marries, attains age 26, ceases to be a resident (except for dependents under 19 years of age or full-time students), or becomes covered under a group health plan through the dependent's own employment. The second is that if the group plan offers federal COBRA benefits or equivalent state continuation benefits, and if such benefits are for a longer time period than the first possibility, then the plan can end dependent coverage on or after the triggering event, as specified in group policy terms (for instance, at the end of the month in which the triggering event occurs).

   Individual
   For individual policies, the new statute provides that coverage shall terminate no earlier than the policy anniversary date on or after whichever of the following occurs first:
   - marries;
   - ceases to be a resident of the state (except for dependents under 19 years of age or full-time students);
   - becomes covered under a group health plan through the dependent's own employment; or,
   - attains the age of twenty-six.

   This means that if the policy anniversary date is February 1, 2009, and the dependent attains age 26 on February 2, 2009, the dependent can remain on the policy as a dependent through January 31, 2010.

5. **It appears that coverage for dependents in Connecticut is not a mandatory component to a health insurance policy. Certain dependents (e.g.; Section 38a-549 re: adopted children) are required to be covered; however there is no requirement as to dependents generally.**

Correct. There is no specific overall mandate that requires health insurance policies to cover dependents. However, if and when dependents are covered, certain conditions and requirements would become effective, such as coverage of adopted children under group policies pursuant to Section 38a-549.

6. **What if the plan is self insured, will this change apply?**
   No, this is a state insurance law and it will not apply to self insured plans.

7. **What if the dependent has his or her own job and doesn't live home?**
   The statute will still apply. If the child is under age 26 and lives in the State of Connecticut, and is unmarried, the child can enroll as a dependent under the employee's plan if the dependent is not **covered** as an employee under other group insurance through the dependent's employment.

8. **Can the dependent be covered under both parents' group policies?**
   Yes, the dependent can be covered under multiple group policies as a dependent. However, Coordination of Benefits ("COB") rules would apply. A dependent cannot be covered under any group policies as a dependent if the dependent has group coverage on his/her own right as an employee through his or her own employment.

   There may be special group plan rules when both parents are covered under the same employer group plan, such as a rule that only one parent may enroll a dependent. This new law does not override such a group plan rule.

9. **Can the dependent be covered under a group plan other than through his/her employment (such as association, school plans, group trust) and still be eligible as a dependent under the parents' plan(s)?**
   Yes. The law only excludes the dependent from eligibility as a dependent if he/she is covered by a group health plan through the dependent's own employment. If the dependent is covered under a group plan that is not obtained through his/her employment, then the dependent retains eligibility as a dependent of the parent.

10. **What if the child is not a dependent in the economic sense? Doesn't the child have to rely on the employee-parent for support in order to be a dependent?**
    No, the definition of dependent does not require an economic relationship. There is no requirement under the law that the dependent be financially supported by the parent/insured. The law is not based on an Internal Revenue Service definition of dependent.

11. **What if the child goes to school out of state, does that mean the child will not be a dependent?**
    No, the dependent child in this situation is eligible. The Connecticut residency requirement does not apply to dependent children under nineteen years of age or full-time students attending an accredited institution of higher education.

12. **What if an employee has a dependent who works for another employer and is under age 26 and is covered under another group health plan; can the**

dependent drop the coverage with his or her employer and then enroll as a dependent under the employee's plan at open enrollment?
If the dependent is under age 26, single, residing in Connecticut (or a student out of state), and not enrolled under another group health plan obtained through the dependent's own employment, the dependent can be enrolled as a dependent under your employee's plan.

13. **If a dependent reached age 23 and ceased to be eligible under the plan under the old version of the law, will he/she be permitted to re-enroll if he/she is under age 26? How much time would he/she be given to re-enroll? Can the plan limit their enrollment to 31 days once they become eligible?**
If a dependent has aged off under the terms of the old law, he/she could come back on to the parent's plan if he or she is under age 26 and meets the requirement of the new law. The Department will permit health insurers to limit the enrollment to 31 days once eligible, provided there is good clear communication to policyholders and certificate holders in a meaningful way (in a mailing, newsletter, or other format), that the law has changed and what the time frame requirements are, for enrollment.

    The Department prefers that health insurers utilize the month of December 2008 as an open enrollment period for newly eligible dependents under the law, for coverage for immediately eligible dependents to be effective on January 1, 2009. Some carriers, however, have notified the Department that because of operational issues, they plan to conduct an open enrollment period during the month of January 2009 for those immediately eligible for dependent coverage under the amended eligibility rules and will back date effective dates of coverage to January 1, 2009, no matter when enrollment takes place in January. The Department does not object to this enrollment approach provided the coverage is retroactive to January 1, 2009 and no claims are denied for the interim period.

    Carriers may administer late entrant requirements if the dependent does not enroll within the 31 day period, again provided that there has been good clear communication to policyholders and certificate holders of the change in law and the time frames for enrollment.

14. **Can a health insurer or health care center use an earlier enrollment period for newly eligible dependents as of January 1st under the new law, in place of the special enrollment period in December or January as described in the preceding Question and Answer 13? As an example, if a health insurer or health care center and its employer/group policyholders normally have an open enrollment period in October for employees/group certificate holders to choose health coverage for themselves and their families for the following January 1st, can the health insurer or health care center permit employees to enroll their newly eligible dependents under the new law along with the other selections the employee is making?**
The Department does not object, and in fact, would support a health insurer or health care center permitting "early" enrollment of newly eligible dependents, as described in the example. However, due to the importance of the legislation and due to concern that information on the new law may not reach all impacted

parties, the Department still requires an enrollment period in December or January, for newly eligible dependents under the new law.

15. **What happens if a dependent is not eligible on January 1, 2009 but becomes eligible thereafter? For instance, an unmarried child over age 19 but under age 26 who moves back to Connecticut after January 1st and is not covered through the child's employment?**
    The Department expects health insurers to follow the same rules as for other life status changes, such as marriage of an employee or birth of a newborn. The employee, in this example, will have 31 days to enroll the dependent. Once enrolled the effective date of the dependent's coverage will be retroactive to the date of the change (date the eligible dependent moved back to Connecticut).

16. **If a child attains age 26 and is terminated from the parent's plan, is there a right to continue under COBRA?**
    Yes, it would be a qualifying event entitling the child to COBRA coverage.

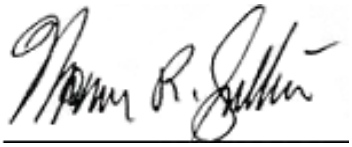
17. **Does this change in dependent definition apply only to medical? Would dental, vision, and prescription drug coverage also qualify?**
    All Connecticut individual and group medical policies are required to follow the new dependent definition.
    If the dental, vision or prescription drug coverage is combined with the group health benefits in a policy or a rider to a policy, the new dependent definition would also apply. However, if the dental, vision or prescription drug coverage is "free-standing" in a separate policy, these new rules are optional for the health insurer for those benefits.

18. **Are employers required to contribute toward the cost of this extended dependent age, if they contribute toward the cost of dependent children?**
    There is no requirement for employers to contribute to the cost for dependent children; however, employers need to be careful not to discriminate between individuals in the same class.

19. **Does the dependent need to have been previously covered as an eligible dependent under the parent's plan to qualify?**
    No.

20. **If the dependent is under age 26, unmarried, and a state resident, but is working and becomes covered under a self-insured health plan through his or her employment, is the dependent eligible for individual or group health insurance coverage under a parent's plan?**
    No. Public Act 08-147 provides that dependent eligibility terminates when a dependent "becomes covered under a ***group health plan*** through the dependent's own employment". With respect to this statutory provision only, the Department interprets the term "group health plan" to include insured and self-insured plans. Therefore, the dependent is not eligible under a parent's plan if the dependent becomes covered under a "group health plan" through the dependent's own employment.

Please contact the Insurance Department Consumer Affairs Division at ctinsdept.consumeraffairs@ct.gov or at 800-203-3447 or 860-297-3900 with any questions



Thomas R. Sullivan
Insurance Commissioner

APPLICABLE STATUTORY REFERENCES FROM PUBLIC ACT 08-147 REGARDING DEPENDENT DEFINITION

Individual: Sec. 8. Section 38a-497 of the 2008 supplement to the general statutes, as amended by section 16 of public act 07-185 and sections 64 and 69 of public act 07-2 of the June special session, is repealed and the following is substituted in lieu thereof (Effective January 1, 2009):

Every individual health insurance policy providing coverage of the type specified in subdivisions (1), (2), (4), (6), (10), (11) and (12) of section 38a-469, as amended by this act, delivered, issued for delivery, amended or renewed in this state on or after January 1, 2009, shall provide that coverage of a child shall terminate no earlier than the policy anniversary date on or after whichever of the following occurs first, the date on which the child: **[**marries, or**]** Marries; ceases to be a resident of the state; becomes covered under a group health plan through the dependent's own employment; or attains the age of twenty-six. **[**as long as the child is a resident of the state except for full-time attendance at an out-of-state accredited institution of higher education or resides out of state with a custodial parent pursuant to a child custody determination, as defined in section 46b-115a**]** The residency requirement shall not apply to dependent children under nineteen years of age or full-time students attending an accredited institution of higher education.

Group: Sec. 9. Section 38a-554 of the 2008 supplement to the general statutes, as amended by section 17 of public act 07-185 and sections 65 and 69 of public act 07-2 of the June special session, is repealed and the following is substituted in lieu thereof (Effective January 1, 2009):

(a) The plan shall be one under which the individuals eligible to be covered include: (1) Each eligible employee; (2) the spouse of each eligible employee, who shall be considered a dependent for the purposes of this section; and (3) unmarried children who are under twenty-six years of age.

(b) The plan shall provide the option to continue coverage under each of the following circumstances until the individual is eligible for other group insurance, except as provided in subdivisions (3) and (4) of this subsection: (1) Notwithstanding any provision of this section, upon layoff, reduction of hours, leave of absence, or termination of employment, other than as a result of death of the employee or as a result of such employee's "gross misconduct" as that term is used in 29 USC 1163(2), continuation of coverage for such employee and such employee's covered dependents for the periods set forth for such event under federal extension requirements established by the federal Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99-272, as amended from time to time, except that if such reduction of hours, leave of absence or termination of employment results from an employee's eligibility to receive Social Security income, continuation of coverage for such employee and such employee's covered dependents until midnight of the day preceding such person's eligibility for benefits under Title XVIII of the Social Security Act; (2) upon the death of the employee, continuation of coverage for the covered dependents of such employee for the periods set forth for such event under federal extension

requirements established by the Consolidated Omnibus Budget Reconciliation Act of 1985, P. L. 99-272, as amended from time to time; (3) regardless of the employee's or dependent's eligibility for other group insurance, during an employee's absence due to illness or injury, continuation of coverage for such employee and such employee's covered dependents during continuance of such illness or injury or for up to twelve months from the beginning of such absence; (4) regardless of an individual's eligibility for other group insurance, upon termination of the group plan, coverage for covered individuals who were totally disabled on the date of termination shall be continued without premium payment during the continuance of such disability for a period of twelve calendar months following the calendar month in which the plan was terminated, provided claim is submitted for coverage within one year of the termination of the plan; (5) the coverage of any covered individual shall terminate: (A) As to a child, the plan shall provide the option for said child to continue coverage for the longer of the following periods: (i) At the end of the month following the month in which the child: Marries; ceases to be a resident of the state; becomes covered under a group health plan through the dependent's own employment; or attains the age of twenty-six. The residency requirement shall not apply to dependent children under nineteen years of age or full-time students attending an accredited institution of higher education. If on the date specified for termination of coverage on a child, the child is unmarried and incapable of self-sustaining employment by reason of mental or physical handicap and chiefly dependent upon the employee for support and maintenance, the coverage on such child shall continue while the plan remains in force and the child remains in such condition, provided proof of such handicap is received by the carrier within thirty-one days of the date on which the child's coverage would have terminated in the absence of such incapacity. The carrier may require subsequent proof of the child's continued incapacity and dependency but not more often than once a year thereafter, or (ii) for the periods set forth for such child under federal extension requirements established by the Consolidated Omnibus Budget Reconciliation Act of 1985,P.L. 99-272, as amended from time to time; (B) as to the employee's spouse, at the end of the month following the month in which a divorce, court-ordered annulment or legal separation is obtained, whichever is earlier, except that the plan shall provide the option for said spouse to continue coverage for the periods set forth for such events under federal extension requirements established by the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99-272, as amended from time to time~ and (C) as to the employee or dependent who is sixty-five years of age or older, as of midnight of the day preceding such person's eligibility for benefits under Title XVIII of the federal Social Security Act; (6) as to any other event listed as a "qualifying event" in 29 USC 1163, as amended from time to time, continuation of coverage for such periods set forth for such event in 29 USC 1162, as amended from time to time, provided such plan may require the individual whose coverage is to be continued to pay up to the percentage of the applicable premium as specified for such event in 29 USC 1162, as amended from time to time. Any continuation of coverage required by this section except subdivision (4) or (6) of this subsection may be subject to the requirement, on the part of the individual whose coverage is to be continued, that such individual contribute that portion of the premium the individual would have been required to contribute had the employee remained an active covered employee, except that the individual may be required to pay up to one hundred two per cent of the entire premium at the group rate if coverage is continued in accordance with

subdivision (1), (2) or (5) of this subsection. The employer shall not be legally obligated by sections 38a-505, 38a-546 and 38a-551 to 38a-559, inclusive, to pay such premium if not paid timely by the employee.