



# Client Alert

May 24, 2010

## Dependent Health Care Coverage

The recently enacted Patient Protection and Affordable Care Act as amended by the Health Care and Education Reconciliation Act will have a significant impact on coverage for children beginning next year. It disallows pre-existing condition limitations for children under age 19. It also permits children to remain on their parent's health care plan until age 26. A health care plan is not required to offer dependent coverage, however, if it is offered, this new law will apply regardless of whether the plan is insured or self-insured. Set forth below are some of the material terms of this new legislation:

### Effective Date

The law is first effective for plan years beginning on or after September 23, 2010, which, for a calendar year plan, would mean the plan year beginning January 1, 2011. For plan years beginning prior to January 1, 2014, the dependent eligibility requirement for plans in existence on March 23, 2010 only applies to an adult child who is not eligible to enroll in another employer sponsored health plan.

### Dependents Eligible

If the plan offers dependent coverage, all children will be eligible until age 26. Dependent eligibility exists even if the dependent is married, emancipated, not claimed as a dependent on the parent's tax return or no longer a student. Grandchildren and spouses of dependent children are **not** eligible for this coverage.

### How to Enroll

The Federal government has publicly requested that insurance companies and employers implement this new coverage option immediately, even though they are not legally required to do. If an employer decides to delay implementation until next year, all eligible dependents must be offered a special open enrollment period of 30 days, even if the plan does not otherwise offer open enrollment.

### Cost/Benefits

Any qualifying dependent must be eligible to receive the benefit packages offered to similarly situated individuals and cannot be required to pay more for such coverage than similarly situated individuals.

### Tax Treatment

To facilitate implementation of the new eligibility rules, the Internal Revenue Service has issued guidance making it clear that the value of employer-provided health coverage for an employee's child is tax free to the employee through the close of the tax year in which the child turns age 26.

### Design/Implementation Questions

As an employer, you should be considering the following in regard to children's eligibility:

1. Do we continue to offer dependent coverage?
2. If so, when will we make this extension of dependent coverage first available?
3. Should we take advantage of the grandfather treatment available until 2014?
4. When will we cut off dependent coverage, attainment of age 26 or the last day of the calendar year in which the child attains age 26?
5. Does this change make Michelle's law obsolete?
6. How will we treat children of domestic partners?
7. When will our health care plan be amended to comply with these changes in the law?
8. Will the extension of eligibility be made with respect to our vision and/or dental benefit plans?
9. Will we modify our cafeteria plan to permit employees to increase their pre-tax contributions to cover dependent coverage for adult children?

Questions about this client alert can be directed to your usual  
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