

## "Michelle's Law"

On October 9, 2009, an important new law affecting employer-sponsored group health plans will become effective. The new law is known as "Michelle's Law" (Pub. L. No. 110-381) and expands employers' coverage and notice obligations for eligible college students. You should begin preparing now to meet these obligations.

**Why Was This Law Enacted?** The law is named after a New Hampshire student, Michelle Morse, who was diagnosed with colon cancer while she was in college. Although Michelle had health coverage through her mother's employer-sponsored group plan, that coverage required Michelle to be a full-time student with a full course load to qualify for dependent coverage. If Michelle took time away from school to fight her cancer, she would be dropped from dependent coverage and would have to elect significantly more expensive COBRA coverage. As a result, Michelle remained enrolled as a full-time student while receiving chemotherapy and other treatments. However, Michelle's family believed that no student should have to face the financial hardship of COBRA premiums, or losing health coverage altogether, while trying to deal with a life-threatening disease.

Michelle lost her fight with cancer in November 2005. The following year, New Hampshire passed a state law to lessen the burden on families like Michelle's. In 2008, Congress passed a similar federal law that will affect employer-sponsored group health plans throughout the United States, beginning in October of this year.

**What Does the Law Require?** All group health plans must allow a college student with a "serious illness or injury" to remain eligible for active dependent coverage for 12 months, even if he or she no longer qualifies as a full-time student. The law applies to both insured and self-insured health plans, and the only exception is for certain state or local government-sponsored self-insured arrangements, which may elect to opt out of its requirements. The specific requirements are

- The individual must be covered as a full-time student, as defined in the plan, at a postsecondary educational institution immediately before any serious illness or injury occurs.
- The student must experience a "serious illness or injury" that requires a medically necessary leave of absence or a medically necessary change in enrollment status from full-time to part-time. The term "serious illness or injury" is not defined.
- A physician must verify the illness or injury in writing and certify the leave of absence or change in enrollment status as medically necessary. The law does not contain a deadline by which this information must be provided.
- The health plan must allow the student to remain covered as an active participant/dependent for 12 months after the leave of absence begins. The regular premium will apply during these 12 months.
- The 12 months, however, does not extend coverage beyond another independent event that would end active/dependent status, such as the parent's termination of employment or the student exceeding the plan's age limit.
- COBRA coverage would not be offered until after the 12-month special period has expired, unless the student returns to full-time status and remains eligible under other terms of the plan.

**Are There Any New Notice or Disclosure Requirements?** If a health plan requires employees to certify the full-time student status of any dependent, then any description of that requirement must include a notice about the 12-month extension. The notice must be written in a manner that is understandable by the typical plan participant.

**When Do These Requirements Become Effective?** The law is effective on October 9, 2009, for plan years that begin on or after that date. For calendar-year plans, the law will apply as of January 1, 2010.

Also, several states already have some variation of Michelle's Law in effect. These states include California, Illinois, Maine, New Hampshire, New York, Pennsylvania, Vermont, Virginia, and Wisconsin. If your plan covers dependents in any of these states, you should consult with a benefits professional about whether it is in compliance with the applicable state law(s).