

111TH CONGRESS
2^D SESSION

S. 3393

To provide for extension of COBRA continuation coverage until coverage is available otherwise under either an employment-based health plan or through an American Health Benefit Exchange under the Patient Protection and Affordable Care Act.

IN THE SENATE OF THE UNITED STATES

MAY 20, 2010

Mr. BROWN of Ohio introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide for extension of COBRA continuation coverage until coverage is available otherwise under either an employment-based health plan or through an American Health Benefit Exchange under the Patient Protection and Affordable Care Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “COBRA Health Bene-
5 fits Extension Act of 2010”.

1 **SEC. 2. EXTENSION OF COBRA CONTINUATION COVERAGE.**

2 (a) EXTENSION OF CURRENT PERIODS OF CONTINU-
3 ATION COVERAGE.—

4 (1) IN GENERAL.—In the case of any individual
5 who is, under a COBRA continuation coverage pro-
6 vision, covered under COBRA continuation coverage
7 on or after the date of the enactment of this Act,
8 the required period of any such coverage which has
9 not subsequently terminated under the terms of such
10 provision for any reason other than the expiration of
11 a period of a specified number of months shall, not-
12 withstanding such provision and subject to sub-
13 section (b), extend to the earlier of—

14 (A) the first date, occurring after the date
15 of the expiration of a period of months specified
16 as a terminating event in the applicable con-
17 tinuation coverage provision, as of which the in-
18 dividual is eligible for coverage under an em-
19 ployment-based health plan, or

20 (B) the date on which such individual be-
21 comes eligible for health insurance coverage
22 through an American Health Benefit Exchange
23 operating in a State or group of States under
24 subtitle D of title I of the Patient Protection
25 and Affordable Care Act.

1 (2) NOTICE.—As soon as practicable after the
2 date of the enactment of this Act, the Secretary of
3 Labor, in consultation with the Secretary of the
4 Treasury and the Secretary of Health and Human
5 Services, shall provide rules setting forth the form
6 and manner in which prompt notice to individuals of
7 the continued availability of COBRA continuation
8 coverage to such individuals under paragraph (1).

9 (3) ENFORCEMENT OF EXTENDED CONTINU-
10 ATION COVERAGE UNDER STATE PROGRAMS.—A
11 State may enforce the provisions of this section with
12 respect to COBRA continuation coverage provided
13 under a State program of such State. Nothing in
14 this paragraph shall be construed to affect or modify
15 section 514 of the Employee Retirement Income Se-
16 curity Act of 1974 (29 U.S.C. 1144).

17 (b) CONTINUED EFFECT OF OTHER TERMINATING
18 EVENTS.—Notwithstanding subsection (a), any required
19 period of COBRA continuation coverage which is extended
20 under such subsection shall terminate upon the occur-
21 rence, prior to the date of termination otherwise provided
22 in such subsection, of any terminating event specified in
23 the applicable continuation coverage provision other than
24 the expiration of a period of a specified number of months.

25 (c) DEFINITIONS.—For purposes of this section—

1 (1) COBRA CONTINUATION COVERAGE.—The
2 term “COBRA continuation coverage” means con-
3 tinuation coverage provided pursuant to part 6 of
4 subtitle B of title I of the Employee Retirement In-
5 come Security Act of 1974 (other than under section
6 609), title XXII of the Public Health Service Act,
7 section 4980B of the Internal Revenue Code of 1986
8 (other than subsection (f)(1) of such section insofar
9 as it relates to pediatric vaccines), or section 905a
10 of title 5, United States Code, or under a State pro-
11 gram that provides comparable continuation cov-
12 erage. Such term does not include coverage under a
13 health flexible spending arrangement under a cafe-
14 teria plan within the meaning of section 125 of the
15 Internal Revenue Code of 1986.

16 (2) COBRA CONTINUATION PROVISION.—The
17 term “COBRA continuation provision” means the
18 provisions of law described in paragraph (1).

19 (3) EMPLOYMENT-BASED HEALTH PLAN.—The
20 term “employment-based health plan”—

21 (A) means a group health plan (as defined
22 in section 733(a)(1) of the Employee Retirement
23 Income Security Act of 1974), excluding
24 coverage consisting of only dental, vision, coun-
25 seling, or referral services (or a combination

1 thereof), coverage under a flexible spending ar-
2 rangement (as defined in section 106(c)(2) of
3 the Internal Revenue Code of 1986), or cov-
4 erage of treatment that is furnished in an on-
5 site medical facility maintained by the employer
6 and that consists primarily of first-aid services,
7 prevention and wellness care, or similar care (or
8 a combination thereof); and

9 (B) includes such a plan that is the fol-
10 lowing:

11 (i) FEDERAL, STATE, AND TRIBAL
12 GOVERNMENTAL PLANS.—A governmental
13 plan (as defined in section 3(32) of the
14 Employee Retirement Income Security Act
15 of 1974), including a health benefits plan
16 offered under chapter 89 of title 5, United
17 States Code.

18 (ii) CHURCH PLANS.—A church plan
19 (as defined in section 3(33) of the Em-
20 ployee Retirement Income Security Act of
21 1974).

22 (4) STATE.—The term “State” includes the
23 District of Columbia, the Commonwealth of Puerto
24 Rico, the Virgin Islands, Guam, American Samoa,

1 and the Commonwealth of the Northern Mariana Is-
2 lands.

