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81st Legislature

House Insurance Committee

SB 1771 HELPS MORE LAID-OFF TEXANS MAINTAIN COVERAGE

The federal economic recovery act includes federal subsidies to help people being laid off buy private health insurance coverage for nine months while seeking new jobs. Under current law, employees laid off from larger companies are already eligible for the subsidy if they lost their job after September 1, 2008. But companies with fewer than 20 employees fall into a different category. For those employees to take full advantage of the health care subsidy, the Legislature must make modest changes to state insurance law that require no General Revenue. SB 1771 makes needed changes and will help keep more Texans covered through the private market instead of joining the growing ranks of the uninsured.

- **The recovery act includes federal funds to cover 65 percent of COBRA and state continuation premiums to help recently unemployed workers afford coverage while looking for new jobs.**
- **As many as 470,000 Texans will maintain coverage with this help.**
- **Many Texans cannot maximize this assistance without modest changes to state insurance laws made by SB 1771.**
- **The Texas Legislature must increase the period of state continuation coverage and give Texans laid off before the premium reduction announcement a second chance to enroll.**

Uneven Playing Field Under Current Law

Today, workers losing jobs from businesses with 20 or more employees will have more coverage options and full access to federal premium assistance, unlike workers losing jobs from businesses with fewer than 20 employees. The following example illustrates the uneven playing field faced by two small employers in Texas with the same health insurance policy who both must cut staff to remain open.

Main Street Diner 20 Employees

A worker laid-off can:

- Continue coverage for 24 months: 18 months of COBRA followed by 6 months of state continuation.
- Get the 65% federal subsidy for the full 9 months.
- If laid off between September 2008 and mid-February 2009, get a second chance to elect COBRA in order to take advantage of the federal premium assistance.

Main Street Day Care 19 Employees

A worker laid-off can:

- Continue coverage for only 6 months through state continuation (not eligible for COBRA).
- Get the 65% federal subsidy for only 6 months instead of 9.
- Only get the subsidy if laid off after mid-February 2009. Those laid-off between September 2008 and mid-February 2009 get no second chance to elect state continuation.

COBRA and State Continuation

COBRA, established in federal law, allows workers leaving employment and their families to remain covered under a former employer's health plan by paying the full premium cost (employer's and employee's shares). People can continue coverage through COBRA for 18 months. COBRA only applies to businesses with 20 or more full-time employees.

State continuation, established in state law, is similar to COBRA. It allows Texans leaving employment to continue coverage through a former employer's health plan by paying the full premium cost, but unlike COBRA, allows coverage for only six months. Employees of small businesses (with fewer than 20 full-time employees) only have access to state continuation.

Federal Premium Assistance

The federal economic recovery act provides a 65 percent subsidy for COBRA and state continuation coverage to workers losing jobs during the recession and their families. The 65 percent subsidy is entirely federally funded and requires no General Revenue. The subsidy is available to each eligible enrollee for up to nine months. To be eligible for the premium reduction, a person must:

- Be involuntarily terminated between September 1, 2008 and December 31, 2009;
- Be eligible for and elect COBRA or state continuation coverage;
- Earn less than \$145,000 a year for individuals or \$290,000 for families; and
- Lack access to other group coverage (such as through a spouse's employer) or Medicare, regardless of enrollment in that coverage.

People receiving premium assistance will pay 35 percent of the premium to their health plan. The health plan will take the 65 percent difference as a credit against payroll taxes due to the IRS.

Second Chance to Elect Coverage

The federal economic recovery act gives workers laid off between September 1, 2008 and mid-February 2009 (when the act took effect) a second chance to elect COBRA now that the 65 percent premium reduction is available. People who choose this option will not be subject to new pre-existing condition waiting periods. The new enrollment period applies only to COBRA. States must pass conforming laws to make the same opportunity available through state continuation.

Action Needed to Maximize Assistance for Texans

The Texas Legislature must make modest conforming changes to state insurance law to ensure that the recovery act provides all of the intended health insurance benefits equally to people with COBRA and state continuation. To ensure that all Texans can make the most of federal assistance, Texas must:

- Lengthen the coverage period of state continuation for people who are not COBRA-eligible **to at least 9 months**; and
- Give recently unemployed Texans **a second chance to enroll in state continuation** and take advantage of the premium reduction.

SB 1771 by Senator Duncan makes the changes needed to help more recently unemployed Texans access federal premium assistance and maintain private health insurance coverage.