

Bulletin 184

Continuity of health insurance and "actively at work" requirements

November 30, 1990

Public Law 1989 Chapter 867, "An Act to Ensure Continuity of Health Insurance Coverage," was enacted and signed into law on April 19, 1990. The portion of the law which became effective October 1, 1990, concerns continuity in situations when one group policy is replaced by another. It has come to my attention that one provision of this law is subject to differing interpretations. The purpose of this bulletin is to clarify this provision.

Title 24 M.R.S.A. Section 2347 and Title 24-A M.R.S.A. Section 2849, as clarified by BULLETIN 174, prohibits insurers from using "evidence of insurability" to exclude from group coverage any individual who was covered by the prior policy during the previous 90 days. It is the Bureau's interpretation that an "actively at work" requirement is a form of evidence of insurability and therefore cannot be used to exclude an otherwise eligible person who was covered by the prior plan. Persons who may not be excluded include, but are not limited to, those required to be covered under the prior plan by COBRA (U.S. Public Law 99-272, Title X) or by Maine continuation requirements (Title 24 M.R.S.A. Section 2330[11] and Title 24-A M.R.S.A. Section 2809-A[11]). Persons covered by the prior carrier under extended benefits, as required by Title 24 M.R.S.A. Section 2348 and Title 24-A M.R.S.A. Section 2849-A, must be covered under the new plan for conditions other than those covered by the extended benefits.

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