



Health Insurance Bulletin

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COVERAGE OF DEPENDENT CHILDREN

Beginning January 1, 2007, R.I. Gen. Laws §§ 27-18-59(a), 27-19-50(a), 27-20-45(a) and 27-41-61(a) (the Dependent Coverage Statutes) will require continuation of coverage of certain contracts, plans, or policies of health insurance coverage for dependent children. Under this new requirement, such contracts, plans, or policies shall provide coverage:

of an unmarried child under the age of nineteen (19) years, an unmarried child who is a student under the age of twenty-five (25) years and who is financially dependent upon the parent and an unmarried child of any age who is financially dependent upon the parent and medically determined to have a physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months. Such contract, plan or policy shall also include a provision that policyholders shall receive no less than thirty (30) days notice from the accident and sickness insurer[, nonprofit hospital service corporation, nonprofit medical service corporation or health maintenance organization] that a child . . . is about to lose his or her coverage as a result of reaching the maximum age for a dependent child, and that the child will only continue to be covered upon documentation being provided of current full or part-time enrollment in a post-secondary educational institution or that the child may purchase a conversion policy if he or she is not an eligible student.

We have received inquiries regarding the meaning of two phrases in the Dependent Coverage Statutes: “full or part-time enrollment” and “post-secondary educational institution.”

This bulletin provides guidance on the meaning of those phrases.

Changes to the Dependent Coverage Statutes

The Dependent Coverage Statutes were amended in 2006 by The Rhode Island Health Care Affordability Act of 2006 Part III—Coverage of Dependent Children (the Act). The Act (1) eliminated the definition of “dependent” in R.I. Gen. Laws § 27-18.6-2, which governs large group health insurance coverage, (2) amended the definition of dependent in R.I. Gen. Laws § 27-50-3, which governs small employer health insurance coverage, and (3) changed the requirements for termination of children’s health benefits under the Dependent Coverage Statutes.

Previously, the Dependent Coverage Statutes allowed for a continuation of coverage “upon documentation being provided of current college enrollment.” Beginning January 1, 2007, the Dependent Coverage Statutes will state: “the child will only continue to be covered upon documentation being provided of current full or part-time enrollment in a post-secondary educational institution.” Neither the Act nor the Dependent Coverage Statutes provide definitions for the phrases “current full or part-time enrollment” or “post-secondary institution.” Likewise, there are no definitions of these phrases in title 27 of the General Laws.

Post-Secondary Educational Institution

With respect to the phrase “post-secondary educational institution,” we begin by presuming that the General Assembly, by replacing the word “college” with the words “post-secondary institution” meant for the statute to apply to something other than just college.¹ Since the phrase “post-secondary educational institution” is not defined in the General Laws and has

¹ See In re Bernard H., 557 A.2d 864, 866 (R.I. 1989) (“In enacting a statute, the General Assembly is presumed to have intended that every word, sentence, or provision serve some useful purpose and have some force and effect”).

not been construed by the Rhode Island courts, we must look to outside sources for guidance.²

The Internal Revenue Service (IRS) uses a substantially similar phrase, “postsecondary institution,” in the context of describing eligibility for the “lifetime learning” federal tax credit.³ Under the IRS’ contextual definition, a postsecondary institution includes any college, university, vocational school, or other educational institution eligible to participate in a student aid program administered by the U.S. Department of Education.⁴ According to the IRS, the definition “includes virtually all accredited public, nonprofit, and proprietary (privately owned profit-making) postsecondary institutions.” This broad definition appears to be consistent with the General Assembly’s intent to broaden coverage beyond college enrollees only.⁵

Thus, for the purposes of these statutes, we will follow the IRS usage and interpret the phrase “post-secondary educational institution” to mean an accredited college or university or other accredited post-high school-level, degree or certificate-granting institution eligible to

² We note that many courts have construed the term “secondary school.” Those courts have looked to dictionary definitions and have generally interpreted the term to mean a school between elementary school and college. See e.g., Summers v. Summers, 897 So. 2d 109, 110 (La.App. 1 Cir. Oct. 29, 2004); Death & Permanent Disability Trust Fund v. Anderson, 83 Ark. App. 230, 234, 125 S.W.3d 819, 821 (2003); Park v. Park, 634 So. 2d 83, 86 (La.App. 1 Cir. Mar. 30, 1994); Parakilas v. Enfield Planning & Zoning Comm’n, 1993 Conn. Super. LEXIS 859 at *22 (Conn. Super. Ct. Mar. 26, 1993). See also American Heritage College Dictionary 1231 (3rd ed. 1997) (“A school that is intermediate in level between elementary school and college . . .”). As noted in our analysis above, however, we believe that the changes to the plain language of statutes suggest that the General Assembly did not intend for the phrase “post-secondary institution” to mean merely a college.

³ See IRS Publication 970 (2005), Tax Benefits for Education.

⁴ “An eligible educational institution is any college, university, vocational school, or other postsecondary educational institution eligible to participate in a student aid program administered by the Department of Education. It includes virtually all accredited public, nonprofit, and proprietary (privately owned profit-making) postsecondary institutions. The educational institution should be able to tell you if it is an eligible educational institution.” Id.

⁵ For a similarly broad statutory definition of the term “postsecondary educational institution,” see Alaska Stat. § 14.48.210(8) (“‘postsecondary educational institution’ means academic, vocational, technical, home study, business, professional, or other school, college, or university offering education primarily to persons who have completed or terminated their secondary education, or who are beyond the age of compulsory high school attendance, for attainment of educational, professional, or vocational objectives.”).

participate in a student aid program administered by the United States Department of Education.

Part-Time Enrollment

With respect to the phrase “part-time enrollment,” the General Assembly changed the coverage mandate under the statutes from “college enrollment” to “full or part-time enrollment in a post-secondary educational institution.”⁶ When the General Assembly changed the language of this provision, they changed the meaning.⁷ Thus, we must presume that the General Assembly meant something different than mere enrollment when they changed the statute to “full or part-time enrollment.”⁸ Furthermore, we are required to construe the term “part-time enrollment” in a manner that furthers the General Assembly’s intent.⁹

A review of the requirements of various local colleges and universities reveals that many have different standards for who is considered “part-time.” For example, Rhode Island College considers anyone who takes fewer than twelve credits as part time. The University of Rhode Island (URI) applies a more restrictive definition. URI has three classes of students: full time, part time and nonmatriculated. Full and part time students must be matriculated (i.e., seeking a degree). An undergraduate student who is matriculated and is enrolled in 1 to 11 credits is considered part-time. Those students who enroll for courses at URI but are not interested in pursuing a degree are nonmatriculated students. We do not believe that such a restrictive

⁶ While the definition of “dependent” in R.I. Gen. Laws § 27-18.6-2 included unmarried children who were full-time students under the age of twenty-five years and financially dependent upon their parent or parents, that definition did not expressly apply to the dependent coverage requirements under R.I. Gen. Laws §§ 27-18-59(a), 27-19-50(a), 27-20-45(a) and 27-41-61(a). However, the definition of dependent in R.I. Gen. Laws § 27-18.6-2 provided guidance to the construction of the dependent coverage requirements of R.I. Gen. Laws §§ 27-18-59(a), 27-19-50(a), 27-20-45(a) and 27-41-61(a).

⁷ See In re Bernard H., 557 A.2d at 866.

⁸ See Rhode Island Dep’t of Mental Health, Retardation & Hosps. v. R.B., 549 A.2d 1028, 1030 (1988) (“This court has long applied a canon of statutory interpretation which gives effect to all of a statute’s provisions, with no sentence, clause or word construed as unmeaning or surplusage.”).

⁹ See Pardey v. Boulevard Billiard Club, 518 A.2d 1349, 1354 (R.I. 1986).

definition of “part-time” would further General Assembly’s intent. However, given the differences between the definition of a “part-time” student used by different schools, it would be unreasonable to simply adopt one school’s definition and it would be impractical and unfair to base “part-time” status for the purposes of coverage under these statutes on the definition of “part-time” applied by the particular school a student attends.¹⁰

In the absence of a definition of “part-time” in the Dependent Coverage Statutes and the lack of a consistent definition of “part-time” among local colleges and universities, we are left to construe the statute based on the plain language of the changes. In doing so, we interpret “part-time” as something more than mere enrollment. However, while we are mindful that the General Assembly intended to make coverage under this statute widely available, we are also mindful of our obligation to interpret the statutes in a manner that will neither lead to an absurd result or render the terms of the statute meaningless, nor allow a “gaming” of the statute.

Simply allowing coverage under the statutes in cases where an under twenty-five year old dependent child registers for single course or a single credit class for the sole purpose of obtaining coverage could, for all practical purposes, effectively render the requirement of being a “student” meaningless by allowing anyone to hold “student” status.¹¹ Thus, we interpret “part-time” enrollment to mean enrollment at a level that is at least minimally suggestive of student

¹⁰ Furthermore, had the General Assembly intended to restrict the definition of part-time student in these statutes to students so defined by a particular institution’s student handbook or catalog, it easily could have done so by including such language within the statutes.

¹¹ For example, a one-credit, online course “Introduction to Windows” is offered by the Community College of Rhode Island in the fall of 2006. The course runs for four weeks. The tuition is \$111, plus minimal fees. Similarly, low cost courses can be taken Johnson & Wales University (JWU). On November 1, 2006, JWU offers a three hour, non-credit “Chef’s Choice” course focusing on kitchen knives can be taken for \$80. Setting the bar low enough to allow someone to attain “part-time” student status under these statutes solely by virtue of enrolling in one of these courses would effectively render the “student” requirement of the Dependent Coverage Statutes meaningless.

status that precedes an intent to obtain coverage as a dependent under these statutes. We believe that this requirement is met by enrollment in either more than one course or by enrollment in coursework totaling more than three credits, which is the usual number of credits associated with a typical full-semester course.

Accordingly, the phrase “current full or part-time enrollment” shall mean a student who is currently either enrolled full-time in a post-secondary educational institution or is enrolled in at least two courses or four credits in a post-secondary educational institution. In cases where an eligible post-secondary educational institution does not offer traditionally structured classes or credits, the student must be enrolled in a minimum of four hours of education per week. We believe this to be the least burdensome requirement for the term “part-time” that both meets the objective of the statutes and minimizes the extension of coverage to those who would “game” the system to obtain coverage.

Christopher F. Koller
Health Insurance Commissioner
October 31, 2006