

Senate Bill 332

In The Senate

January 30, 1981

Introduced and referred
to Committee on Public
Health, Welfare and Safety.

Fiscal note requested.

February 5, 1981

Fiscal note returned.

February 21, 1981

Committee recommend bill
do not pass.

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INTRODUCED BY Sen. Mike Anderson BILL NO. 332
BY REQUEST OF THE INSURANCE DEPARTMENT

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE THE OPPORTUNITY IN CERTAIN CIRCUMSTANCES FOR AN INDIVIDUAL TO CONTINUE HIS PARTICIPATION IN A GROUP DISABILITY INSURANCE PLAN IF HE LEAVES THE GROUP; TO REQUIRE THE OPPORTUNITY IN CERTAIN CIRCUMSTANCES FOR AN INDIVIDUAL TO CONVERT HIS GROUP INSURANCE TO AN INDIVIDUAL POLICY IF HIS GROUP INSURANCE COVERAGE IS TERMINATED; AND ESTABLISHING STANDARDS AND CONDITIONS FOR CONTINUATION OF COVERAGE AND CONVERSION; AND PROVIDING FOR A DELAYED EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Short title. This [act] may be cited as the "Group Disability Insurance Continuation and Conversion Law".

Section 2. Definitions. As used in this [act], the following definitions apply:

(1) "Group policy" means a group disability insurance policy issued by an insurance company and a group contract issued by a health service corporation or health maintenance organization or similar corporation or organization.

(2) "Individual policy" or "converted policy" means an

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individual disability insurance policy issued by an insurance company or an individual health services contract issued by a health service corporation or health maintenance organization or similar corporation or organization.

(3) "Insurance", "insures", and "insured" refer to coverage under a group policy, individual policy, or converted policy on a premium-paying basis and do not include coverage provided solely as an accrued liability or by reason of a disability extension.

(4) "Insurer" means the entity issuing a group policy or an individual or converted policy.

(5) "Medicare" means the health care program established in Title XVIII of the United States Social Security Act, as amended or superseded.

(6) "Premium" includes any premium or other consideration payable for coverage under a group or individual policy.

Section 3. Continuation of group hospital, surgical, and major medical coverage after termination of employment or membership -- conditions. A group policy delivered or issued for delivery in this state which insures employees or members for hospital, surgical, or major medical insurance on an expense incurred or service basis, other than for specific diseases or for accidental injuries only, shall provide that employees or members whose insurance under the

1 group policy would otherwise terminate because of
 2 termination of employment or membership are entitled to
 3 continue the hospital, surgical, and major medical insurance
 4 coverage of that group policy for themselves and their
 5 eligible dependents, subject to all of the group policy's
 6 terms and conditions applicable to those forms of insurance
 7 and subject to the following conditions:

8 (1) Continuation shall be available only to an
 9 employee or member who has been continuously insured under
 10 the group policy (and for similar benefits under any group
 11 policy which it replaced) during the entire 3-month period
 12 ending with such termination.

13 (2) Continuation shall not be available for a person
 14 who is or could be:

15 (a) covered by Medicare; or

16 (b) covered by any other insured or uninsured
 17 arrangement which provides hospital, surgical, or medical
 18 coverage for individuals in a group.

19 (3) Continuation need not include dental, vision care,
 20 or prescription drug benefits or any other benefits provided
 21 under the group policy in addition to its hospital,
 22 surgical, or major medical benefits.

23 (4) An employee or member who wishes continuation of
 24 coverage must request such continuation in writing within
 25 the 10-day period following the later of:

1 (a) the date of such termination, or

2 (b) the date the employee is given notice of the right
 3 of continuation by either his employer or the group
 4 policyholder, but the employee or member must elect
 5 continuation within 31 days of the date of termination.

6 (5) An employee or member electing continuation must
 7 pay to the group policyholder or his employer, on a monthly
 8 basis in advance, the amount of contribution required by the
 9 policyholder or employer, but not more than the group rate
 10 for the insurance being continued under the group policy on
 11 the due date of each payment. The employee's or member's
 12 written election of continuation, together with the first
 13 contribution required to establish contributions on a
 14 monthly basis in advance, must be given to the policyholder
 15 or employer within 31 days of the date the employee's or
 16 member's insurance would otherwise terminate.

17 (6) Continuation of insurance under the group policy
 18 for any person shall terminate when he fails to satisfy the
 19 conditions of subsection (2) or, if earlier, at the first to
 20 occur of the following:

21 (a) the date 6 months after the date the employee's or
 22 member's insurance under the policy would otherwise have
 23 terminated because of termination of employment or
 24 membership;

25 (b) if the employee or member fails to make timely

1 payment of a required contribution, the end of the period
2 for which contributions were made; or

3 (c) the date on which the group policy is terminated
4 or, in the case of an employee, the date his employer
5 terminates participation under the group policy.

6 (7) If subsection (6)(c) applies and the coverage
7 ceasing by reason of such termination is replaced by similar
8 coverage under another group policy, the following shall
9 apply:

10 (a) The employee or member shall have the right to
11 become covered under that other group policy for the balance
12 of the period that he would have remained covered under the
13 prior group policy in accordance with subsection (6) had a
14 termination described in subsection (6)(c) not occurred.

15 (b) The minimum level of benefits to be provided by
16 the other group policy shall be the applicable level of
17 benefits of the prior group policy reduced by any benefits
18 payable under that prior group policy.

19 (c) The prior group policy shall continue to provide
20 benefits to the extent of its accrued liabilities and
21 extensions of benefits as if the replacement had not
22 occurred.

23 (8) A notification of the continuation privilege must
24 be included in each certificate of coverage.

25 Section 4. Entitlement to converted individual policy.

1 (1) A group policy delivered or issued for delivery in this
2 state which insures employees or members for hospital,
3 surgical, or major medical insurance on an expense incurred
4 or service basis, other than for specific diseases or for
5 accidental injuries only, shall provide that an employee or
6 member whose insurance under the group policy has been
7 terminated is entitled to have a converted policy issued to
8 him by the insurer under whose group policy he was insured,
9 without evidence of insurability, subject to [sections 5
10 through 22].

11 (2) A notification of the conversion privilege must be
12 included in each certificate of coverage.

13 (3) The insurer may elect to provide group insurance
14 coverage in lieu of the issuance of a converted individual
15 policy.

16 Section 5. Converted policy -- when no entitlement. A
17 converted policy is not available to an employee or member
18 if termination of his insurance under the group policy
19 occurred:

20 (1) because of termination of employment or membership
21 and either he was not entitled to continuation of group
22 coverage under [section 3] or failed to elect such
23 continuation;

24 (2) because he failed to make timely payment of any
25 required contribution;

1 (3) for any other reason if he had not been
2 continuously covered under the group policy (and for similar
3 benefits under any group policy which it replaced) during
4 the entire 3-month period ending with such termination; or

5 (4) because the group policy terminated or an
6 employer's participation terminated, and the insurance is
7 replaced by similar coverage under another group policy
8 within 31 days of the date of termination.

9 Section 6. Converted policy premium payment --
10 effective date of coverage. Written application and the
11 first premium payment for the converted policy shall be made
12 to the insurer not later than 31 days after such
13 termination. Its effective date shall be the day following
14 the termination of insurance under the group policy.

15 Section 7. Amount of converted policy premium. The
16 premium for the converted policy shall be determined in
17 accordance with the insurer's table of premium rates
18 applicable to the age and class of risk of each person to be
19 covered under that policy and to the type and amount of
20 insurance provided.

21 Section 8. Coverage of persons under converted policy.
22 The converted policy shall cover the employee or member and
23 his dependents who were covered by the group policy on the
24 date of termination of insurance. At the option of the
25 insurer, a separate converted policy may be issued to cover

1 any dependent.

2 Section 9. Other health coverage -- limitations on
3 issuance of converted policy. The insurer is not required to
4 issue a converted policy covering any person if such person
5 is or could be covered by medicare. Furthermore, the insurer
6 is not required to issue a converted policy covering any
7 person if:

8 (1) (a) such person is covered for similar benefits by
9 another individual policy;

10 (b) such person is or could be covered for similar
11 benefits under any arrangement of coverage for individuals
12 in a group, whether insured or uninsured; or

13 (c) similar benefits are provided for or available to
14 such person, by reason of any state or federal law; and

15 (2) the benefits under sources of the kind referred to
16 in subsection (1)(a) for such person or benefits provided or
17 available under sources of the kind referred to in
18 subsections (1)(b) and (1)(c) for such person, together with
19 the converted policy's benefits would result in
20 overinsurance according to the insurer's standards for
21 overinsurance.

22 Section 10. Refusal to renew converted policy --
23 standards. A converted policy may provide that the insurer
24 may at any time request information of any person covered
25 thereunder as to whether he is covered for the similar

1 benefits described in [section 9(1)(a)] or is or could be
 2 covered for similar benefits described in (5)(a)(ii) and
 3 subsections (1)(b) and (1)(c) of [section 9]. The converted
 4 policy may provide that, as of any premium due date, the
 5 insurer may refuse to renew the policy or the coverage of
 6 any insured person for the following reasons and no other:

7 (1) either those similar benefits for which such
 8 person is or could be covered, together with the converted
 9 policy's benefits, would result in overinsurance according
 10 to the insurer's standards for overinsurance or the
 11 policyholder of the converted policy fails to provide the
 12 requested information;

13 (2) fraud or material misrepresentation in applying
 14 for any benefits under the converted policy;

15 (3) eligibility of the insured person for coverage
 16 under medicare or under any other state or federal law
 17 providing for benefits similar to those provided by the
 18 converted policy;

19 (4) other reasons which may be approved by the
 20 commissioner of insurance.

21 Section 11. Benefit levels -- converted policy need be
 22 no greater than group policy. An insurer is not required to
 23 issue a converted policy providing benefits in excess of the
 24 hospital, surgical, or major medical insurance under the
 25 group policy from which conversion is made.

1 Section 12. Preexisting conditions -- total benefits
 2 payable first policy year. The converted policy may not
 3 exclude, as a preexisting condition, any condition covered
 4 by the group policy. However, the converted policy may
 5 provide for a reduction of its hospital, surgical, or
 6 medical benefits by the amount of any such benefits payable
 7 under the group policy after the individual's insurance
 8 terminates thereunder. The converted policy may also provide
 9 that during the first policy year, the benefits payable
 10 under the converted policy, together with the benefits
 11 payable under the group policy, may not exceed those that
 12 would have been payable had the individual's insurance under
 13 the group policy remained in force.

14 Section 13. Benefit plans -- basic hospital or
 15 surgical. Subject to the provisions of this [act], if the
 16 group insurance policy from which conversion is made insures
 17 the employee or member for basic hospital or surgical
 18 expense insurance, the employee or member is entitled to
 19 obtain a converted policy providing, at his option, coverage
 20 on an expense incurred basis under any of the following
 21 plans:

22 (1) Plan A --

23 (a) hospital room and board daily expense benefits in
 24 a maximum dollar amount approximating the average
 25 semiprivate rate charged in the major metropolitan area of

1 this state, for a maximum duration of 70 days;

2 (b) miscellaneous hospital expense benefits up to a
3 maximum amount of 10 times the hospital room and board daily
4 expense benefits; and

5 (c) surgical expense benefits according to a surgical
6 procedures schedule consistent with those customarily
7 offered by the insurer under group or individual health
8 insurance policies and providing a maximum benefit of \$800.

9 (2) Plan B -- same as Plan A, except that:

10 (a) the maximum hospital room and board daily expense
11 benefit is 75% of the corresponding Plan A maximum; and

12 (b) the surgical schedule maximum is \$600.

13 (3) Plan C -- same as Plan A, except that:

14 (a) the maximum hospital room and board daily expense
15 benefit is 50% of the corresponding Plan A maximum; and

16 (b) the surgical schedule maximum is \$400.

17 (4) The maximum dollar amount for Plan A's hospital
18 room and board daily expense benefits shall be determined by
19 the commissioner and may be redetermined by him from time to
20 time as to converted policies issued subsequent to such
21 redetermination. Such redetermination shall not be made more
22 often than once in 3 years. Such Plan A maximum and the
23 corresponding maximums in Plans B and C shall be rounded to
24 the nearest multiple of \$10; the rounding may be to the next
25 higher or lower multiple of \$10 if otherwise exactly midway

1 between.

2 Section 14. Major medical and catastrophic coverage.
3 Subject to the provisions and conditions of this [act], if
4 the group policy from which conversion is made insures the
5 employee or member for major medical expense insurance, the
6 employee or member is entitled to obtain a converted policy
7 providing catastrophic or major medical coverage under a
8 plan meeting the following requirements:

9 (1) a maximum benefit at least equal to either, at the
10 option of the insurer:

11 (a) a maximum payment per covered person for all
12 covered medical expenses incurred during that person's
13 lifetime, equal to the smaller of:

14 (i) the maximum benefit provided under the group
15 policy; or

16 (ii) \$250,000; or

17 (b) a maximum payment for each unrelated injury or
18 sickness, equal to the smaller of:

19 (i) the maximum benefit provided under the group
20 policy; or

21 (ii) \$250,000.

22 (2) payment of benefits at the rate of 80% of covered
23 medical expenses which are in excess of the deductible,
24 until 20% of such expenses in a benefit period reaches
25 \$1,000, after which benefits will be paid at the rate of

1 100% during the remainder of such benefit period. Payment of
 2 benefits for outpatient treatment of mental illness, if
 3 provided in the converted policy, may be at a lesser rate
 4 but not less than 50%.

5 (3) a deductible for each benefit period which, at the
 6 option of the insurer, shall be:

- 7 (a) the sum of the benefits deductible and \$100; or
 8 (b) the corresponding deductible in the group policy.
 9 (4) the benefit period shall be each calendar year
 10 when the maximum benefit is determined by subsection (1)(a)
 11 or 24 months when the maximum benefit is determined by
 12 subsection (1)(b).

13 Section 15. Terms -- benefits deductible -- covered
 14 medical expenses. (1) The term "benefits deductible" as used
 15 in this [act] means the value of any benefits provided on an
 16 expense incurred basis which are provided with respect to
 17 covered medical expenses by any other group or individual
 18 hospital, surgical, or medical insurance policy or medical
 19 practice or other prepayment plan, or any other plan or
 20 program, whether insured or uninsured, or by reason of any
 21 state or federal law and, if pursuant to [section 17], the
 22 converted policy provides both basic hospital or surgical
 23 coverage and major medical coverage, the value of such basic
 24 benefits. If the maximum benefit is determined by [section
 25 14(1)(b)], the insurer may require that the deductible be

1 satisfied during a period of not less than 3 months if the
 2 deductible is \$100 or less, and not less than 6 months if
 3 the deductible exceeds \$100.

4 (2) The term "covered medical expenses" includes at
 5 least, in the case of hospital room and board charges, the
 6 dollar amount in Plan A of [section 13], and at least twice
 7 such amount for charges in an intensive care unit. Any
 8 surgical procedures schedule shall be consistent with those
 9 customarily offered by the insurer under group or individual
 10 health insurance policies and must provide at least a \$1,200
 11 maximum benefit.

12 Section 16. Lesser group policy benefits --
 13 continuation. If the benefit levels required in [sections 13
 14 and 14] exceed the benefit levels provided under the group
 15 policy, the converted policy may offer benefits which are
 16 substantially similar to those provided under the group
 17 policy in lieu of those required in [sections 13 and 14].

18 Section 17. Combined benefits policy option. At the
 19 option of the insurer, such plans of benefits set forth in
 20 [sections 13 and 14] may be provided under one policy or, in
 21 lieu thereof, the insurer may provide a policy of
 22 comprehensive medical expense benefits without first dollar
 23 coverage. The policy must conform to the requirements of
 24 [section 14]; however, an insurer electing to provide such a
 25 policy shall make available a low deductible option, not to

1 exceed \$100, a high deductible option between \$500 and
 2 \$1,000, and a third deductible option midway between the
 3 high and low deductible options. Alternatively, such a
 4 policy may provide for deductible options equal to the
 5 greater of the benefits deductible and the amount specified
 6 in the preceding sentence.

7 Section 18. Alternative options in conversion allowed.
 8 The insurer may, at its option, offer alternative plans for
 9 group disability conversion in addition to those required by
 10 this [act]. Furthermore, if an insurer customarily offers
 11 individual policies on a service basis, that insurer may, in
 12 lieu of converted policies on an expense incurred basis,
 13 make available converted policies on a service basis which,
 14 in the opinion of the commissioner, satisfy the intent of
 15 this [act].

16 Section 19. Continued group insurance upon retirement
 17 -- conversion election. If coverage would be continued under
 18 the group policy on an employee or member following his
 19 retirement prior to the time he is or could be covered by
 20 medicare, the employee or member may elect, in lieu of such
 21 continuation of group insurance, to have the same conversion
 22 rights as would apply had that insurance terminated at
 23 retirement.

24 Section 20. Medicare eligibility -- benefit reduction.
 25 The converted policy may provide for reduction or

1 termination of coverage of any person upon his eligibility
 2 for coverage under medicare or under any other state or
 3 federal law providing for benefits similar to those provided
 4 by the converted policy.

5 Section 21. Insured's family -- conversion
 6 entitlement. Subject to the conditions set forth in this
 7 section, the conversion privilege is also available:

8 (1) to the surviving spouse, if any, at the death of
 9 the employee or member, with respect to the spouse and such
 10 children whose coverage under the group policy terminates by
 11 reason of such death, otherwise to each surviving child
 12 whose coverage under the group policy terminates by reason
 13 of such death, or if the group policy provides for
 14 continuation of dependents coverage following the employee's
 15 or member's death, at the end of such continuation;

16 (2) to the spouse of the employee or member upon
 17 termination of coverage of the spouse, by reason of ceasing
 18 to be a qualified family member under the group policy,
 19 while the employee or member remains insured under the group
 20 policy, including such children whose coverage under the
 21 group policy terminates at the same time; or

22 (3) to a child solely with respect to himself upon
 23 termination of his coverage by reason of ceasing to be a
 24 qualified family member under the group policy, if a
 25 conversion privilege is not otherwise provided above with

1 respect to such termination.

2 Section 22. Converted policy delivered outside state.
3 A converted policy which is delivered outside this state may
4 be on a form which could be delivered in such other
5 jurisdiction as a converted policy had the group policy been
6 issued in that jurisdiction.

7 Section 23. Codification instruction. This act is
8 intended to be codified as an integral part of Title 33,
9 chapter 22, part 5, and the provisions of Title 33 apply to
10 this act.

11 Section 24. Effective date. This act is effective on
12 July 1, 1982, and applies to group policies delivered,
13 issued for delivery, or amended on or after the effective
14 date.

-End-

STATE OF MONTANA

REQUEST NO. 259-81

FISCAL NOTE

Form BD 15

In compliance with a written request received February 3, 19 81, there is hereby submitted a Fiscal Note for Senate Bill 332 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

An act to require an opportunity for an individual to continue his participation in a group insurance plan.

Assumptions

1. Adverse selection will occur by allowing individuals to elect to remain with the group after termination of employment.
2. The increase in benefit costs to the state group because of adverse selection will be 3%.

Fiscal Impact

The increased benefit costs will not directly affect appropriations for state government benefit contributions. The legislature appropriates a fixed dollar amount to offset the costs of insurance premiums for employees. The increase in premium that may result from the implementation of this bill will have to be absorbed by increased out-of-pocket payments by employees.

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-5-81