

## **Regarding dependents under the new Health Reform Law:**

A dependent age 19 or over (who is not a full-time student or a handicapped dependent) may be eligible for continued coverage under the state's recently passed health care reform law. Dependents may be eligible for coverage up to age 26 or two years after losing dependent status according to IRS rules, whichever occurs first.

One important factor to consider here is that not all private employer-sponsored health plans will necessarily have to comply with this new law.

Most of these are governed by the Employee Retirement Income Security Act of 1974 - known as ERISA. There are two types of health plans recognized by ERISA law:

- (1.) insured plans - ERISA permits the states to regulate these, and
- (2.) self-insured plans - ERISA "pre-empts" state regulations on these, so these are not subject to regulation by state law.

Self-insured plans, then, will not necessarily extend coverage to dependents as spelled out in the provisions of the new law

### **For those wishing to see the actual language:**

The health care reform law is Chapter 58 of the Acts of 2006. It was signed into law in April 2006. It may be viewed in its entirety at:

<http://www.mass.gov/legis/laws/seslaw06/sl060058.htm>

The provision relating to coverage for dependents - in Chapter 58 - is in Section 49:

SECTION 49. Paragraph (a) of subdivision (2) of section 108 of chapter 175 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out clause (3) and inserting in place thereof the following clause:—

(3) It purports to insure only 1 person, except that a policy must insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, 2 or more eligible members of that family, including husband, wife, dependent children or any children under a specified age not to exceed 25 years of age or 2 years following loss of dependent status under the Internal Revenue Code, whichever occurs first, and any other person dependent upon the policyholder...

As you can see, the max age in the original law is 25.

Some of the details of this new law were subsequently fine-tuned in a technical corrections bill, which was signed into law in October of 2006. It is now Chapter 324 of the Acts of 2006 and may be viewed in its entirety at:

<http://www.mass.gov/legis/laws/seslaw06/sl060324.htm>

One of the changes made by this technical corrections bill was to lift this dependent age from 25 to 26. The law now reads (this is in section 33 of Chapter 324 of the Acts of 2006):

SECTION 33. Paragraph (a) of subdivision (2) of section 108 of chapter 175 of the General Laws is hereby amended by striking out clause (3), as amended by section 49 of chapter 58 of the acts of 2006, and inserting in place thereof the following clause:-

(3) It purports to insure only 1 person, except that a policy must insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, 2 or more eligible members of that family, including the

policyholder, spouse, dependent children and other dependent persons, children during pendency of adoption procedures under chapter 210, children under 26 years of age or for 2 years following loss of dependent status under the Internal Revenue Code, whichever occurs first...