

Update on Federal Benefits Reforms

Michelle's Law—Federal Version

If a group health plan covers dependents enrolled in a postsecondary school, coverage must continue for one year (or when coverage would otherwise end) while the dependent is on a leave of absence due to a serious illness or injury and the leave is medically necessary. Applies to self-funded and fully insured health plans and HMOs.

Effective Date: Applies to plan years beginning after 10/9/09

Michelle's Law—CA Version

Coverage shall not terminate—for up to 12 months or until the coverage is otherwise scheduled to terminate—if the dependent takes a medical leave of absence from school. Only applies to fully insured plans and HMOs.

Effective Date: January 1, 2009

CHIP Reauthorization Act (HR 2)

Among other changes, HIPAA special enrollment rights are expanded to include the right to enroll outside open enrollment due to:

- Termination of coverage under Medicaid or CHIP
- Becoming eligible for premium assistance under Medicaid or CHIP
- 60 days to elect

Effective Date: April 1, 2009

Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008

If a group health plan or health insurer provides mental health or substance use disorder benefits, the plan must ensure that,

- The financial requirements are no more restrictive than the predominant financial requirements applied to all medical and surgical benefits also covered
- The treatment limitations applicable to mental health or substance use disorder benefits are no more restrictive than the predominant treatment limitations applied to substantially all medical and surgical benefits covered
- If the plan provides coverage through out-of-network providers, it shall also provide coverage for these benefits through out-of-network providers

Effective Date:

- Group health plans: Applies to plan years beginning after 10/9/09—for calendar year plans, January 1, 2010
- Collectively bargained plans: Applies to plan years beginning the later of--(A) the date on which the last of the collective bargaining agreements relating to the plan terminates, or (B) January 1, 2010

Awaiting implementing regulations (by 10/9/09).

Genetic Information Nondiscrimination Act (HR 493)

Applies to health plans, insurers, and employers (agencies & unions). Among other restrictions, prohibits insurers and employers from discriminating against an individual based on genetic predispositions. More specifically, it shall be an unlawful employment practice to discriminate based on genetic information, and employers cannot acquire genetic information. Genetic information is defined broadly, to include manifestations of a disease or disorder in family members. There are limitations on requesting family medical histories. Employers must keep separate employee files for genetic information.

Effective Date:

- Health plan effective date: first plan year after May 21, 2009
- Employer effective date: 11/21/09

Proposed regulations have been issued by the EEOC for employers, but final regulations are not yet out. Regulations applicable to health plans have not yet been issued.

ARRA: HIPAA Privacy and Security Rules

ARRA amends the HIPAA Privacy and Security Rules. HIPAA policies and procedures and business associate contracts will have to be amended. The Rules will apply directly to business associates, who can be penalized for violations. Penalties have been increased. In the event of a data breach, notification must be provided.

Effective Date:

- Delayed effective dates that vary by section, which include:
 - Increased penalties are effective now
 - Data breach notification regulations are effective 9/23/09
 - Rules will apply directly to business associates effective 2/17/10

Awaiting regulations, which will be issued over time.