



BENEFITS ALERT

Rose & Kiernan, Inc.

November, 2009



MAKE AVAILABLE OPTION

On July 29, 2009, Governor David A. Paterson signed into law Chapter 240 of the Laws of 2009, which extends the availability of health insurance coverage to young adults through the age of 29. This expansion will assist young adults who do not have access to employer-sponsored health insurance. This law is sometimes referred to as the "Age 29" law, because it permits young adults to continue or obtain coverage under a parent's policy through the age of 29.

The law affects policies or contracts issued, renewed, modified, altered or amended on or after September 1, 2009. For most policies, the new benefit will apply on the policy's annual renewal date. You can contact your R&K Client Manager to determine your renewal date.

The law provides two distinct ways in which coverage may be extended:

1. A "Young Adult Option" and
2. A "Make-Available" requirement.

Because both benefits are so different, they need to be described separately. **Information on the "make-available" requirement has finally been released and is detailed below.** Information on the "young adult option" was previously detailed and distributed in our 9/22/09 RK Alert.

[The "Make Available" Requirement Summary](#)

Under most individual and many group health insurance coverage, a dependent child loses coverage or "ages off" a parent's policy when turning 19 years of age, or 23 years of age if attending college.

Chapter 240 of the Laws of 2009, sometimes called the "Age 29" law, may extend the age of dependency (as defined by the health insurance contract) and permit eligible young adults through the age of 29 to remain on a parent's health insurance coverage in the same manner as dependents who are children.

The law states insurers that issue a policy or contract that provides coverage for dependent children must make available and, if requested by the policy holder/contract holder, extend coverage to qualifying young adults through age 29 as dependents under family coverage. It is called the "make-available" requirement because insurers are required to make it available at the request of the group or individual policy holder/contract holder.

It is important to note that in the case of insurance through an employer or group, the employer or group decides whether to offer this benefit to employees. The young adult does not get to make this choice.

Again, this benefit is separate and distinct from the "young adult option," which was previously detailed and distributed in our 9/22/09 RK Alert.



"Make Available" Option - Frequently Asked Questions

When does this law take effect?

The law affects policies or contracts issued, renewed, modified, altered or amended on or after September 1, 2009. For most existing policies, the individual or group policy holder/contract holder will be able to elect the make available benefit when the right attaches to the policy. For most policies, this will happen on the policy's first renewal date on or after September 1, 2009. You can contact your insurer or R&K Client Manager to determine the renewal date. Insurers must offer the make available option to the policy holder/contract holder with all new policies issued on or after September 1, 2009.

Who is eligible?

In order to participate, the "Age 29" law requires the coverage, the young adult's parent, and the young adult to meet certain requirements.

The Coverage

The coverage must:

- Be an individual, group or group remittance health insurance policy that includes coverage for dependents;
- Be delivered or issued for delivery in New York State; and
- Be fully insured (this benefit does not apply to self-funded plans).

The Parent

The parent must be covered under the policy or pursuant to a right under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) or state continuation coverage law.

The Young Adult

The young adult must:

- Be unmarried;
- Be 29 years of age or under;
- Not be insured by or eligible for comprehensive (i.e. medical and hospital) health insurance through his or her own employer; and
- Live, work or reside in New York State or the health insurance company's service area.

Please note that the young adult does not have to live with a parent, be financially dependent on a parent, or be a student.

What is the cost?

For People with Group Coverage

Employers or group policy holders/contract holders who choose to extend the age of dependency under the policy through the age of 29 will purchase a rider from their insurer. The rider will apply to all people with dependent coverage under the policy. Any additional premium costs as a result of the rider will apply to all people with dependent coverage under policy and not just the newly covered young adults.

If an employer elects the make-available option and contributes to the cost of dependent coverage, then the employer will also be responsible for contributing to the cost of dependent coverage for these young adults through age 29, at the same rate or percentage as for other dependents.

How will I receive notice of this benefit, and when may I purchase this coverage?**For People with Group Coverage**

The insurer will provide written notice to the employer or group policy holder/contract holder prior to the inception of the group policy/contract and annually thereafter prior to the renewal date. Coverage may be purchased at this time.

I am an employer and want to make coverage available to my employees' dependents through age 29. What should I do?

If you are an employer and want the make-available benefit, then you should contact your insurer for information on this benefit. You will need to purchase a rider to extend the age of dependent coverage.

Do employers have to provide the make-available benefit?

No. Employers are not required to offer the benefit.

Does this law apply to self-funded plans?

No, it does not apply to self-funded/self-insured plans, due to federal preemption under the Employee Retirement Income Security Act (ERISA). You can contact your employer or group administrator to determine if your plan is self-funded.

Does the make available option apply to municipal cooperatives?

Municipal cooperatives are not required to extend the age of dependency under the policy but may do so if they wish.

Does the make available option apply to Healthy NY?

The make available option is available to coverage through an individual or group Healthy NY policy.

Are there any other insurance plans that this law does not apply to?

The law does not apply to dental only, vision only, pharmacy only, accident only or specified disease coverage.

If a young adult has a child... does this make them ineligible?

No. Young adults with children may be covered through the make available option if they meet the eligibility criteria. However, young adults' children cannot be covered under the "Age 29" law. If they need to cover their children, they may want to consider Child Health Plus. Child Health Plus is available at a reduced premium to children in families who are up to 400% of the Federal Poverty Level (\$58,280 for a family of two) and at full price for children above that level.

If a young adult is eligible for employer-sponsored coverage, but it has very poor benefits... are they eligible?

If the employer provides comprehensive insurance that includes medical and hospital benefits, then they may not obtain coverage through the make available option. If the employer provides coverage that does not include medical and hospital benefits, then they may be eligible if they meet the other requirements.

If the young adult parent's employer offers several different benefit packages, do they get to choose which one they want?

Insurers and employers are not required to offer different benefit packages for the young adult option.

When will coverage end?

Coverage will end when one of the following occurs:

- The young adult terminates their coverage pursuant to the terms of the policy
- The young adult parent's coverage terminates
- The young adult no longer meets the eligibility requirements.
- The insurance policy is terminated and not replaced.

What if the young adult exhausts their benefits under the make available option, may they elect COBRA and/or state continuation coverage and receive an additional 36 months of coverage?

If the young adult is covered through the make available option, then the young adult would be able to elect COBRA/state continuation coverage for up to 36 months, assuming they meet the criteria for COBRA/state continuation coverage.

What if I need more information about this law?

Contact the Insurance Department's Consumer Services Bureau at (212) 480-6400 or 1-800-342-3736 or your Rose & Kiernan, Inc. benefit representative at (518) 244-4245

This Summary is provided to you for general informational purposes only and does not include references to other legal resources (e.g., supporting regulations, or formal or informal opinions) unless specifically noted. Please seek qualified and appropriate counsel for further information and/or advice regarding the application of the topics discussed herein to your employee benefits plans.

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