

# BENEFITS ALERT

Rose & Kiernan, Inc.

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## “AGE 29” LAW (update)

This communication updates the August 2009 Rose & Kiernan “RK Benefits Alert” regarding the “Age 29” Law, based upon new information recently posted to the NYS Insurance Department website. The major revisions are highlighted in yellow for your convenience.

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 will need to be described separately. Information on the “young adult option” is detailed below. Information on the “make-available” requirement has still not been posted by the NYS Department of Insurance. Once it is posted, we will then send you a new RK Benefit Alert to inform you of the details.

### Summary of the “Young Adult Option”

Chapter 240 of the Laws of 2009, sometimes called the “Age 29” law, permits eligible young adults through the age of 29 to continue or obtain coverage through a parent’s group policy. Insurers will notify employees of this benefit. Employees or their eligible dependents may then elect the benefit and pay the premium, which cannot be more than 100% of the single premium rate. As described in the cover note, this benefit, referred to here as the “young adult option,” is separate and distinct from the “make-available” requirement. It is called the young adult option benefit because it permits eligible young adults to continue their coverage through a parent’s health insurance coverage once they reach the maximum age of dependency under the policy. Young adults may also elect this coverage when they newly meet the eligibility criteria, such as if they lose eligibility for group health insurance coverage.

### Young Adult Option - Frequently Asked Questions

#### 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:

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

### The Parent

The parent must be covered under the group policy as an employee or member of the group 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:

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

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

### **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, young adults and their parents will be able to access the young adult option once 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 Rose & Kiernan Client Manager to determine your renewal date. The young adult option must be included with all new policies issued on or after September 1, 2009.

### **Who will notify the "young adult" of this benefit?**

The insurer will provide written notification to group members or employees (not young adults) in each certificate of coverage and at least 60 days prior to the date the young adult who is covered as a dependent under the parent's policy would otherwise have coverage terminate due to reaching the maximum age for dependent coverage.

Insurers must also notify employees or group members of the initial 12-month open enrollment period, which runs for 12 months following the date that coverage through the young adult option becomes available under the policy or contract.

### **When may the "young adult" enroll?**

There are four times when the young adult may enroll:

1. **When the Young Adult Would Otherwise Age Off a Policy**  
If the young adult is currently covered under a parent's group policy, the young adult may enroll within 60 days of the date that the coverage would otherwise end due to reaching the maximum age for dependent coverage. Coverage will be retroactive to the date that the coverage would otherwise have terminated.

2. **When the Young Adult Experiences a Change in Circumstances**  
The young adult may enroll within 60 days of newly meeting the eligibility requirements. Coverage will be prospective and will start within 30 days of when their parent's employer or group administrator receives notice of their election and premium payment. Examples of changes in circumstance would be a young adult moving back to New York State after living outside the state or losing health insurance coverage sponsored by an employer.
3. **During an Annual 30-Day Open Enrollment Period**  
The young adult's insurer will have an annual 30-day open enrollment period. If the young adult meets the eligibility requirements, the young adult may elect coverage during this period. Coverage will be prospective and will start within 30 days of when the parent's employer or group administrator receives notice of the election and premium payment.
4. **During the Initial 12-Month Open Enrollment Period**  
There is an initial 12-month open enrollment period, which should run for 12 months following the first renewal of the health insurance policy or contract on or after September 1, 2009. If the young adult meets the eligibility requirements during this initial 12-month open enrollment period, the young adult may enroll during this time. Coverage will be prospective and will start within 30 days of when the parent's employer or group administrator receives notice of the election and premium payment.

**If the young adult elects this benefit, when will the coverage start? Will it be retroactive to the last time that the young adult had coverage?**

Coverage will be retroactive if the young adult elects it within 60 days of the date that the young adult would otherwise age off a parent's policy. In all other cases, coverage will be prospective and will start no more than 30 days from the date that the insurer receives notice of your election and premium payment.

**What is the cost?**

The young adult or his or her parent will be responsible for a separate premium for the young adult option (over and above what the parent pays for the group coverage).

**How does the young adult enroll?**

To enroll, the young adult should notify their parent's employer or benefits administrator in writing and include payment of the first month's premium. They should contact the plan administrator or insurer to find out the amount of the premium.

**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).

**Does the young adult option apply to municipal cooperatives?**

Yes. The young adult option is available to coverage through a municipal cooperative.

**Does the young adult option apply to Healthy NY?**

The young adult option is available to coverage through a 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.

**The young adult has a child. Does this make the young adult ineligible?**

Young adults with children may make an "Age 29" election if they meet the eligibility criteria. However, young adults' children cannot be covered under the "Age 29" law. If the young adult needs 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.

**What if the young adult is eligible for coverage through their employer, but it has very poor benefits. Would the young adult be eligible for the "Age 29" benefit?**

If the young adult's employer provides health insurance that includes both medical and hospital benefits, **whether insured or self-funded**, then they cannot make an "Age 29" election. If the employer provides coverage that does not include both medical and hospital benefits, then the young adult may be eligible if they meet the other requirements.

**What if the young adult is eligible for COBRA/state continuation coverage from their former employer? Would they be eligible?**

Yes, as long as the young adult meets the other requirements for the young adult option. The young adult can elect COBRA/continuation coverage through their employer or the young adult can instead make an "Age 29" election. The young adult should weigh their options carefully before making a decision. Keep in mind that it may be better for them to exhaust COBRA/state continuation before making an "Age 29" election. This is because if they have coverage pursuant to an "Age 29" election and their parent loses eligibility for group coverage or the young adult no longer qualifies as a young adult, the young adult's coverage would terminate and they would not have a separate right to COBRA/state continuation under that group policy. However, if their parent loses eligibility for group coverage and the young adult has COBRA/state continuation coverage, the coverage would not terminate. The young adult should also consider the pros and cons of each type of coverage, including determining what benefits each plan covers, what the out-of-pocket costs would be, and whether their doctors or providers are in the network, if applicable.

**What if the young adult is covered through an individual policy that is purchased on their own? May they still make an "Age 29" election?**

If the young adult has coverage as an individual, then they may make an "Age 29" election if they meet the eligibility requirements. If they have coverage through their employer, then they cannot make an "Age 29" election, because they have employer-sponsored insurance.

**What if the young adult's parent's employer offers family coverage, but their parent currently has self-only coverage. Does that prohibit the young adult from making an "Age 29" election?**

No. The young adult or their parent may make an "Age 29" election even though the parent does not have family coverage.

**What if the young adult's parent separates from his or her employer or group and is no longer eligible for health insurance, is the young adult still eligible?**

No. If this occurs, then the young adult would lose the right to the young adult option.

**What if the young adult's parent has COBRA/state continuation coverage, would the young adult be eligible?**

Yes, the young adult is still eligible while their parent has COBRA/state continuation coverage, if they meet the eligibility requirements.

**What if the young adult had "Age 29" coverage and then it ended because they no longer met the eligibility requirements. Then the situation has changed, and the young adult meets the eligibility requirements again. Can the young adult get "Age 29" coverage again?**

Yes. The young adult is not limited to having this coverage only once. The young adult may elect it within 60 days of newly meeting the requirements or during the annual 30-day open enrollment period.

**What if the young adult were to exhaust their benefits under the “Age 29” law, may the young adult then elect COBRA or state continuation coverage and receive an additional 36 months of coverage?**

No. When the young adult's coverage under the "Age 29" young adult option terminates, they would not have a COBRA/state continuation right at that time.

**What else should the young adult consider before making an “Age 29” election?**

The young adult should weigh all of their options carefully. They should verify with their parent's employer or insurer the age at which they would no longer be considered a dependent under the policy. The young adult may also want to determine if they are eligible for programs such as **Family Health Plus** or **Healthy NY**, which may be less expensive than coverage through the young adult option. The young adult should carefully consider the pros and cons of each type of coverage, including determining what benefits each plan covers, what the out-of-pocket costs would be, and whether their doctors or providers are in the network, if applicable.

**Can the parent enroll the young adult in the young adult option?**

Yes. Parents may enroll their young adults in the option for them.

**What if the young adult's parent's employer offers several different benefit packages, does the young adult get to choose which one they want?**

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

**What if the young adult has “Age 29” coverage but cannot make my premium payment on time. Is there a grace period?**

Yes. There is a 30-day grace period. If the young adult does not make full payment within the 30-day grace period, then their coverage will be terminated back to the date that the last premium payment was paid.

**When will coverage end?**

Coverage will end when one of the following occurs:

1. The young adult terminates their coverage pursuant to the terms of the policy.
2. The parent is no longer enrolled in group health insurance coverage, including COBRA/state continuation coverage.
3. The young adult no longer meets the eligibility requirements.
4. The young adult does not pay the premium in full within the grace period.
5. The group insurance policy is terminated and not replaced.

**What if the young adult is not eligible for this benefit?**

If the young adult is not eligible to make an “Age 29” election, they may be able to elect **COBRA/state continuation coverage** for up to 36 months. The young adult would be responsible for up to 102% of the premium. They could consider **Healthy NY**, which provides reduced-cost coverage to those people meeting eligibility requirements. The young adult may also want to consider **Family Health Plus**, which provides free coverage to people meeting income and other eligibility requirements.

**What if you 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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