**South Carolina General Assembly**

118th Session, 2009-2010

**A143, R158, H3371**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Harvin, Kennedy, Alexander, Funderburk, Gunn, Hart, McEachern, McLeod, Ott, J.E. Smith, Spires, Weeks and Bowers

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Introduced in the House on January 28, 2009

Introduced in the Senate on April 28, 2009

Last Amended on April 22, 2009

Passed by the General Assembly on March 2, 2010

Governor's Action: March 31, 2010, Signed

Summary: Health care insurance

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/28/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\01-28-09.docx)‑16

1/28/2009 House Referred to Committee on **Labor, Commerce and Industry** [HJ](file:///h:\HJ%20Archive\2009\01-28-09.docx)‑16

4/2/2009 House Member(s) request name added as sponsor: Bowers

4/2/2009 House Committee report: Favorable with amendment **Labor, Commerce and Industry** [HJ](file:///h:\HJ%20Archive\2009\04-02-09.docx)‑118

4/6/2009 Scrivener's error corrected

4/22/2009 House Amended [HJ](file:///h:\HJ%20Archive\2009\04-22-09.docx)‑33

4/22/2009 House Read second time [HJ](file:///h:\HJ%20Archive\2009\04-22-09.docx)‑35

4/23/2009 House Read third time and sent to Senate [HJ](file:///h:\HJ%20Archive\2009\04-23-09.docx)‑238

4/23/2009 Scrivener's error corrected

4/28/2009 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2009\04-28-09.docx)‑8

4/28/2009 Senate Referred to Committee on **Banking and Insurance** [SJ](file:///h:\SJ%20Archive\2009\04-28-09.docx)‑8

2/16/2010 Senate Committee report: Favorable with amendment **Banking and Insurance** [SJ](file:///h:\SJ%20Archive\2010\02-16-10.docx)‑6

2/17/2010 Scrivener's error corrected

2/23/2010 Senate Committee Amendment Adopted [SJ](file:///h:\SJ%20Archive\2010\02-23-10.docx)‑18

2/23/2010 Senate Read second time [SJ](file:///h:\SJ%20Archive\2010\02-23-10.docx)‑18

2/24/2010 Senate Read third time and returned to House with amendments [SJ](file:///h:\SJ%20Archive\2010\02-24-10.docx)‑12

3/2/2010 House Concurred in Senate amendment and enrolled [HJ](file:///h:\HJ%20Archive\2010\03-02-10.docx)‑25

3/2/2010 House Roll call Yeas‑103 Nays‑0 [HJ](file:///h:\HJ%20Archive\2010\03-02-10.docx)‑26

3/25/2010 Ratified R 158

3/31/2010 Signed By Governor

4/12/2010 Effective date See Act for Effective Date

4/13/2010 Act No. 143

**VERSIONS OF THIS BILL**

[1/28/2009](file:///p:\pprever\2009-10\3371_20090128.docx)

[4/2/2009](file:///p:\pprever\2009-10\3371_20090402.docx)

[4/6/2009](file:///p:\pprever\2009-10\3371_20090406.docx)

[4/22/2009](file:///p:\pprever\2009-10\3371_20090422.docx)

[4/23/2009](file:///p:\pprever\2009-10\3371_20090423.docx)

[2/16/2010](file:///p:\pprever\2009-10\3371_20100216.docx)

[2/17/2010](file:///p:\pprever\2009-10\3371_20100217.docx)

[2/23/2010](file:///p:\pprever\2009-10\3371_20100223.docx)

(A143, R158, H3371)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑71‑243 SO AS PROVIDE FOR DEFINITIONS AND TO REGULATE A PROVIDER OF HEALTH CARE CONTRACTS AND ISSUERS OF CERTAIN INDIVIDUAL HEALTH INSURANCE WHEN A PROVIDER CONTRACT FOR HEALTH CARE SERVICES IS TERMINATED OR NONRENEWED; AND BY ADDING SECTIONS 38‑71‑246 AND 38‑71‑247 SO AS TO REQUIRE EACH PROVIDER CONTRACT TO CONTAIN CONTINUATION OF CARE PROVISIONS WITH A PLAIN LANGUAGE DESCRIPTION.**

Be it enacted by the General Assembly of the State of South Carolina:

**Definitions, applicability, requirements**

SECTION 1. Article 1, Chapter 71, Title 38 of the 1976 Code is amended by adding:

“Section 38‑71‑243. (A) As used in this section:

(1) ‘Continuation of care’ means the provision of in‑network level benefits for services rendered by certain out‑of‑network providers for a definite period of time in order to ensure continuity of care for covered persons for a serious medical condition. Continuation of care must be provided for ninety days or until the termination of the benefit period, whichever is greater.

(2) ‘Health insurance coverage’ means as defined in Sections 38‑71‑670(6) and 38‑71‑840(14).

(3) ‘Health insurance issuer’ or ‘issuer’ means an entity that provides health insurance coverage in this State as defined in Sections 38‑71‑670(7) and 38‑71‑840(16).

(4) ‘State health plan’ means the employee and retiree insurance program provided for in Article 5, Chapter 11, Title 1.

(5) ‘Serious medical condition’ means a health condition or illness, that requires medical attention, and where failure to provide the current course of treatment through the current provider would place the person’s health in serious jeopardy, and includes cancer, acute myocardial infarction, and pregnancy. Such attestation by the treating physician must be made upon the request of the patient and in a written form approved by the Department of Insurance or prescribed through regulation, order, or bulletin.

(B) This section applies to an individual health plan, a group health plan, or a health benefit plan, including the state health plan, that is delivered, issued for delivery, or renewed in this State and which provides health insurance coverage. Continuation of care must not be provided if suspension or revocation of the provider’s license occurs.

(C) If a provider contract is terminated or nonrenewed, the issuer and the provider shall comply with the following requirements:

(1) The issuer is liable for covered benefits rendered in the continuation of care by a provider to a covered person for a serious medical condition. Except as required by this section, the benefits payable for services rendered during the continuation of care are subject to the policy’s or contract’s regular benefit limits.

(2) The issuer shall not require a covered person to pay a deductible or copayment which is greater than the in‑network rate for services rendered during the continuation of care.

(3) An issuer offering health insurance coverage shall not require a covered person, as a condition of continued coverage under the plan, to pay a premium or contribution which is greater than the premium or contribution for a similarly situated individual enrolled in the plan on the basis of covered benefits rendered as provided for in this section to the covered person or the dependent of a covered person.

(4) The provider shall accept as payment in full for services rendered within in the continuation of care the negotiated rate under the provider contract.

(5) Except for an applicable deductible or a copayment, a provider shall not bill or otherwise hold a covered person financially responsible for services rendered in the continuation of care and furnished by the provider, unless the provider has not received payment in accordance with item (4) of this subsection and in accordance with Article 2, Chapter 59 of this title.

(6) Upon receipt of the patient’s request accompanied by the physician’s attestation on the prescribed form, the issuer shall notify the provider and the covered person of the provider’s date of termination from the network and of the continuation of care provisions as provided for in this section.

(7) The issuer is responsible for determining if a covered person qualifies for continuation of care and may request additional information in reaching such determination.

Section 38‑71‑246. (A) Each provider contract must contain a continuation of care provision consistent with the language of Section 38‑71‑243.

(B) Nothing in this section prohibits a provider contract from providing continuation of care services greater than those required to be offered pursuant to subsection (A) or more favorable to the covered person than those required to be offered pursuant to subsection (A).

Section 38‑71‑247. Each health insurance issuer shall include a plain language description of the continuation of care provisions set forth in Section 38‑71‑243 in the policy, certificate, membership booklet, outline of coverage, or other evidence of coverage it provides to covered persons.”

**Regulations**

SECTION 2. The Department of Insurance may promulgate regulations necessary for implementation of this act.

**Severability**

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Time effective**

SECTION 4. This act takes effect upon approval by the Governor and applies to an individual health plan, a group health plan, or a health benefit plan, including the state health plan, issued, renewed, delivered, or entered into after December 31, 2010.

Ratified the 25th day of March, 2010.

Approved the 31st day of March, 2010.

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