

Legislative Brief

California Dependent Coverage Laws

Under California law, insured group health plans that cover dependent children may not terminate a dependent child's coverage earlier than age 26. California law mirrors the federal Health Care Reform Law that mandates health plans make dependent coverage available for adult children up until the age of 26, effective for plan years beginning on or after Sept. 23, 2010. In addition, California law has special rules for student coverage and disabled dependents.

This legislative brief describes the federal and state dependent coverage requirements and related tax laws. It also discusses compliance implications for California employers.

STATE DEPENDENT COVERAGE REQUIREMENTS

Applicable Health Plans

Group health insurance policies and health care service plans that provide dependent coverage must comply with California's dependent coverage laws. California's dependent coverage laws apply to insured group medical coverage that provides coverage for dependent children. They do not apply to specialized health care service plans, Medicare supplement insurance, CHAMPUS-supplement or TRICARE-supplement insurance policies or hospital-only, accident-only or specified disease insurance policies that reimburse for hospital, medical or surgical benefits.

Limiting Age

The limiting age for health insurance policies and health care service plans that provide dependent coverage must be at least 26 years of age. A dependent who is under age 26 does not need to reside with the employee to be eligible for benefits under the employee's plan.

However, for plan years beginning before Jan. 1, 2014, a health insurance policy or health care service plan with grandfathered status under the federal Health Care Reform law may exclude from coverage an adult child who has not attained 26 years of age, if the adult child is eligible to enroll in an eligible employer-sponsored health plan, other than a group health plan of a parent.

California Dependent Coverage Laws (continued)

Dependent Student Coverage

If a group health insurance policy or health care service plan provides coverage for a dependent child who is over 26 years of age and enrolled as a full-time student at a secondary or postsecondary educational institution, the following conditions must apply to the coverage:

- Any break in the school calendar cannot disqualify the dependent child from coverage;
- If the dependent child takes a medical leave of absence, the child's injury, illness or condition renders the child incapable of self-sustaining employment and the child is and continues to be chiefly dependent on the employee for support and maintenance, the child's coverage must continue; and
- If the dependent child takes a medical leave of absence from school, but the child's injury, illness or condition does not render the child incapable of self-sustaining employment or the child is not chiefly dependent on the employee for support and maintenance, the child's coverage must not terminate for a period not to exceed 12 months or until the date on which the coverage is scheduled to terminate pursuant to the terms and conditions of the policy or plan, whichever comes first.

Documentation of the medical necessity for leave of absence from school must be received by the plan at least 30 days before the leave occurs. If the leave is unforeseeable, documentation of the medical necessity must be received by the plan no later than 30 days after the start date of the leave.

A federal law (Michelle's Law) also extends coverage for students with a serious illness or injury who take a medically necessary leave of absence. Under the federal provision, coverage is extended for one year from when the leave of absence begins unless, under the terms of the plan, coverage would terminate as of an earlier date.

Disabled Dependent

Under California law, insurance coverage for children with mental or physical handicaps who cannot financially support themselves may not terminate at the limiting age. Coverage for a disabled dependent must continue past the policy's or plan's limiting age while the child is and continues to be:

- Incapable of self-sustaining employment by reason of a physically or mentally disabling injury, illness or condition; and
- Chiefly dependent upon the employee or member for support and maintenance.

California Dependent Coverage Laws (continued)

The plan must notify the employee at least 90 days before the dependent child attains the limiting age that, unless the employee submits proof of disability and dependence of the child, coverage will end when the child attains the limiting age. The employee must request continued coverage for the dependent child and provide documentation of disability and dependence of the child within 60 days of the date of receipt of the notification. The plan must determine whether the child meets the criteria before the child attains the limiting age. If the plan fails to make the determination by that date, it shall continue coverage of the child pending its determination.

The plan may subsequently request information about a dependent child whose coverage is continued beyond the limiting age due to disability and dependence not more often than annually after the two-year period following the child's attainment of the limiting age.

FEDERAL DEPENDENT COVERAGE REQUIREMENTS

Applicable Health Plans

Health plans, including insured and self-insured group health plans, that provide dependent coverage of children are required to permit an adult child to stay on family coverage until age 26. However, under the Health Care Reform law, grandfathered plans may exclude an adult child under age 26 from coverage if the adult child is eligible to enroll in an employer-sponsored health plan, other than a group health plan of a parent.

Dependent Eligibility

Under the federal mandate, health plan coverage must be made available to qualifying young adults up to age 26.

Qualifying young adults include sons, daughters, stepsons, stepdaughters, adopted children and possibly eligible foster children of the parent, regardless of the qualifying young adult's marital status, student status or location or residence. It does not matter whether the qualifying young adults are tax dependents for federal income tax purposes. Parents may decide whether to add adult children to their plan, and there is no requirement to cover the child of a dependent child.

TAX LAW

When the Health Care Reform law was passed, the federal tax code was also revised. The revised tax code provides that, for federal tax purposes, the value of employer-provided coverage for young adult dependents is excluded from the employee's gross income through the end of the tax year in which the dependent child turns age 26.

California Dependent Coverage Laws (continued)

California conformed to the tax treatment imposed by federal law. Therefore, the cost of health coverage for eligible dependents in California will not be subject to state tax up to the end of the year in which they attain age 26.

IMPLICATIONS FOR EMPLOYERS

Employers in California with insured and self-funded health plans are required to maintain dependent coverage up until age 26. If group health plans provide coverage past age 26, they are required to extend coverage to qualifying students who would otherwise lose coverage due to a medically necessary leave of absence. In addition, under California law, employers with insured health plans must extend coverage past the limiting age to disabled dependents.

In addition, since California conforms to the tax treatment imposed by federal law, the cost of dependent coverage of adult children up to the end of the year in which the child reaches age 26 is tax-free at the state and federal level. Also, coverage for a disabled dependent that lasts beyond the end of the tax year in which the dependent reaches age 26 will be tax-free if the child qualifies as the employee's tax dependent.

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