

MICHELLE'S LAW

(Eff. Date: Plan years beginning on or after 10/9/2009)

On October 9, 2008, an Act known as Michelle's Law was signed into law by the President of the United States. The Act requires a group health plan to maintain coverage for a dependent child that drops below full-time student status due to a medical leave for a period of up to one year.

The provisions of the Act amend ERISA, PHSA (Public Health Service Act) and the Internal Revenue Code, effectively covering all fully insured and self funded group health plans.

A copy of Michelle's Law can be downloaded from the Internet at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:h2851enr.txt.pdf. Section number references from the Act have been provided below to assist you in finding the provisions in the Act for more detail.

DEPENDENT STUDENTS ON MEDICAL LEAVE OF ABSENCE

Coverage Requirements

Michelle's Law prohibits a group health plan from terminating the coverage or changing the benefits of a dependent child who, due to a medically necessary leave of absence, no longer meets the plan's definition of full-time student until the earlier of the following:

- The date the child would terminate for reasons other than not meeting the full-time student requirement of the plan.
- One year from the day, the medically necessary leave of absence began.

(As amended by Michelle's Law: ERISA Section 714(b)(1) and (d), PHSA Section 2707(b)(1) and (d), IRC Section 9813(b)(1) and (d))

Medically Necessary Leave of Absence

To be considered a medically necessary leave of absence under the Act a leave must:

- Begin after the date on which the Act is effective for the plan that is covering the dependent child (*Michelle's Law Section 2(d)*);
- Be for a child that was covered by the plan as a result of being a full-time student on the day before the leave begins (*As amended by Michelle's Law: ERISA Section 714(b)(2)(B), PHSA Section 2707(b)(2)(B), IRC Section 9813(b)(2)(B)*);
- Be a leave of absence or change in enrollment from a post secondary educational institution (*As amended by Michelle's Law: ERISA Section 714(a), PHSA Section 2707(a), IRC Section 9813(a)*);
- Begin while the dependent child is suffering from a serious illness or injury (*As amended by Michelle's Law: ERISA Section 714(a)(1), PHSA Section 2707(a)(1), IRC Section 9813(a)(1)*);
- Cause the dependent child to lose status as a full-time student under the plan (*As amended by Michelle's Law: ERISA Section 714(a)(3), PHSA Section 2707(a)(3), IRC Section 9813(a)(3)*); and
- Be certified as medically necessary due to a serious illness or injury by a physician who is treating the dependent child. (*As amended by Michelle's Law: ERISA Section 714(a)(2) and (b)(3), PHSA Section 2707(a)(2) and (b)(3), IRC Section 9813(a)(2) and (b)(3)*)

NOTICE REQUIREMENT

A group health plan is required to include a description of the coverage requirements of this Act in any communication relating to the verification of full-time student status under the plan.

(As amended by Michelle's Law: ERISA Section 714(c), PHSA Section 2707(c), IRC Section 9813(c))



GOVERNMENTAL PLAN EXEMPTION

Non-federal, governmental plans are allowed to opt out of compliance with the Act subject to a requirement to provide an annual notice of the opt out to the Secretary of Health and Human Services and all plan participants.
(42 USC 300gg-21(b))

EFFECTIVE DATE

Changes made by Michelle's Law are effective on the first plan year beginning on or after 10/9/2009.
(Michelle's Law Section 2(d))

