

**Welfare Benefits 2008 Year in Review:
Michelle's Law Mandates Certain Benefits for College Students**

On October 9, 2008, President Bush signed H.R. 2851, commonly known as "Michelle's Law." H.R. 2851 is named in memory of Michelle Morse, a Plymouth State University student who died of colon cancer in November 2005 at the age of 22. Because eligibility requirements of both her parents' health insurance plan and the school's insurance plan required that she be a full time student, Michelle was forced to attend school despite agonizing and debilitating cancer treatments just to maintain health insurance coverage. Michelle's Law ensures that dependants who receive coverage under their parents' health insurance plan due to their status as a full-time student will not lose full-time student status as a result of a medically necessary leave of absence from school.

Who is Covered by Michelle's Law

Michelle's Law protects students at postsecondary educational institutions (most commonly some type of college) from losing full-time student status under their parents' employer's medical coverage if the student is (i) a dependent child of a participant or beneficiary under the terms of the plan and (ii) enrolled in a plan on the basis of being a student at a postsecondary educational institution. If a dependent meets these criteria, then he or she is entitled to the same benefits as if he or she continued to be enrolled as a full-time student.

A "Medically Necessary Leave of Absence"

Under Michelle's Law, a medically necessary leave of absence occurs when a dependent, whose coverage is contingent upon maintaining full-time student status, starts a leave of absence from school that (i) commences while the dependent is suffering from a serious illness or injury; (ii) is medically necessary; and (iii) would ordinarily cause the de-

pendent to lose full-time student status for purposes of coverage under the terms of the plan. Note that the dependent does not have to withdraw from the institution; merely reducing enrollment below the level required for full-time student status is treated as a medically necessary leave of absence.

Michelle's Law requires that the plan treat an eligible dependent as a full-time student for a period of one year after the first day of the medically necessary leave of absence or until the date on which such coverage would otherwise terminate under the terms of the plan (such as attaining maximum age for full-time student coverage).

Michelle's Law is effective for plan years beginning on or after October 9, 2009. For calendar year plans the effective date is January 1, 2010.

What This Means for Your Plan

Michelle's Law only applies when a plan is supplied with a certification by a treating physician that verifies (i) that the dependent is suffering from a serious illness or injury, and (ii) a leave of absence is medically necessary. As a result, a plan should be prepared to make inquiries when a student's enrolment falls below full-time student course load status. Alternatively, the plan could write information about Michelle's Law into termination of coverage notices for dependants who were previously full-time students.

Michelle's Law also requires that all full-time student verification notices and other communication materials like the Summary Plan Description ("SPD") must describe the provisions of Michelle's Law. Thus, at some point during the 2009 calendar year, the Trustees should adopt plan document and SPD amendments to address Michelle's Law. We are still awaiting updated information from the Department of Labor.

For more information about Michelle's Law or to discuss the necessary plan and SPD amendments, please contact us at your earliest convenience.

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