# New Law Protects Patients from Losing Insurance in New York

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Effective January 1, 2011, the New York Insurance Law was amended to enhance protections for consumers when a health insurer discontinues a particular class of policies or contracts. Governor Paterson signed Ian's Law into legislation in August 2010.

Under prior law, a health insurer could discontinue a class of group health insurance policies or contracts without seeking permission from the Insurance Department, as long as they were discontinued uniformly within the class and cancellation notices were timely sent to all affected policyholders. There was no oversight by the Insurance Department to determine whether such discontinuation was a pretext to discontinue coverage for a high-cost individual policyholder.

Ian's law amends the insurance law to provide further protection for policyholders and make it clear that group health plans cannot be discontinued to specifically drop an individual high-cost policyholder from the plan. Insurers are now required to provide written notice of pending discontinuation to all insured individuals covered by a group health plan at least 90 days prior to the date of discontinuance. The notice must provide all policyholders under a discontinued plan with options to purchase alternative, replacement health insurance products offered by the insurer. The law also establishes a review process to ensure that policyholders with serious medical conditions, who have utilized related insurance benefits in the 12-month period preceding the discontinuation of their group plan, keep their present coverage if similar coverage is not made available in the insurer's replacement plan.

Insurers are also required under this new law to provide notice of the pending discontinuance to the Superintendant of Insurance 90 days in advance of the discontinuance. Such notice must explain, among other things, the reason for the discontinuance. If the Superintendant determines the insurer has wrongfully discontinued the coverage, the Superintendant may prohibit the insurer from discontinuing the class. In such a case, the insurer will be required to promptly notify every insured that the policies will not be discontinued and to take remedial action, which may include reinstating the discontinued coverage.

This legislation resulted from the experience of Ian Pearl, who suffers from muscular dystrophy and requires 24-hour nursing care. His insurance initially provided the intensive care, but later the insurer terminated his coverage without providing a replacement policy that covered him for his treatment. Ian sued the insurer and, although the court upheld the discontinuance, the lawsuit later revealed that the group health plan was cancelled as a pretext for discontinuing his high-cost coverage.

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