

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1978



ENROLLED

HOUSE BILL No. 1225

(By Mr. Morasco)



PASSED March 10, 1978

In Effect ninety days from Passage

**ENROLLED**

**H. B. 1225**

(By MR. MORASCO)

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AN ACT to amend chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article sixteen-a, relating to issuance of conversion policies when group insurance coverage terminated; required provisions; persons covered; alternative plans of insurance coverage.

*Be it enacted by the Legislature of West Virginia:*

That chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article sixteen-a, to read as follows:

**ARTICLE 16A. GROUP HEALTH INSURANCE CONVERSION.**

**§33-16A-1. Right of insured to convert from group coverage.**

1 A group policy or group subscriber contract which provides  
2 hospital, surgical or major medical expense insurance, or any  
3 combination of these coverages, on an expense incurred basis,  
4 but not a policy which provides benefits for specific diseases  
5 or for accidental injuries only, shall provide that an employee  
6 or member whose insurance under the group policy or contract  
7 has been terminated for any reason, including discontinuance  
8 of the group policy in its entirety or of an insured class, who  
9 has been continuously insured under the group policy, or under  
10 any group policy providing similar benefits which it replaces,  
11 for at least three months immediately prior to termination, shall

12 be entitled to have issued to him by the insurer a converted  
13 policy of health insurance. An employee or member shall not  
14 be entitled to have a converted policy issued to him if termi-  
15 nation of his insurance under the group policy occurred be-  
16 cause he failed to pay any required contribution, or the dis-  
17 continued group coverage was replaced by similar group cov-  
18 erage within thirty-one days.

**§33-16A-2. Issuance of converted policy.**

1 Issuance of a converted policy shall be subject to the fol-  
2 lowing conditions:

3 (a) Written application for the converted policy shall be  
4 made and the first premium paid to the insurer not later than  
5 thirty-one days after termination of the group policy or con-  
6 tract.

7 (b) The converted policy shall be issued without evidence  
8 of insurability.

9 (c) The initial premium for the converted policy for the  
10 first twelve months and subsequent renewal premiums shall  
11 be determined in accordance with premium rates applicable  
12 to individually underwritten standard risks, to the age and  
13 class of risk of each person to be covered under the con-  
14 verted policy and to the type and amount of insurance pro-  
15 vided. The experience under converted policies shall not be an  
16 acceptable basis for establishing rates for converted policies.

17 If an insurer experiences or incurs losses for a period of  
18 two years on conversion policies which exceed earned pre-  
19 miums by more than twenty percent, the insurer may file with  
20 the commissioner amended renewal rates for the subsequent  
21 year, which will produce a loss ratio of not less than one  
22 hundred twenty percent.

23 Conditions pertaining to health shall not be an acceptable  
24 basis for classification for the purposes of this section. The  
25 frequency of premium payment shall be the frequency cus-  
26 tomarily required by the insurer for the policy form and plan  
27 selected: *Provided*, That the insurer shall not require premium  
28 payments less frequently than quarterly.

**§33-16A-3. Effective date of policy.**

1 The effective date of the converted policy shall be the  
 2 day following the termination of insurance under the group  
 3 policy.

**§33-16A-4. Coverage of dependents.**

1 The converted policy shall cover the employee or member  
 2 and his dependents who were covered by the group policy on  
 3 the date of termination of insurance. At the option of the  
 4 insurer, a separate converted policy may be issued to cover  
 5 any dependent.

**§33-16A-5. Persons for whom coverage not required.**

1 The insurer shall not be required to issue a converted policy  
 2 covering any person if such person is or could be covered by  
 3 medicare (Title XVIII of the United States Social Security  
 4 Act as supplemented by the Social Security Amendments of  
 5 1965 or as later amended or superseded). Furthermore, the  
 6 insurer shall not be required to issue a converted policy cov-  
 7 ering any person if:

8 (a) (1) Such person is covered for similar benefits by  
 9 another hospital, surgical, medical or major medical expense  
 10 insurance policy or hospital or medical service subscriber con-  
 11 tract or medical practice or other prepayment plan or by any  
 12 other plan or program; or

13 (2) Similar benefits are provided to such person, pursuant  
 14 to or in accordance with the requirements of any state or  
 15 federal law; and

16 (b) The benefits provided under the sources referred to in  
 17 (1) above for such person or benefits provided ~~or available~~  
 18 under the sources referred to in (2) above for such person, to- *OK*  
 19 gether with the benefits provided by the converted policy, *zel*  
 20 would result in overinsurance according to the insurer's  
 21 standards. The insurer's standards must bear some reasonable  
 22 relationship to actual health care costs in the area in which  
 23 the insured lives at the time of conversion and must be filed  
 24 with the commissioner prior to their use in denying coverage.

**§33-16A-6. Inquiries by insurer.**

1 A converted policy may include a provision whereby the  
2 insurer may request information in advance of any premium  
3 due date of such policy of any person covered thereunder as  
4 to whether (i) he is covered for similar benefits by another  
5 hospital, surgical, medical or major medical expense insurance  
6 policy or hospital or medical service subscriber contract or  
7 medical practice or other prepayment plan or by any other  
8 plan or program, (ii) he is covered for similar benefits under  
9 any arrangement of coverage for individuals in a group, wheth-  
10 er on an insured or uninsured basis or (iii) similar benefits  
11 are provided for or available to such person, pursuant to or  
12 in accordance with the requirements of any state or federal  
13 law. The converted policy may provide that the insurer may  
14 refuse to renew the policy or the coverage of any person  
15 insured thereunder for the following reasons only:

16 (a) Either the benefits provided under the sources referred  
17 to in (i) and (ii) above for such person or benefits provided  
18 or available under the sources referred to in (iii) above for  
19 such person, together with the benefits provided by the con-  
20 verted policy, would result in overinsurance according to the  
21 insurer's standards on file with the commissioner or the con-  
22 verted policyholder fails to provide the requested information;

23 (b) Fraud or material misrepresentation in applying for  
24 any benefits under the converted policy;

25 (c) Eligibility of the insured person for coverage under  
26 medicare (Title XVIII of the United States Social Security  
27 Act as supplemented by the Social Security Amendments of  
28 1965 or as later amended or superseded) or under any other  
29 state or federal law providing for benefits similar to those  
30 provided by the converted policy;

31 (d) Other reasons approved by the commissioner.

**§33-16A-7. Limits of coverage.**

1 An insurer shall not be required to issue a converted  
2 policy which provides benefits in excess of those provided  
3 under the group policy from which conversion is made.

**§33-16A-8. Preexisting conditions; reduction of benefits.**

1 The converted policy shall not exclude a preexisting con-  
2 dition not excluded by the group policy. However, the con-  
3 verted policy may provide that any hospital, surgical or medi-  
4 cal benefits payable thereunder may be reduced by the amount  
5 of any such benefits payable under the group policy after the  
6 termination of the individual's insurance thereunder. The con-  
7 verted policy may also include provisions so that during the  
8 first policy year the benefits payable under the converted  
9 policy, together with the benefits payable under the group  
10 policy, shall not exceed those that would have been payable  
11 had the individual's insurance under the group policy re-  
12 mained in force and effect.

**§33-16A-9. Alternate plans of conversion coverage.**

1 If the group insurance policy from which conversion is  
2 made insures the employee or member for basic hospital or  
3 surgical expense insurance, the employee or member shall be  
4 entitled to obtain a converted policy providing, at his option,  
5 coverage on an expense incurred basis under any one of the  
6 plans meeting the following requirements:

**7 Plan A**

8 (a) Hospital room and board daily expense benefits in a  
9 maximum dollar amount approximating the average semi-  
10 private rate charged in metropolitan areas of this state, for a  
11 maximum duration of seventy days;

12 (b) Miscellaneous hospital expense benefits of a maximum  
13 amount of ten times the hospital room and board daily ex-  
14 pense benefits; and

15 (c) Surgical operation expense benefits according to a surgi-  
16 cal schedule consistent with those customarily offered by the  
17 insurer under group or individual health insurance policies  
18 and providing a maximum benefit of eight hundred dollars; or

**19 Plan B**

20 (a) Hospital room and board daily expense benefits in a  
21 maximum dollar amount equal to seventy-five percent of the

22 maximum dollar amount determined for Plan A, for a maxi-  
23 mum duration of seventy days;

24 (b) Miscellaneous hospital expense benefits of a maximum  
25 amount of ten times the hospital room and board daily ex-  
26 pense benefits; and

27 (c) Surgical operation expense benefits according to a surgi-  
28 cal schedule consistent with those customarily offered by the  
29 insurer under group or individual health insurance policies  
30 and providing a maximum benefit of six hundred dollars; or

31 Plan C

32 (a) Hospital room and board daily expense benefits in a  
33 maximum dollar amount equal to fifty percent of the maximum  
34 dollar amount determined for Plan A, for a maximum duration  
35 of seventy days;

36 (b) Miscellaneous hospital benefits of a maximum amount  
37 of ten times the hospital room and board daily expense bene-  
38 fits; and

39 (c) Surgical operation expense benefits according to a  
40 surgical schedule consistent with those customarily offered by  
41 the insurer under group or individual health insurance policies  
42 and providing a maximum benefit of four hundred dollars.

43 The maximum dollar amounts in Plan A shall be deter-  
44 mined by the commissioner and may be redetermined by him  
45 from time to time as to converted policies issued subsequent  
46 to such redetermination. Such redetermination shall not be  
47 made more often than once in three years. The maximum  
48 dollar amounts in Plans A, B and C shall be rounded to the  
49 nearest multiple of ten dollars.

**§33-16A-10. Additional coverage.**

1 If the group insurance policy from which conversion is  
2 made insures the employee or member for major medical ex-  
3 pense insurance, the employee or member shall be entitled to  
4 obtain a converted policy providing catastrophic or major  
5 medical coverage under a plan meeting the following require-  
6 ments:

7 (a) A maximum benefit at least equal to either, at the  
8 option of the insurer, (1) or (2) below:

9 (1) The smaller of the following amounts:

10 (A) The maximum benefit provided under the group policy.

11 (B) A maximum payment of two hundred fifty thousand  
12 dollars per covered person for all covered medical expenses  
13 incurred during the covered person's lifetime.

14 (2) The smaller of the following amounts:

15 (A) The maximum benefit provided under the group policy.

16 (B) A maximum payment of two hundred fifty thousand  
17 dollars for each unrelated injury or sickness.

18 (b) Payment of benefits at the rate of eighty percent of  
19 covered medical expenses which are in excess of the deduct-  
20 ible, until twenty percent of such expenses in a benefit period  
21 reaches one thousand dollars, after which benefits will be  
22 paid at the rate of one hundred percent during the remainder  
23 of such benefit period. Payment of benefits for outpatient  
24 treatment of mental illness, if provided in the converted  
25 policy, may be at a lesser rate but not less than fifty percent.

26 (c) A deductible for each benefit period which, at the  
27 option of the insurer, shall be (1) the sum of the benefits  
28 deductible and one hundred dollars, or (2) the corresponding  
29 deductible in the group policy. The term "benefits deductible,"  
30 as used herein, means the value of any benefits provided on  
31 an expense incurred basis which are provided with respect to  
32 covered medical expenses by any other hospital, surgical, or  
33 medical insurance policy or hospital or medical service sub-  
34 scriber contract or medical practice or other prepayment plan,  
35 or any other plan or program whether on an insured or un-  
36 insured basis, or in accordance with the requirements of any  
37 state or federal law and, if pursuant to section eleven of this  
38 article, the converted policy provides both basic hospital or  
39 surgical coverage and major medical coverage, the value of  
40 such basic benefits.

41 If the maximum benefit is determined by (a) (2) above,  
42 the insurer may require that the deductible be satisfied



43 during a period of not less than three months if the deductible  
44 is one hundred dollars or less, and not less than six months if  
45 the deductible exceeds one hundred dollars.

46 (d) The benefit period shall be each calendar year when  
47 the maximum benefit is determined by (a) (1) above or twenty-  
48 four months when the maximum benefit is determined by (a)  
49 (2) above.

50 (e) The term "covered medical expenses," as used above,  
51 shall include at least, in the case of hospital room and board  
52 charges, the lesser of the dollar amount in Plan A and the  
53 average semiprivate room and board rate for the hospital in  
54 which the individual is confined and twice such amount for  
55 charges in an intensive care unit. Any surgical schedule shall  
56 be consistent with those customarily offered by the insurer  
57 under group or individual health insurance policies and must  
58 provide at least a one thousand two hundred dollar maximum  
59 benefit.

**§33-16A-11. Combined policy coverage.**

1 The conversion privilege required by this article shall, if  
2 the group insurance policy insures the employee or member  
3 for basic hospital or surgical expense insurance as well as  
4 major medical expense insurance, make available the plans  
5 of benefits set forth in sections nine and ten of this article.  
6 At the option of the insurer, such plans or benefits may be  
7 provided under one policy.

8 The insurer may also, in lieu of the plans of benefits set  
9 forth in sections nine and ten of this article, provide a policy  
10 of comprehensive medical expense benefits without first dol-  
11 lar coverage. Said policy shall conform to the requirements of  
12 section ten of this article: *Provided*, That an insurer electing  
13 to provide such a policy shall make available a low deductible  
14 option, not to exceed one hundred dollars, a high deductible  
15 option between five hundred and one thousand dollars, and a  
16 third deductible option midway between the high and low  
17 deductible options.

18 The insurer may, at its option, also offer alternative plans  
19 for group health conversion in addition to those required by  
20 this article.

**§33-16A-12. Coverage following retirement.**

1 In the event coverage would be continued under the group  
2 policy on an employee following his retirement, but prior to  
3 the time he is or could be covered by medicare, he may elect,  
4 in lieu of such continuation of group insurance, to have the  
5 same conversion rights as would apply had his insurance ter-  
6 minated at retirement by reason of termination of employment  
7 or membership.

8 The converted policy may provide for reduction of coverage  
9 on any person upon his eligibility for coverage under medicare  
10 or under any other state or federal law providing for benefits  
11 similar to those provided by the converted policy.

**§33-16A-13. Other conversion privileges.**

1 Subject to the conditions set forth in the previous sections  
2 of this article, the conversion privilege shall also be available  
3 (a) to the surviving spouse, if any, at the death of the em-  
4 ployee or member, with respect to the spouse and such child-  
5 ren whose coverage under the group policy terminates by  
6 reason of such death, otherwise to each surviving child whose  
7 coverage under the group policy terminates by reason of such  
8 death, or, if the group policy provides for continuation of de-  
9 pendants coverage following the employee's or member's  
10 death, at the end of such continuation, (b) to the spouse of  
11 the employee or member upon termination of coverage of the  
12 spouse, while the employee or member remains insured under  
13 the group policy, by reason of ceasing to be a qualified family  
14 member under the group policy, with respect to the spouse  
15 and such children whose coverage under the group policy  
16 terminates at the same time, or (c) to a child solely with re-  
17 spect to himself upon termination of his coverage by reason  
18 of ceasing to be a qualified family member under the group  
19 policy, if a conversion privilege is not otherwise provided  
20 above with respect to such termination.

**§33-16A-14. Miscellaneous.**

1 If the benefit levels required in section nine of this article  
2 exceed the benefit levels provided under the group policy, the  
3 conversion policy may offer benefits which are substantially

4 similar to those provided under the group policy in lieu of  
5 those required in section nine.

6 The insurer may elect to provide group insurance coverage  
7 in lieu of the issuance of a converted individual policy.

8 A notification of the conversion privilege shall be included  
9 in each certificate of coverage.

10 A converted policy which is delivered outside this state  
11 must be on a form which could be delivered in such other  
12 jurisdiction as a converted policy had the group policy been  
13 issued in that jurisdiction.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis  
Chairman Senate Committee

Clarence C. Christensen  
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J. Dillon, Jr.  
Clerk of the Senate

V. Blankenship  
Clerk of the House of Delegates

J. M. [Signature]  
President of the Senate

Donald L. Kopp  
Speaker House of Delegates

The within is approved this the 30  
day of March, 1978.

[Signature]  
Governor

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OFFICE OF THE GOVERNOR

APPROVED AND SIGNED BY THE GOVERNOR

Date Mar. 30, 1978

Time 4:25 p.m.

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SECRETARY OF STATE