

YOUR HEALTH PLAN AND YOU KNOW YOUR HEALTH COVERAGE PROTECTIONS



U.S. Department of Labor
Employee Benefits Security Administration

If you have health coverage through a private sector employer plan, there are laws to protect these benefits for you and your family. You probably have heard of some of them, such as COBRA, HIPAA and more recently, the Patient Protection and Affordable Care Act (the Affordable Care Act). *Have you been wondering how the Affordable Care Act will affect your health plan and you? Have you had questions about your own plan?* It is important to know your benefit rights so that you can make informed decisions when necessary to keep or get health coverage. It is also important to know where you can go for help if you have questions about your rights or your plan. This publication provides an overview of these laws and resources for further information and assistance.

■ HOW WILL THE AFFORDABLE CARE ACT IMPACT YOUR HEALTH COVERAGE?

The Affordable Care Act adds many protections related to employment-based group health plans. These include extending dependent coverage up to age 26; prohibiting preexisting condition exclusions; and requiring easy-to-understand summaries of a health plan's benefits and coverage.

Additional protections that may apply to your plan include the requirement to provide coverage for certain preventive services (such as blood pressure, diabetes and cholesterol tests, regular well-baby and well-child visits, routine vaccinations and many cancer screenings) without cost-sharing, and coverage of emergency services in an emergency department of a hospital outside your plan's network without prior approval from your health plan.

Under HIPAA, employment-based group health plans have been subject to certain requirements limiting the imposition of any preexisting condition exclusions since 1996. (A preexisting condition exclusion is any limitation or exclusion of benefits for a health condition because it was present before coverage begins, regardless of whether any medical advice, diagnosis, care or treatment was recommended or received before that day.) The Affordable Care Act expanded these protections by prohibiting the imposition of preexisting condition exclusions for children under age 19, and, starting in 2014, for all individuals.

Under the Affordable Care Act, in addition to health coverage through an employment-based group health plan, there will be a new way to get health coverage – the new health insurance marketplace (the Marketplace). The Marketplace will offer health insurance (called qualified health plans) that include comprehensive coverage, from doctors and medications to hospital visits. Qualified health plans in the Marketplace will present their price and benefit information in simple terms so that you can make apples-to-apples comparisons. Starting in October 2013, you will be able to get information about all of the plans available in your area and enroll. For more information about obtaining coverage through the Marketplace, visit www.healthcare.gov.

To help ensure widespread coverage, the Affordable Care Act also includes tax credits to ensure affordability and includes provisions relating to the shared responsibility of employees to maintain health coverage and employers to provide affordable coverage that meets certain standards. These provisions are administered by the Department of the Treasury and the Internal Revenue Service. For more information regarding these provisions contact 1-800-318-2596.

■ HOW DO COBRA AND HIPAA PROTECT YOU AND YOUR FAMILY?

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) allows certain employees and their family members to continue their employer-provided coverage that would otherwise have been lost due to specific events (COBRA continuation coverage). Qualifying events include the death of a covered employee, termination or reduction in the hours of a covered employee's employment for reasons other than gross misconduct, divorce, or legal separation from a covered employee, a covered employee's becoming entitled to Medicare benefits, and a child's loss of dependent status under the plan.

Those who are eligible may be required to pay for COBRA continuation coverage and are generally entitled to coverage for a limited period of time (from 18 months to 36 months), depending on certain circumstances.

The Health Insurance Portability and Accountability Act (HIPAA) contains significant protections that make it easier to change employers without losing health coverage for your (and your family's) medical conditions. These protections include limits on the exclusion period for coverage of preexisting conditions in a new employer's plan. (As discussed

throughout this publication, the Affordable Care Act has expanded this protection by prohibiting preexisting condition exclusions for individuals under age 19 and for all individuals beginning in 2014.) HIPAA also provides additional opportunities to enroll in a group health plan (including when you lose other coverage or experience certain life events) and a prohibition on discrimination against participants and their dependent family members based on any health factors they may have, including prior medical conditions, previous claims experience, and genetic information. In addition, under HIPAA, birth, adoption, and placement for adoption may also trigger a special enrollment opportunity in your group health plan for you, your spouse, and your child, without regard to any open season for enrollment.

HIPAA is complemented by state laws that may offer more generous protections. You may want to contact your state insurance commissioner's office to ask about the law where you live. Go to http://www.naic.org/state_web_map.htm to locate your state insurance commissioner's office.

■ ARE THERE OTHER LAWS THAT PROTECT WORKERS IN EMPLOYMENT-BASED GROUP HEALTH PLANS

Yes. Many provisions of the Employee Retirement Income Security Act (ERISA) offer protections that apply to employment-based group health coverage, including standards for those responsible for your plan (generally known as plan fiduciaries) and procedures for processing benefit claims. ERISA's claims procedure rules include requirements regarding timing and notice related to claims processing (and the Affordable Care Act has expanded these requirements). Many laws under Part 7 of ERISA provide additional protections related to employment-based group health plan coverage, including:

- **THE MENTAL HEALTH PARITY ACT (MHPA) AND THE MENTAL HEALTH PARITY AND ADDICTION EQUITY ACT (MHPAEA).** MHPA required parity with respect to aggregate lifetime and annual dollar limits for medical/surgical benefits and mental health benefits. MHPAEA expands those provisions to include substance use disorder benefits. Thus, under MHPAEA group health plans and issuers may not impose a lifetime or annual dollar limit on mental health or substance use disorder benefits that is lower than the lifetime or annual dollar limit imposed on medical/surgical benefits.

MHPAEA also requires that financial requirements (such as copays and deductibles), and quantitative treatment limitations (such as visit limits), applicable to mental health or substance use disorder benefits are generally no more restrictive than the requirements or limitations applied to medical/surgical benefits.

MHPA and MHPAEA generally apply to employment-based group health plans that provide benefits for either mental health or substance use disorder benefits, and does not apply to small employers who have fewer than 51 employees.

- **THE WOMEN’S HEALTH AND CANCER RIGHTS ACT (WHCRA).** WHCRA provides protections for patients who elect breast reconstruction in connection with a mastectomy. Group health plans offering mastectomy coverage also must provide coverage for certain services relating to the mastectomy in a manner determined in consultation with your attending physician and you. This required coverage includes all stages of reconstruction of the breast on which the mastectomy was performed, surgery and reconstruction of the other

breast to produce a symmetrical appearance, prostheses and treatment of physical complications of the mastectomy, including lymphedema.

- **THE NEWBORNS’ AND MOTHERS’ HEALTH PROTECTION ACT.** Group health plans may not restrict benefits for a hospital stay in connection with childbirth to less than 48 hours following a vaginal delivery or 96 hours following a delivery by cesarean section. However, the attending provider may decide, after consulting with you, to discharge you or your newborn child earlier. In any case, the attending provider cannot receive incentives or disincentives to discharge you or your child earlier than 48 hours (or 96 hours).
- **GENETIC INFORMATION NONDISCRIMINATION ACT (GINA).** GINA prohibits discrimination in group health plan premiums based on genetic information and generally prohibits group health plans from requesting or requiring individuals to undergo genetic testing. GINA also prohibits a plan from collecting genetic information (including family medical history) prior to or in connection with enrollment, or for underwriting purposes.

WHERE CAN I GO TO LEARN MORE ABOUT THESE PROTECTIONS AND LAWS OR IF I HAVE A QUESTION ABOUT MY HEALTH PLAN?

The Department of Labor’s Employee Benefits Security Administration (EBSA) oversees these laws. EBSA has publications, FAQs, videos and more providing additional information on these laws. Visit www.dol.gov/ebsa/consumer_info_health.html for these materials, including:

- An Employee’s Guide to Health Benefits Under COBRA
<http://www.dol.gov/ebsa/publications/cobraemployee.html>
- Your Health Plan And HIPAA...Making The Law Work For You
<http://www.dol.gov/ebsa/publications/yhipaa.html>
- Filing a Claim for Your Health or Disability Benefits
<http://www.dol.gov/ebsa/publications/filingbenefitsclaim.html>
- Your Rights After A Mastectomy
<http://www.dol.gov/ebsa/publications/whcra.html>
- Protections for Newborns, Adopted Children, and New Parents
<http://www.dol.gov/ebsa/publications/newborns.html>

- Work Changes Require Health Choices... Protect Your Rights
http://www.dol.gov/ebsa/Publications/work_changes.html
- Life Changes Require Health Choices... Know Your Benefit Options
http://www.dol.gov/ebsa/Publications/life_changes.html
- Top 10 Ways to Make Your Health Benefits Work for You
<http://www.dol.gov/ebsa/publications/10working4you.html>
- EBSA's publications in Spanish
<http://www.dol.gov/ebsa/publications/main.html#section3>
- eLaws Health Benefits Advisor
<http://www.dol.gov/elaws/ebsa/health/index.htm>

For more information on the Affordable Care Act, visit EBSA's Affordable Care Act web page at www.dol.gov/ebsa/healthreform/consumer.html and the Department of Health and Human Services web page at www.healthcare.gov.

For more information on the Mental Health Parity and Addiction Equity Act, visit EBSA's Mental Health Parity web page at: <http://www.dol.gov/ebsa/mentalhealthparity/index.html>.

EBSA also has Benefits Advisors across the country to answer your questions and to assist you if you believe you have been denied a health or retirement benefit inappropriately. You can contact a Benefits Advisor electronically at www.askebsa.dol.gov or by calling toll-free 1-866-444-3272.