

## OTHER FEDERAL MANDATES

### MICHELLE'S LAW

Both the California Legislature and Congress have enacted legislation requiring group health plans to continue medical benefit coverage for students who take a medical leave of absence from school. Both laws are referred to as "Michelle's Law". The California law became effective January 1, 2009, while the federal law is effective on the first day of the Plan Year on or after October 9, 2009 for leaves of absence which begin after the effective date of the law.

#### SUMMARY

This law provides that a health plan or insurer may not terminate coverage for a dependent child who is over 18 years of age and enrolled at a postsecondary educational institution if the child takes a medically necessary leave of absence from school.

#### CHANGES TO EXISTING LAW

Existing law provides for the regulation of health care service plans by the Department of Managed Health Care (DMHC) and regulation of health insurers by the Department of Insurance (DOI). Existing law prohibits plan contracts and insurance policies that provide dependent coverage from terminating coverage for a child who continues to be both of the following: a) incapable of self-sustaining employment by reason of physically or mentally disabling injury, illness, or condition; and, chiefly dependent on the subscriber for support and maintenance. Existing law allows the plan or insurer to require proof of the incapacity and dependency.

This bill provides that a health plan or insurer who provides coverage for a dependent child who is over 18 years of age but younger than the limiting age and enrolled at a post secondary educational institution may not terminate that coverage if the child takes a medically necessary leave of absence from school. This bill would limit this coverage to a period of the lesser of 12 months or the termination date of the policy from when the leave of absence begins. This bill also establishes notice requirements for the dependent child's health care provider to inform health plans and insurers. This bill would exempt supplemental and specialized plans and insurance from its provisions.

### UNIFORMED SERVICES EMPLOYMENT AND RE-EMPLOYMENT RIGHTS ACT OF 1994 (USERRA)

#### Continuation coverage during military leave

If you take a leave of absence because of voluntary or involuntary service in the uniformed services for a period that is less than 31 days, you and your covered dependents' employer-paid Plan coverage will be continued. If your military leave of absence is between 31 days and five years, you may elect to continue group health program coverage for yourself and your eligible dependents for up to 24 months (18 months for elections made prior to December 10, 2004) or for the period ending on the day after the date you fail to apply for or return to employment with your employer as determined under § 4312(e) of the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), whichever is earlier. Coverage shall commence on the date of the military leave. You will be required to pay 102% of the cost of coverage for the duration of your coverage period. Because a right to continuation coverage under USERRA and COBRA are triggered simultaneously, an election of COBRA will be treated as an election of USERRA as well and the period of coverage available under USERRA will run concurrently with COBRA coverage.

This provision applies to:

- Eligible employees on active duty; and
- Eligible employees on active duty for training; and
- Eligible employees on initial active duty for training and inactive duty training in the Armed Forces (including the Reserve components), the Army or Air National Guard and the commissioned corps of the Public Health Services, and to full-time National Guard duty; and
- Absences needed to determine the employee's fitness for duty in the uniformed service.