



## One Minute Memo<sup>®</sup>

# Extended Health Coverage for College Students on Medical Leave

On October 9, 2008, President Bush signed into law Michelle's Law, a measure intended to allow seriously ill college students who are covered as dependents under self-funded and insured health plans to retain coverage while on medically necessary leaves of absence. The law was named after Michelle Morse, a New Hampshire college student who was diagnosed with colon cancer and was required to maintain full-time student status while undergoing cancer treatment in order to avoid losing her health coverage. The law amends both ERISA and the Internal Revenue Code and will be effective for plan years beginning on or after October 9, 2009. Calendar year plans must comply with the new law beginning January 1, 2010.

Dependent children who are enrolled at any post-secondary educational institution and who are required to take a medically necessary leave of absence on account of a serious illness or injury from which the child is suffering while covered under a health plan and who would otherwise lose their coverage due to a loss of dependent status will be covered by the law. Coverage will continue until the earlier of: (1) one year from the start of the medically necessary leave of absence, or (2) the date on which such coverage would otherwise be terminated under the terms of the health plan.

To qualify for the extension of coverage, the child must be enrolled as an eligible dependent under a health plan and

must be a student at a post-secondary educational institution immediately before the first day of the medically necessary leave of absence. Furthermore, the child's treating physician must provide certification that the child is suffering from a serious illness or injury that necessitates the leave of absence.

A dependent child on a medically necessary leave of absence is entitled to the same level of benefits as the dependent child had immediately before taking the leave of absence. If any changes are made to the health plan during the child's leave of absence, and the changed coverage remains available to other dependent children under the plan, the dependent child on leave must be afforded the same options and coverage levels.

Health plan sponsors (and insurers) will be required to provide notice to plan participants about this extension of coverage. The notice must include any notice requirement for certification of student status and should be written in a manner reasonably calculated to be understood by the average plan participant. Health plans and Summary Plan Descriptions will need to be amended to reflect this extended coverage.

*For more information, please contact the Seyfarth attorney with whom you work, or any Employee Benefits attorney on our website ([www.seyfarth.com/EmployeeBenefits](http://www.seyfarth.com/EmployeeBenefits)).*

Attorney Advertising. This One Minute Memo is a periodical publication of Seyfarth Shaw LLP and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have. Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.) © 2008 Seyfarth Shaw LLP. All rights reserved.