AN ACT
relating to the availability and continuation of certain health
benefit plan coverage.

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

SECTION 1. Subtitle A, Title 8, Insurance Code, is amended
by adding Chapter 1202A to read as follows:

CHAPTER 1202A. TEMPORARY EXTENSION OF ELECTION PERIOD FOR
CONTINUATION OF CERTAIN COVERAGE

Sec. 1202A.001. EXTENSION OF ELECTION PERIOD. (a) For the

purposes of this section, an "extended election eligible
individual" means an employee, member, dependent, or enrollee:

(1) who became eligible for continuation coverage due
to involuntary termination, other than involuntary termination for
cause, under Subchapter F, Chapter 1251, or Subchapter G, Chapter
1271, at any time during the period that begins on September 1,
2008, and ends on February 16, 2009;

(2) who did not elect such coverage or whose elected
continuation coverage lapsed or was canceled without reinstatement
for a reason other than exhaustion of the maximum period of
continuation coverage allowable under law; and

(3) whose involuntary termination on which the
eligibility is based occurred during that same period.

(b) Notwithstanding Section 1251.253 or 1271.301, an
extended election eligible individual may elect continuation
coverage under this section beginning on the effective date of S.B. No. 1771, Acts of the 81st Legislature, Regular Session, 2009, and ending on the 60th day after the date on which the notification required by Subsection (e) is provided to the individual.

(c) The period of continuation coverage for an extended election eligible individual who elects continuation coverage begins with the first period of coverage beginning on or after the effective date of S.B. No. 1771, Acts of the 81st Legislature, Regular Session, 2009, and does not extend beyond the date the period of continuation coverage would have ended if the coverage had been elected during the election period required under the law as it existed before the effective date of S.B. No. 1771, Acts of the 81st Legislature, Regular Session, 2009.

(d) With respect to an individual who elects continuation coverage under Subsection (b), the period beginning on the date the individual first became eligible for continuation coverage and ending on the first day of the 60-day election period described by Subsection (b) shall be disregarded for purposes of determining a 63-day period referred to in 29 U.S.C. Section 1181(c)(2), 42 U.S.C. Section 300gg(c)(2), 26 U.S.C. Section 9801(c)(2), and Sections 846.202(d), 1501.102, and 1506.001(8).

(e) Not later than the 60th day after the effective date of S.B. No. 1771, Acts of the 81st Legislature, Regular Session, 2009, an employer or group policy or contract holder shall provide notice to any former employee, member, dependent, or enrollee who is an extended election eligible individual that includes:

(1) a description of the extended election period
available to the individual under this section;

(2) a description, displayed in a prominent manner, of
the individual's right to a reduced premium and any conditions on
entitlement to the reduced premium under the American Recovery and
Reinvestment Act of 2009 (Pub. L. No. 111-5);

(3) a form that allows the individual to request
treatment as an assistance eligible individual, as defined by the
to whom the premium subsidy would apply;

(4) the amount continuation coverage will cost and the
period of coverage available;

(5) an election form that includes the return address
and the due date for making the election; and

(6) notice that if the individual is entitled to the
reduced premium and later becomes eligible for other group health
plan coverage or Medicare, the individual must notify the employer
in writing or the individual may be subject to a tax penalty.

Sec. 1202A.002. EXPIRATION OF CHAPTER. This chapter
expires September 1, 2013.

SECTION 2. Section 1251.253, Insurance Code, is amended to
read as follows:

Sec. 1251.253. REQUEST FOR CONTINUATION OF GROUP COVERAGE.
An employee, member, or dependent must provide to the employer or
group policyholder a written request for [in writing the]
continuation of group coverage not later than the 60th [31st] day
after the later of:

(1) the date the group coverage would otherwise
(2) the date the individual is given, in a format
prescribed by the commissioner, notice by either the employer or
the group policyholder of the right to continuation of group
coverage.

SECTION 3. Section 1251.254, Insurance Code, is amended to
read as follows:

Sec. 1251.254. PAYMENT OF CONTRIBUTIONS. Except as
provided by this section, an [a] employee, member, or
dependent who elects to continue group coverage under this
subchapter must pay to the employer or group policyholder each
month [in advance] the amount of contribution required by the
employer or policyholder, plus two percent of the group rate for the
coverage being continued under the group policy [on the due date of
each payment]. A payment under this section must be made not later
than the 45th day after the date of the initial election for
coverage and on the due date of each payment thereafter. Following
the first payment made after the initial election for coverage, the
payment of any other premium shall be considered timely if made on
or before the 30th day after the date on which the payment is due.

[(b) The employee's, member's, or dependent's written
election for continuation of group coverage, together with the
first contribution required to establish advance monthly
contributions, must be given to the employer or policyholder not
later than the later of

(1) the 31st day after the date coverage would
otherwise terminate; or]
S.B. No. 1771

{(2) the date the individual is given notice by either
the employer or the group policyholder of the right to continuation
of group coverage.}

SECTION 4. Section 1251.255, Insurance Code, is amended to
read as follows:

Sec. 1251.255. TERMINATION OF CONTINUED COVERAGE.
(a) Group coverage continued under this subchapter may not
terminate until the earliest of:
(1) the date the maximum continuation period provided
by law would end, which is:
(A) for any employee, member, or dependent not
eligible for continuation coverage under Title X, Consolidated
Omnibus Budget Reconciliation Act of 1985 (29 U.S.C. Section 1161
et seq.) (COBRA), nine [six] months after the date the employee,
member, or dependent elects to continue the group coverage; or
(B) for any employee, member, or dependent
eligible for continuation coverage under COBRA, six additional
months following any period of continuation coverage provided under
COBRA;
(2) the date failure to make timely payments would
terminate the group coverage;
(3) the date the group coverage terminates in its
entirety;
(4) the date the insured is or could be covered under
Medicare;
(5) the date the insured is covered for similar
benefits by another plan or program, including:
S.B. No. 1771

(A) a hospital, surgical, medical, or major medical expense insurance policy;

(B) a hospital or medical service subscriber contract; or

(C) a medical practice or other prepayment plan;

(6) the date the insured is eligible for similar benefits, whether or not covered for those benefits, under any arrangement of coverage for individuals in a group, whether on an insured or uninsured basis; or

(7) the date similar benefits are provided or available to the insured under any state or federal law other than continuation coverage under Title X, Consolidated Omnibus Budget Reconciliation Act of 1985 (29 U.S.C. Section 1161 et seq.).

(b) Not later than the 30th day before the end of the continuation period described by Subsection (a)(1) that is applicable to the individual [six months after the date the employee, member, or dependent elects to continue group coverage under the policy], the insurer shall:

(1) notify the individual that the individual may be eligible for coverage under the Texas Health Insurance Risk Pool as provided by Chapter 1506; and

(2) provide to the individual the address for applying to that pool.

SECTION 5. Section 1271.302, Insurance Code, is amended to read as follows:

Sec. 1271.302. REQUEST FOR CONTINUED COVERAGE; DEADLINE.
S.B. No. 1771

An enrollee must provide to the employer or group contract holder a written notice of election to continue group coverage under this subchapter and pay the first contribution required to establish contributions on an advance monthly basis to the employer or group contract holder not later than the 60th [31st] day after the later of:

(1) the date the group coverage would otherwise terminate; or

(2) the date the enrollee is given notice of the right of continuation by the employer or group contract holder.

SECTION 6. Subsection (b), Section 1271.303, Insurance Code, is amended to read as follows:

(b) The enrollee must make the payment not later than the 45th day after the initial election for coverage and on the due date of each payment thereafter. Following the first payment made after the initial election for coverage, the payment of any other premium shall be considered timely if made by the 30th day after the date on which payment is due [in advance on a monthly basis on the due date of each payment].

SECTION 7. Section 1271.304, Insurance Code, is amended to read as follows:

Sec. 1271.304. TERMINATION OF CONTINUED COVERAGE. Group continued coverage under this subchapter may not terminate until the earliest of:

(1) the date the maximum continuation period provided by law would end, which is:

(A) for any enrollee not eligible for
S.B. No. 1771

1 continuation coverage under Title X, Consolidated Omnibus Budget
2 Reconciliation Act of 1985 (29 U.S.C. Section 1161 et seq.)
3 (COBRA), the end of the nine-month [six-month] period after the
4 date the election to continue coverage is made; or
5 (B) for any enrollee eligible for continuation
6 coverage under COBRA, six additional months following any period of
7 continuation provided under that statute;
8 (2) the date on which failure to make timely payments
9 terminates coverage;
10 (3) the date on which the enrollee is covered for
11 similar services and benefits by any other plan or program,
12 including a hospital, surgical, medical, or major medical expense
13 insurance policy, hospital or medical service subscriber contract,
14 or medical practice or other prepayment plan; or
15 (4) the date on which the group coverage terminates in
16 its entirety.

SECTION 8. Subsection (a), Section 1271.305, Insurance
18 Code, is amended to read as follows:
19 (a) At least 30 days before the end of the continuation
20 [six-month] period described by Section 1271.304(1) that is
21 applicable to the enrollee [after the date an enrollee elects to
22 continue group coverage], the health maintenance organization
23 shall notify the enrollee that the enrollee may be eligible for
24 coverage under the Texas Health Insurance Risk Pool as provided by
25 Chapter 1506.

SECTION 9. Section 1506.153, Insurance Code, is amended by
27 adding Subsections (c) and (d) to read as follows:
(c) An individual eligible for benefits from the continuation of coverage under Subchapter F or G, Chapter 1251, or Subchapter G, Chapter 1271, who did not elect continuation coverage during the election period, or whose elected continuation coverage lapsed or was canceled without reinstatement, is eligible for pool coverage. Eligibility under this subsection is subject to a 180-day exclusion of coverage under Section 1506.155(a-1).

(d) The 180-day exclusion of coverage provided under Subsection (c) does not apply to an individual eligible for benefits from the continuation of coverage under Subchapter F or G, Chapter 1251, or Subchapter G, Chapter 1271, who did not elect continuation coverage during the election period, or whose elected continuation coverage lapsed or was canceled without reinstatement, following a period of continuation coverage under Title X, Consolidated Omnibus Budget Reconciliation Act of 1985 (29 U.S.C. Section 1161 et seq.) (COBRA).

SECTION 10. Subsection (a-1), Section 1506.155, Insurance Code, is amended to read as follows:

(a-1) Except as provided by Section 1506.056, pool coverage for an individual eligible pursuant to Section 1506.153(b) or (c) excludes charges or expenses incurred before the expiration of 180 days from the effective date of coverage with regard to any condition for which:

(1) the existence of symptoms would cause an ordinarily prudent person to seek diagnosis, care, or treatment within the six-month period preceding the effective date of coverage; or
(2) medical advice, care, or treatment was recommended or received during the six-month period preceding the effective date of coverage.

SECTION 11. (a) Sections 1251.253 and 1271.302, Insurance Code, as amended by this Act, apply only to:

(1) a request for continuation of group coverage that an employee, member, dependent, or enrollee becomes eligible to make on or after the effective date of this Act; or

(2) a request for continuation of group coverage that an employee, member, dependent, or enrollee became eligible to make before the effective date of this Act, provided that the election period available to the employee, member, dependent, or enrollee under Section 1251.253 or 1271.302, Insurance Code, as those sections existed before amendment by this Act, has not expired as of the effective date of this Act.

(b) A request for continuation of group coverage that an employee, member, dependent, or enrollee became eligible to make before the effective date of this Act and that, on the effective date of this Act, the employee, member, dependent, or enrollee is no longer eligible to make, is governed by the law as it existed before the effective date of this Act, and that law is continued in effect for that purpose. This subsection does not apply to an employee, member, dependent, or enrollee who is an extended election eligible individual to whom Chapter 1202A, Insurance Code, as added by this Act, applies.

SECTION 12. Sections 1251.254 and 1271.303, Insurance Code, as amended by this Act, apply only to a payment for continuation
coverage required to be made on or after the effective date of this
Act. A payment for continuation coverage required to be made before
the effective date of this Act is governed by the law as it existed
before that date, and that law is continued in effect for that
purpose.

SECTION 13. Sections 1251.255 and 1271.304, Insurance Code,
as amended by this Act, apply to coverage for which an election to
continue was made on or after the effective date of this Act.

SECTION 14. This Act takes effect immediately if it
receives a vote of two-thirds of all the members elected to each
house, as provided by Section 39, Article III, Texas Constitution.
If this Act does not receive the vote necessary for immediate
effect, this Act takes effect September 1, 2009.
S.B. No. 1771

David Dewhurst
President of the Senate

I hereby certify that S.B. No. 1771 passed the Senate on April 14, 2009, by the following vote: Yeas 30, Nays 0.

Joe Straus
Speaker of the House

I hereby certify that S.B. No. 1771 passed the House on May 26, 2009, by the following vote: Yeas 144, Nays 0, one present not voting.

Robert Haney
Secretary of the Senate

Robert Haney
Chief Clerk of the House

Approved:

19 JUN'09

Rick Perry
Governor

Filed in the office of the Secretary of State
2 P.M. 19 JUN 2009

Colin E. Shivers