

### **§ 1366.23. Requirement to offer continuation coverage**

(a) Every health care service plan, including a specialized health care service plan contract, that provides coverage under a group benefit plan to an employer, as defined in Section 1366.21, shall offer continuation coverage, pursuant to this section, to a qualified beneficiary under the contract upon a qualifying event without evidence of insurability. The qualified beneficiary shall, upon election, be able to continue his or her coverage under the group benefit plan, subject to the contract's terms and conditions, and subject to the requirements of this article. Except as otherwise provided in this article, continuation coverage shall be provided under the same terms and conditions that apply to similarly situated individuals under the group benefit plan.

(b) Every health care service plan shall also offer the continuation coverage

to a qualified beneficiary who (1) elects continuation coverage under a group benefit plan, as defined in this article or in Section 10128.51 of the Insurance Code, but whose continuation coverage is terminated pursuant to subdivision (b) of Section 1366.27, prior to any other termination date specified in Section 1366.27, or (2) who elects coverage through the health care service plan during any employer open enrollment, and the employer has contracted with the health care service plan to provide coverage to the employer's active employees. This continuation coverage shall be provided only for the balance of the period that the qualified beneficiary would have remained covered under the prior group benefit plan had the employer not terminated the group contract with the previous health care service plan or insurer.

(c) Every health care service plan or specialized health care service plan shall offer a qualified beneficiary the ability to elect the same core, noncore, or core and noncore coverage that the qualified beneficiary had immediately prior to the qualifying event.

(d) Any child who is born to a former employee who is a qualified beneficiary who has elected continuation coverage pursuant to this article or a child who is placed for adoption with a former employee who is a qualified beneficiary who has elected continuation coverage pursuant to this article during the period of continuation coverage provided by this article shall be considered a qualified beneficiary entitled to receive benefits pursuant to this article for the remainder of the period that the former employee is covered pursuant to this article, if the child is enrolled under a group benefit plan as a dependent of that former employee who is a qualified beneficiary within 30 days of the child's birth or placement for adoption.

(e) An individual who becomes a qualified beneficiary pursuant to this article shall continue to receive coverage pursuant to this article until continuation coverage is terminated at the qualified beneficiary's election or pursuant to Section 1366.27, whichever comes first, even if the employer that sponsored the group benefit plan that is continued subsequently becomes subject to Section 4980B of the United States Internal Revenue Code or Chapter 18 of the Employee Retirement Income Security Act, 29 U.S.C. Sec. 1161 et seq.

(f) A qualified beneficiary electing coverage pursuant to this section shall be considered part of the group contract and treated as similarly situated employees for contract purposes, unless otherwise specified in this article.

**HISTORY:**

Added Stats 1997 ch 665 § 1 (SB 719).

Amended Stats 1998 ch 107 § 8 (AB 112), effective July 6, 1998.