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Health Insurance Coverage for Domestic Partners and Their Dependents and Increase of Dependent Eligibility to Age 25 Under Certain Circumstances: THE NEW LAW

By Barbara Kovelant

The 2007 General Assembly passed historic legislation, putting an end to discrimination on the basis of sexual orientation by requiring health insurance benefits be made available to employees' domestic partners and their children if so requested by either the insured under an individual policy or the group policy holder of a group policy. In so doing, Maryland has joined the growing trend across the Country, as well as overseas. Maryland has passed a broader legislation than some, extending coverage not only to same sex domestic partners, but to heterosexual domestic partners as well.

DOMESTIC PARTNERS: WHO CAN QUALIFY FOR COVERAGE?

To qualify as domestic partners, the insured employee and the partner must:

- a) be at least 18 years old,
- b) not be related to the other by blood or marriage within four degrees of consanguinity,
- c) not be married or in a civil union or domestic partnership with another individual,
- d) have been financially interdependent for at least 6 consecutive months prior to application, that is, each individual contributes to some extent to the other's maintenance and support with the intention of remaining in the relationship indefinitely, and
- e) share a common residence.

Dependent Children Coverage:
Who Qualifies?

See page 2

Proof of Domestic Partnership

If an insured employee makes an application to include a domestic partner and/or child dependent of a domestic partner as dependents under the insurance contract with the BOE, the insurance carrier may require the employee to submit the following as proof of the domestic partnership relationship:

- a) An affidavit which can only include the attestations defining domestic partnership set forth in a) through e) of the prior section.
- b) Proof of common primary residence: ANY ONE of the following documents:
 - 1) joint deed or mortgage agreement,
OR
 - 2) common leasehold interest in the residence (if renting),
OR
 - 3) driver's license or state-issued identification listing a common address,
OR
 - 4) utility or other household bill with both the name of the insured and the name of the domestic partner appearing.
- c) Proof of financial interdependence – ANY ONE of the following documents:
 - 1) joint bank account or credit account,
OR
 - 2) designation as the primary beneficiary for life insurance or retirement benefits of the domestic partner,

Continued on page 2

DEPENDENT CHILDREN COVERAGE

The same legislation also extended the availability of health insurance coverage to dependent children of domestic partners and increased the eligible age limit for all dependent children beyond age 19 to age 25 under certain circumstances. Key to the analysis of coverage is the term "dependent". Children eligible for health insurance coverage are:

1. CATEGORIES

- a) the natural child, stepchild, adopted child or dependent grandchild of the employee or the employee's domestic partner, or
- b) a child placed with the employee or employee's domestic partner for legal adoption, or
- c) a child who is under testamentary (by will) or court appointed guardianship (other than temporary guardianship of less than 12 months' duration) of the employee or the employee's domestic partner.

2. RESTRICTIONS

- a) the child must reside with the insured employee (the residence requirement does not always apply in cases of divorce or separation), and
- b) the child must be unmarried, and
- c) the child is under age 25, with the following restriction:
 - 1) To qualify for coverage as a dependent child beyond age 19 up to age 25, the child must be a full-time student.

In addition to the foregoing, an unmarried child of the employee and/or the employee's domestic partner over the age of 19 who is incapable of self support because of mental or physical disability and dependent on the employee and/or domestic partner for support is eligible for coverage as well.

Proof of Domestic Partnership, from page 1

OR

3) designation as primary beneficiary under the domestic partner's will,

OR

4) mutual assignments of valid durable powers of attorney under Maryland law (Estates and Trusts Article, Section 13-601 of the Maryland Code),

OR

5) mutual valid written advance directives under Maryland law (see, Health-General Article, Section 5-601 et. seq. of the Maryland Code),

OR

6) joint ownership or holding of investments,

OR

7) joint ownership or lease of a motor vehicle.

It should be emphasized that the carrier is prohibited by law from requiring more proof of the domestic partnership than set forth above.

The BOE's Role in Ensuring Coverage

The new legislation went into effect January 1, 2008 and applies to all policies, contracts and health benefit plans issued, delivered or renewed on or after that same date. The BOE will, therefore, be required to be in compliance with the new law when the current health plan is either renewed or reissued. As stated previously, however, in order to receive the benefits described, a request for the same must be made by the group policy holder to the insurer.

Presumably, the BOE is the group policy holder, and if so, we must ensure that it timely requests that the coverage be made available. The BOE's Policy 102 prohibits discrimination on the basis of sexual orientation and accordingly, it must follow the mandates of its own policy, even it has to be reminded or forced to do so.

2008 MARYLAND LEGISLATIVE SESSION REPORT

The 2008 Maryland legislative session passed the following legislation affecting the school system.

Task Forces Formed

1. Multiple Suspensions. The General Assembly established a Task Force to Study Issues Related to Students Subject to Multiple Suspensions. The Task Force will be studying and reporting on the feasibility and fiscal impact of requiring local school systems to establish student services teams to provide case management to students who incur one or more suspensions in a school year that result in the student's absence for ten or more school days.

The BOE for Anne Arundel County is to be commended for not waiting for the results of the task force study before acting on the problem of multiple suspensions. AACPS has formed a partnership with Boys and Girls Clubs of Annapolis and Anne Arundel County to provide instructional and counseling services to the students at issue. As part of the Alternative Center For Education, students will receive three hours of AACPS instruction each day from Monday through Thursday (twice the current amount) as well as counseling services from the Annapolis Youth Services Bureau at the Boys and Girls Club at Bates in Annapolis. In addition, the students will be encouraged and have the opportunity to become members of the Boys and Girls Clubs and participate in Club activities after the instructional and counseling period ends.

2. Military Children. A Task Force on Educational Issues Affecting Military Children has been established to evaluate and make recommendations for methods to ease the transition of children of military families to Maryland schools. The task force report to the Governor and General Assembly is due by December 1, 2008.
3. Physical Fitness. The General Assembly established a Task Force on Student Physical Fitness in Maryland Public Schools staffed by the State Department of Education. The Task Force will study the advisability of requiring all public schools to provide a minimum amount of physical activity or physical education to students each week. The task force report to the Governor and General Assembly is due by November 20, 2008.

Students with Disabilities

Effective July 1, 2008, County Boards of Education are required to ensure that students with disabilities have equal opportunities to participate in physical education programs and try out for and, if selected, participate in mainstream athletic programs. In addition, opportunities for students with disabilities to participate in certain competitive activities must be developed.

Military Recruiters -Student Contact Information

The General Assembly has passed legislation that changes the procedure required to notify parents and guardians about the right to prohibit the release of student contact information to military recruiters. This will contradict the Board of Education Regulation JCM/902.13 "Access to Student Information – Military Recruiters, State or Federal Agencies or Institutions of Higher Education" as to the form of notice required. The present BOE regulation allows for several methodologies, including the BOE website, a principal placing the notice on the school website or in the school newsletter, or by a principal's letter to the parents. The new law, effective October 1, 2008, requires the notice to be in a specified format, size and type on the card requesting emergency contact information for the student. The card must also include the request for the student or parent or guardian of the student to indicate if the student's contact information is not to be released to military recruiters.

Because principals have the burden of ensuring notice of the opportunity to opt out of the system providing student contact information to military recruiters, it is of utmost importance that the BOE provides proper forms for the notice to each school, that is, forms in compliance with the new legal requirements.

Farm-to-School Program

The General Assembly established The Jane Lawton Farm-To-School Program in the Maryland Department of Agriculture, which will establish events to promote state agriculture and farm products to children through school meal and classroom programs.

ANNE ARUNDEL COUNTY COUNCIL REPORT

ADEQUATE SCHOOL FACILITIES AND SCHOOL UTILIZATION CHART (COUNTY CODE 17-5-502)

On September 2, 2008 the Anne Arundel County Council passed a Bill amending its standards for calculating projected enrollment in County schools and using said standards, created a new School Utilization Chart. The Bill was signed by the County Executive on September 8th and will be in effect on October 23, 2008.

The amendment removes out of area special placement students from the calculations for school utilization. School utilization will now only be based on two factors: 1) the predicted increase in the number of students from new development in the geographical attendance area of the school and 2) the number of students expected by the BOE to enroll in the school, including students assigned to the school for programmatic reasons. Although "out of area special placement students" no longer constitute a separate category for calculation purposes, these same students can presumably be included in the broad catchall category of "other students expected by the BOE to enroll in the school". Accordingly, the potential effect of the Amendments on school utilization projections should be minimal. Since administrators' salaries are based, in part, on school enrollment, however, AEL members should review the Anne Arundel County amended School Utilization Chart by Feeder System on pages 5 and 6.

School Utilization Chart by Feeder System

| Feeder System: ANNAPOLIS | | |
|---------------------------------|-------------|---------------|
| | <i>Open</i> | <i>Closed</i> |
| Annapolis High | √ | |
| Annapolis Middle | √ | |
| Bates Middle | √ | |
| Annapolis Elem | √ | |
| Eastport Elem | √ | |
| Georgetown East Elem | √ | |
| Germantown Elem | | √ |
| Hillsmere Elem | √ | |
| Mills-Parole Elem | | √ |
| Rolling Knolls Elem | | √ |
| Tyler Heights Elem | | √ |
| West Annapolis Elem | √ | |

| Feeder System: ARUNDEL | | |
|-------------------------------|-------------|---------------|
| | <i>Open</i> | <i>Closed</i> |
| Arundel High | √ | |
| Arundel Middle | √ | |
| Crofton Elem | | √ |
| Fours Seasons Elem | √ | |
| Nantucket | √ | |
| Odenton Elem | √ | |
| Piney Orchard Elem | √ | |
| Waugh Chapel Elem | √ | |

| Feeder System: BROADNECK | | |
|---------------------------------|-------------|---------------|
| | <i>Open</i> | <i>Closed</i> |
| Broadneck High | | √ |
| Magothy River Middle | √ | |
| Severn River Middle | √ | |
| Arnold Elem | | √ |
| Belvedere Elem | √ | |
| Broadneck Elem | | √ |
| Cape St. Claire Elem | | √ |
| Windsor Farm Elem | | √ |

| Feeder System: CHESAPEAKE | | |
|----------------------------------|-------------|---------------|
| | <i>Open</i> | <i>Closed</i> |
| Chesapeake High | √ | |
| Chesapeake Bay Middle | √ | |
| Bodkin Elem | √ | |
| Fort Smallwood Elem | √ | |
| Jacobsville Elem | √ | |
| Lake Shore Elem | √ | |
| Pasadena Elem | √ | |

| Feeder System: GLEN BURNIE | | |
|-----------------------------------|-------------|---------------|
| | <i>Open</i> | <i>Closed</i> |
| Glen Burnie High | √ | |
| Corkran Middle | √ | |
| Marley Middle | √ | |
| Freetown Elem | √ | |
| Glendale Elem | √ | |
| Marley Elem | √ | |
| Oakwood Elem | √ | |
| Point Pleasant Elem | √ | |
| Quarterfield Elem | √ | |
| Richard H. Lee Elem | √ | |
| Woodside Elem | √ | |

| Feeder System: MEADE | | |
|-----------------------------|-------------|---------------|
| | <i>Open</i> | <i>Closed</i> |
| Meade High | √ | |
| MacArthur Middle | √ | |
| Meade Middle | √ | |
| Brock Bridge Elem | | √ |
| F. Hebron-Harman Elem | √ | |
| Jessup Elem | √ | |
| Manor View Elem | | √ |
| Maryland City Elem | √ | |
| Meade Heights Elem | √ | |
| Pershing Hill Elem | √ | |
| Seven Oaks Elem | √ | |
| Van Bokkelen Elem | √ | |
| West Meade Elem | | √ |

July 22, 2008
Excludes Out of Area Transfers

| Feeder System: NORTH COUNTY | | |
|------------------------------------|-------------|---------------|
| | <i>Open</i> | <i>Closed</i> |
| North County High | √ | |
| Brooklyn Park Middle | √ | |
| Lindale Middle | √ | |
| Belle Grove Elem | √ | |
| Brooklyn Park Elem | √ | |
| Ferndale ECC ¹ | √ | |
| George Cromwell Elem ¹ | √ | |
| Hilltop Elem | √ | |
| Linthicum Elem | √ | |
| North Glen Elem | √ | |
| Overlook Elem | √ | |
| Park Elem | √ | |

| Feeder System: NORTHEAST | | |
|---------------------------------|-------------|---------------|
| | <i>Open</i> | <i>Closed</i> |
| Northeast High | √ | |
| George Fox Middle | √ | |
| High Point Elem | | √ |
| Riviera Beach Elem | √ | |
| Solley Elem | | √ |
| Sunset Elem | | √ |

| Feeder System: OLD MILL | | |
|--------------------------------|-------------|---------------|
| | <i>Open</i> | <i>Closed</i> |
| Old Mill High | | √ |
| Old Mill Middle North | √ | |
| Old Mill Middle South | √ | |
| Glen Burnie Park Elem | √ | |
| Millersville Elem | √ | |
| Ridgeway Elem | √ | |
| Rippling Woods Elem | | √ |
| Severn Elem | | √ |
| South Shore Elem | | √ |
| Southgate Elem | | √ |

| Feeder System: SEVERNA PARK | | |
|------------------------------------|-------------|---------------|
| | <i>Open</i> | <i>Closed</i> |
| Severna Park High | √ | |
| Severna Park Middle | √ | |
| Benfield Elem | | √ |
| Folger McKinsey Elem | | √ |
| Jones Elem | √ | |
| Oak Hill Elem | √ | |
| Severna Park Elem | | √ |
| Shipley's Choice Elem | | √ |

| Feeder System: SOUTH RIVER | | |
|-----------------------------------|-------------|---------------|
| | <i>Open</i> | <i>Closed</i> |
| South River High | √ | |
| Central Middle | √ | |
| Crofton Middle | | √ |
| Central Elem | | √ |
| Crofton Meadows Elem | √ | |
| Crofton Woods Elem | | √ |
| Davidsonville Elem | √ | |
| Edgewater Elem | | √ |
| Mayo Elem | √ | |

| Feeder System: SOUTHERN | | |
|--------------------------------|-------------|---------------|
| | <i>Open</i> | <i>Closed</i> |
| Southern High | √ | |
| Southern Middle | √ | |
| Deale Elem | √ | |
| Lothian Elem | | √ |
| Shady Side Elem | √ | |
| Tracey's Elem | √ | |

¹ Ferndale ECC and George Cromwell Elementary capacities and enrollments are combined for purposes of subdivision review.

The Association of Educational Leaders

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