



Deadline 2: Michelle's Law Extends Eligibility for College-Age Dependents

As the second in our series of six looming compliance deadlines, this article will remind you of the provisions of Michelle's Law, which makes an important change in the current law regarding continuation of coverage of college-age dependents on a medically necessary leave of absence.

Michelle's Law is effective for plan years beginning one year after the date of enactment. For calendar year plans, this will mean **January 1, 2010**.

Medically Necessary Leave of Absence. Michelle's Law sets forth new rules regarding "medically necessary leaves of absence" for dependent children. A medically necessary leave of absence is a leave of absence from a postsecondary educational institution, or any other change in enrollment at the institution, that:

- Commences while such child is suffering from a severe illness or injury;
- Is medically necessary; and
- Causes the child to lose full-time student status under the plan.

The child's attending physician must certify that the child is suffering from a severe illness or injury and that the leave of absence is medically necessary.

Michelle's Law thus maintains the child's plan eligibility when that eligibility would have otherwise ended due to the child ceasing to be a full-time student.

Continuation of Coverage. A group health plan may not terminate coverage due to a medically necessary leave of absence earlier than:

- One year after the first day of the medically necessary leave of absence; or
- The date the coverage would otherwise terminate under the plan.

While there is still some ambiguity with respect to this provision, presumably the child is eligible for COBRA upon the expiration of the coverage termination under the new law.

The child is entitled to the same benefits during the medically necessary leave of absence as if the child continued to be a full-time student and not on leave.

This allows the plan to make changes affecting all college-age dependent children, without singling out those on medically necessary leaves of absence.

If the plan sponsor changes group health plans and the new plan offers coverage to dependent children, the new group health plan shall be subject to the medically necessary leave of absence.

Individual Market Rules. Michelle's Law will apply to individual insured health plans in much the same manner as for group health plans.

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