



## Ohio Revised Code

### Section 3923.382 Continuing coverage under group plan when reservist is called or ordered to active duty.

Effective: September 18, 1997

Legislation: Senate Bill 130 - 122nd General Assembly

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(A) As used in this section:

(1) "Eligible person" means any person who, at the time a reservist is called or ordered to active duty, is covered under a group plan and is either of the following:

(a) An employee who is a reservist called or ordered to active duty;

(b) The spouse or a dependent child of an employee described in division (A)(1)(a) of this section.

(2) "Group plan" includes any private or public employer self-insurance plan that satisfies all of the following:

(a) The plan is established or modified in this state on or after April 17, 1991.

(b) The plan provides, or provides payment for, health benefits for employees resident in this state other than through an insurer or health insuring corporation.

(c) The plan is in effect and covers an eligible person at the time a reservist is called or ordered to active duty.

(3) "Group rate" means the average monthly cost per employee, over a period of at least twelve months of the operation of a group plan, that would represent a group insurance rate if the same coverage had been provided under a group sickness and accident insurance policy.

(4) "Reservist" means a member of a reserve component of the armed forces of the United States. "Reservist" includes a member of the Ohio national guard.



(B) Every group plan shall provide that any eligible person may continue the coverage under the plan for a period of eighteen months after the date on which the coverage would otherwise terminate because the reservist is called or ordered to active duty.

(C)(1) An eligible person may extend the eighteen-month period of continuation of coverage to a thirty-six-month period of continuation of coverage, if any of the following occurs during the eighteen-month period:

(a) The death of the reservist;

(b) The divorce or separation of a reservist from the reservist's spouse;

(c) The cessation of dependency of a child pursuant to the terms of the plan.

(2) The thirty-six-month period of continuation of coverage is deemed to begin on the date on which the coverage would otherwise terminate because the reservist is called or ordered to active duty.

(3) The employer may begin the thirty-six-month period on the date of any occurrence described in division (C)(1) of this section.

(D) All of the following apply to any continuation of coverage, or the extension of any continuation of coverage, provided under division (B) or (C) of this section:

(1) The continuation of coverage shall provide the same benefits as those provided to any similarly situated eligible person who is covered under the same group plan and an employee who has not been called or ordered to active duty.

(2) An employer shall notify each employee of the right of continuation of coverage at the time of employment. At the time the reservist is called or ordered to active duty, the employer shall notify each eligible person of the requirements for the continuation of coverage.

(3) Each certificate or other evidence of coverage issued by an employer to an employee under the group plan shall include a notice of the eligible person's right of continuation of coverage.



(4) An eligible person shall file a written election of continuation of coverage with the employer and pay the employer the first contribution required under division (D)(5) of this section. The written election and payment must be received by the employer no later than thirty-one days after the date on which the eligible person's coverage would otherwise terminate. If the employer notifies the eligible person of the right of continuation of coverage after the date on which the eligible person's coverage would otherwise terminate, the written election and payment must be received by the employer no later than thirty-one days after the date of the notification.

(5)(a) Except as provided in division (D)(5)(b) or (c) of this section, the eligible person shall pay to the employer, on a monthly basis and in advance, the amount of contribution required by the employer. The amount shall not exceed one hundred two per cent of the group rate for the coverage being continued under the group plan on the due date of each payment.

(b) The employer may pay a portion or all of the eligible person's contribution.

(c) A reservist called or ordered to active duty for less than thirty-one days shall not be required to pay more than the eligible person's contribution if any, for the coverage.

(E) The eligible person's right to any continuation of coverage, or the extension of any continuation of coverage, provided under division (B) or (C) of this section ceases on the date on which any of the following occurs:

(1) The eligible person, whether as an employee or otherwise, enrolls in another group plan or other group health plan or arrangement that does not contain any exclusion or limitation with respect to any preexisting condition of that eligible person. For purposes of division (E)(1) of this section, a group plan or other group health plan or arrangement does not include the civilian health and medical program of the uniformed services as defined in Public Law 99-661, 100 Stat. 3898 (1986), 10 U.S.C.A. 1072.

(2) The period of either eighteen months provided under division (B) of this section or thirty-six months provided under division (C) of this section expires.



(3) The eligible person fails to make a timely payment of a required contribution, in which case the coverage ceases at the end of the period of coverage for which contributions were made.

(4) The group plan, or participation under the group plan, is terminated, unless the employer, in accordance with division (F) of this section, replaces the coverage with similar coverage under another group plan or other group health plan or arrangement.

(F) If the employer replaces the group plan with similar coverage as described in division (E)(4) of this section, both of the following apply:

(1) The eligible person is covered under the replacement coverage for the balance of the period that the person would have remained covered under the terminated coverage if it had not been terminated.

(2) The level of benefits under the replacement coverage is the same as the level of benefits provided to any similarly situated eligible person who is covered under the group plan and an employee who has not been called or ordered to active duty.

(G) Upon the reservist's release from active duty and the reservist's return to employment for the employer by whom the reservist was employed at the time the reservist was called or ordered to active duty, both of the following apply:

(1) Every eligible person is entitled, without any waiting period, to coverage under the employer's group plan that is in effect at the time of the reservist's return to employment.

(2) Every eligible person is entitled to all benefits under the group plan described in division (G)(1) of this section from the date of the original coverage under the plan.

(H)(1) No employer shall fail to provide for a continuation of coverage, or an extension of a continuation of coverage, in a group plan as required by and in accordance with the terms and conditions set forth under this section.

(2) No employer shall fail to issue a certificate or other evidence of coverage in compliance with



division (D)(3) of this section.

(3) No employer shall fail to provide an employee or eligible person with notice of the right to a continuation of coverage under a group plan in accordance with division (D)(2) of this section.

(I) Whoever violates division (H)(1), (2), or (3) of this section is deemed to have engaged in an unfair and deceptive act or practice in the business of insurance under sections 3901.19 to 3901.26 of the Revised Code.

(J) This section does not apply to a group plan that is superseded, preempted, prohibited, or otherwise precluded by federal law.