

MICHELLE'S LAW TAKES EFFECT LATER THIS YEAR

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Michelle's Law will take effect beginning October 9, 2009 (or January 1, 2010 for calendar year plans). It requires group health plans and group-health-plan-insurance issuers to continue coverage for dependent college students when they are forced to take a medically necessary leave of absence from school. The law was named after Michelle Morse, a college student in New Hampshire who was diagnosed with cancer but continued her studies on a full-time basis in order to avoid losing her health coverage under her parents' plan.

Dependent Child & Medically Necessary Leave of Absence

There are two requirements in order to take advantage of the new extension. An individual:

- must be qualified as a dependent child under the terms of the plan or coverage; and
- must have been enrolled in the plan or coverage, on the basis of being a student at a postsecondary educational institution, before the first day of the medically necessary leave of absence.

Additionally, the leave of absence must:

- commence while the child is suffering from serious illness or injury;
- be medically necessary; and
- cause the child to lose student status for purposes of coverage under the terms of the plan or coverage.

Michelle's Law also requires that written certification be provided by a treating physician of the dependent child certifying that the child is suffering from a serious illness or injury that would require a medically necessary leave of absence.

Provisions

Michelle's Law prohibits a group health plan, or a health-insurance issuer that provides health insurance coverage in connection with a group health plan, from terminating coverage of a dependent child due to a medically necessary leave of absence. Specifically, coverage cannot be terminated before the earlier of: 1) one year after the first day of the medically necessary leave of absence; or 2) the date on which such coverage would otherwise terminate under the terms of the plan or health insurance coverage.

The new law requires group health plans and health-insurance issuers to provide notice of the requirements for obtaining the new continued coverage with any notice addressing requirements for receiving certification of student status under the plan or coverage.

This means employers should amend their plan documents, summary plan descriptions, and other employee communications to ensure compliance with the new law.