

HOUSE BILL NO. 738

INTRODUCED BY M. CAFERRO

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING SURVIVING SPOUSES OF STATE EMPLOYEES TO REMAIN AS MEMBERS OF THE STATE GROUP INSURANCE PLAN; PROVIDING AN APPROPRIATION; AND AMENDING SECTION 2-18-704, MCA."

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

**Section 1.** Section 2-18-704, MCA, is amended to read:

**"2-18-704. Mandatory provisions.** (1) An insurance contract or plan issued under this part must contain provisions that permit:

(a) the member of a group who retires from active service under the appropriate retirement provisions of a defined benefit plan provided by law or, in the case of the defined contribution plan provided in Title 19, chapter 3, part 21, a member with at least 5 years of service and who is at least age 50 while in covered employment to remain a member of the group until the member becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, unless the member is a participant in another group plan with substantially the same or greater benefits at an equivalent cost or unless the member is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost;

(b) the surviving spouse of a member to remain a member of the group ~~as long as the spouse is eligible for retirement benefits accrued by the deceased member as provided by law unless the spouse is eligible for medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible for equivalent insurance coverage as provided in subsection (1)(a);~~

(c) the surviving children of a member to remain members of the group as long as they are eligible for retirement benefits accrued by the deceased member as provided by law unless they have equivalent coverage as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of a surviving parent or legal guardian.

(2) An insurance contract or plan issued under this part must contain the provisions of subsection (1) for remaining a member of the group and also must permit:



- 1 (a) the spouse of a retired member the same rights as a surviving spouse under subsection (1)(b);
- 2 (b) the spouse of a retiring member to convert a group policy as provided in 33-22-508; and
- 3 (c) continued membership in the group by anyone eligible under the provisions of this section,
- 4 notwithstanding the person's eligibility for medicare under the federal Health Insurance for the Aged Act.
- 5 (3) (a) A state insurance contract or plan must contain provisions that permit a legislator to remain a
- 6 member of the state's group plan until the legislator becomes eligible for medicare under the federal Health
- 7 Insurance for the Aged Act if the legislator:
- 8 (i) terminates service in the legislature and is a vested member of a state retirement system provided
- 9 by law; and
- 10 (ii) notifies the department of administration in writing within 90 days of the end of the legislator's
- 11 legislative term.
- 12 (b) A former legislator may not remain a member of the group plan under the provisions of subsection
- 13 (3)(a) if the person:
- 14 (i) is a member of a plan with substantially the same or greater benefits at an equivalent cost; or
- 15 (ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with
- 16 substantially the same or greater benefits at an equivalent cost.
- 17 (c) A legislator who remains a member of the group under the provisions of subsection (3)(a) and
- 18 subsequently terminates membership may not rejoin the group plan unless the person again serves as a
- 19 legislator.
- 20 (4) (a) A state insurance contract or plan must contain provisions that permit continued membership in
- 21 the state's group plan by a member of the judges' retirement system who leaves judicial office but continues to
- 22 be an inactive vested member of the judges' retirement system as provided by 19-5-301. The judge shall notify
- 23 the department of administration in writing within 90 days of the end of the judge's judicial service of the judge's
- 24 choice to continue membership in the group plan.
- 25 (b) A former judge may not remain a member of the group plan under the provisions of this subsection
- 26 (4) if the person:
- 27 (i) is a member of a plan with substantially the same or greater benefits at an equivalent cost;
- 28 (ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with
- 29 substantially the same or greater benefits at an equivalent cost; or
- 30 (iii) becomes eligible for medicare under the federal Health Insurance for the Aged Act.

1 (c) A judge who remains a member of the group under the provisions of this subsection (4) and  
2 subsequently terminates membership may not rejoin the group plan unless the person again serves in a position  
3 covered by the state's group plan.

4 (5) A person electing to remain a member of the group under subsection (1), (2), (3), or (4) shall pay the  
5 full premium for coverage and for that of the person's covered dependents.

6 (6) An insurance contract or plan issued under this part that provides for the dispensing of prescription  
7 drugs by an out-of-state mail service pharmacy, as defined in 37-7-702:

8 (a) must permit any member of a group to obtain prescription drugs from a pharmacy located in Montana  
9 that is willing to match the price charged to the group or plan and to meet all terms and conditions, including the  
10 same professional requirements that are met by the mail service pharmacy for a drug, without financial penalty  
11 to the member; and

12 (b) may only be with an out-of-state mail service pharmacy that is registered with the board under Title  
13 37, chapter 7, part 7, and that is registered in this state as a foreign corporation.

14 (7) An insurance contract or plan issued under this part must include coverage for:

15 (a) treatment of inborn errors of metabolism, as provided for in 33-22-131; and

16 (b) therapies for Down syndrome, as provided in 33-22-139.

17 (8) (a) An insurance contract or plan issued under this part that provides coverage for an individual in  
18 a member's family must provide coverage for well-child care for children from the moment of birth through 7 years  
19 of age. Benefits provided under this coverage are exempt from any deductible provision that may be in force in  
20 the contract or plan.

21 (b) Coverage for well-child care under subsection (8)(a) must include:

22 (i) a history, physical examination, developmental assessment, anticipatory guidance, and laboratory  
23 tests, according to the schedule of visits adopted under the early and periodic screening, diagnosis, and treatment  
24 services program provided for in 53-6-101; and

25 (ii) routine immunizations according to the schedule for immunization recommended by the immunization  
26 practice advisory committee of the U.S. department of health and human services.

27 (c) Minimum benefits may be limited to one visit payable to one provider for all of the services provided  
28 at each visit as provided for in this subsection (8).

29 (d) For purposes of this subsection (8):

30 (i) "developmental assessment" and "anticipatory guidance" mean the services described in the

1 Guidelines for Health Supervision II, published by the American academy of pediatrics; and

2 (ii) "well-child care" means the services described in subsection (8)(b) and delivered by a physician or  
3 a health care professional supervised by a physician.

4 (9) Upon renewal, an insurance contract or plan issued under this part under which coverage of a  
5 dependent terminates at a specified age must continue to provide coverage for any dependent, as defined in the  
6 insurance contract or plan, until the dependent reaches 26 years of age. For insurance contracts or plans issued  
7 under this part, the premium charged for the additional coverage of a dependent, as defined in the insurance  
8 contract or plan, may be required to be paid by the insured and not by the employer.

9 (10) Prior to issuance of an insurance contract or plan under this part, written informational materials  
10 describing the contract's or plan's cancer screening coverages must be provided to a prospective group or plan  
11 member.

12 (11) The state employee group benefit plans and the Montana university system group benefits plans  
13 must provide coverage for hospital inpatient care for a period of time as is determined by the attending physician  
14 and, in the case of a health maintenance organization, the primary care physician, in consultation with the patient  
15 to be medically necessary following a mastectomy, a lumpectomy, or a lymph node dissection for the treatment  
16 of breast cancer.

17 (12) (a) The state employee group benefit plans and the Montana university system group benefits plans  
18 must provide coverage for outpatient self-management training and education for the treatment of diabetes. Any  
19 education must be provided by a licensed health care professional with expertise in diabetes.

20 (b) Coverage must include a \$250 benefit for a person each year for medically necessary and prescribed  
21 outpatient self-management training and education for the treatment of diabetes.

22 (c) The state employee group benefit plans and the Montana university system group benefits plans must  
23 provide coverage for diabetic equipment and supplies that at a minimum includes insulin, syringes, injection aids,  
24 devices for self-monitoring of glucose levels (including those for the visually impaired), test strips, visual reading  
25 and urine test strips, one insulin pump for each warranty period, accessories to insulin pumps, one prescriptive  
26 oral agent for controlling blood sugar levels for each class of drug approved by the United States food and drug  
27 administration, and glucagon emergency kits.

28 (d) Nothing in subsection (12)(a), (12)(b), or (12)(c) prohibits the state or the Montana university group  
29 benefit plans from providing a greater benefit or an alternative benefit of substantially equal value, in which case  
30 subsection (12)(a), (12)(b), or (12)(c), as appropriate, does not apply.

1 (e) Annual copayment and deductible provisions are subject to the same terms and conditions applicable  
2 to all other covered benefits within a given policy.

3 (f) This subsection (12) does not apply to disability income, hospital indemnity, medicare supplement,  
4 accident-only, vision, dental, specific disease, or long-term care policies offered by the state or the Montana  
5 university system as benefits to employees, retirees, and their dependents.

6 (13)(a) The state employee group benefit plans and the Montana university system group benefits plans  
7 that provide coverage to the spouse or dependents of a peace officer as defined in 45-2-101, a game warden as  
8 defined in 19-8-101, a firefighter as defined in 19-13-104, or a volunteer firefighter as defined in 19-17-102 shall  
9 renew the coverage of the spouse or dependents if the peace officer, game warden, firefighter, or volunteer  
10 firefighter dies within the course and scope of employment. Except as provided in subsection (13)(b), the  
11 continuation of the coverage is at the option of the spouse or dependents. Renewals of coverage under this  
12 section must provide for the same level of benefits as is available to other members of the group. Premiums  
13 charged to a spouse or dependent under this section must be the same as premiums charged to other similarly  
14 situated members of the group. Dependent special enrollment must be allowed under the terms of the insurance  
15 contract or plan. The provisions of this subsection (13)(a) are applicable to a spouse or dependent who is insured  
16 under a COBRA continuation provision.

17 (b) The state employee group benefit plans and the Montana university system group benefits plans  
18 subject to the provisions of subsection (13)(a) may discontinue or not renew the coverage of a spouse or  
19 dependent only if:

20 (i) the spouse or dependent has failed to pay premiums or contributions in accordance with the terms  
21 of the state employee group benefit plans and the Montana university system group benefits plans or if the plans  
22 have not received timely premium payments;

23 (ii) the spouse or dependent has performed an act or practice that constitutes fraud or has made an  
24 intentional misrepresentation of a material fact under the terms of the coverage; or

25 (iii) the state employee group benefit plans and the Montana university system group benefits plans are  
26 ceasing to offer coverage in accordance with applicable state law.

27 (14) The state employee group benefit plans and the Montana university system group benefits plans  
28 must comply with the provisions of 33-22-153.

29 (15) An insurance contract or plan issued under this part and a group benefits plan issued by the  
30 Montana university system must provide mental health coverage that meets the provisions of Title 33, chapter

1 22, part 7. (See compiler's comments for contingent termination of certain text.)"

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3 NEW SECTION. **Section 2. Appropriation.** There is appropriated \$25,000 from the general fund to the  
4 department of administration to carry out the provisions of [this act].

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