

The following Advisory Opinion is to advise the reader of the current position of the Kentucky Department of Insurance ("the Department") on the specified issue. The advisory Opinion is not legally binding on either the Department or the reader.

Kentucky Department of Insurance

Advisory Opinion 2001-05

IN RE: KRS 304.18-110, State Continuation and Conversion, effects of the July 14, 2000, amendment.

The Department has become aware that some carriers may not be following the requirements of KRS 304.18-110, including the most recent amendment to the statute effective July 14, 2000.

THE DEPARTMENT'S POSITION AND RELEVANT STATUTES:

KRS 304.18-110 contains all the requirements for continuation of group coverage after termination of membership in the group. The statute also contains all the requirements for the conversion privilege after such termination. The statute also contains notice requirements.

It is the Department's intent to enforce the plain meaning of KRS 304.18-110 against all insurers offering group health insurance in Kentucky.

It is well settled in Kentucky that an unambiguous statute cannot be interpreted in such a way that is different from its stated language. See *Hoy v. Kentucky Indus. Revitalization Authority*, Ky. 907 S.W.2d 766 (1995). See also *Terhune v. Commonwealth*, Ky. App. 907 S.W.2d 799 (1995); *Delta Air Lines, Inc. v. Com., Revenue Cabinet*, Ky. 689 S.W.2d 14 (1985) (stating that if the words of a statute are plain and unambiguous, the statute must be applied without resorting to any outside interpretation or construction).

Before July 14, 2000, when an individual on state continuation was insured under a group policy and the group changed insurance companies, that individual stayed with the prior insurer and the group moved to the new insurer.

The July 14, 2000, amendment to KRS 304.18-110, now requires the individual on state continuation to "move with the group." In other words, if a group changes coverage, the state continuation individual also changes coverage. The state continuation individual becomes covered under the group's policy with the new insurer.

The July 14, 2000, amendment is located at KRS 304.18-110(4)¹.

¹ Carriers should be aware that on March 19, 2001, HB 352 was signed by the Governor. HB 352 deletes the requirement that an individual on state continuation be offered continued group health insurance coverage with a subsequent carrier. HB 352 further requires that, "[i]f a group policy is replaced, persons under the continued group health insurance shall remain under such coverage under the replaced policy.