

Newborns' and Mothers' Health Protection Act

What is the Newborns' and Mothers' Health Protection Act of 1996 (Newborn's Act)?

The Newborns' Act was signed into law on September 26, 1996 and includes important protections for mothers and their newborn children with regard to the length of the hospital stay following childbirth. The Newborns' Act is subject to concurrent jurisdiction by the Departments of Labor, the Treasury, and Health and Human Services.

I am pregnant. How does the Newborns' and Mothers' Health Protection Act of 1996 affect my health care benefits?

The Newborns' Act affects the amount of time you and your newborn child are covered for a hospital stay following childbirth. Group health plans, insurance companies and health maintenance organizations (HMOs) that are subject to the Newborns' Act 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).

Who is the attending provider?

An attending provider is an individual licensed under state law who is directly responsible for providing maternity or pediatric care to a mother or newborn child. Therefore, a plan, hospital, insurance company or HMO would not be an attending provider. However, a nurse midwife or a physician assistant may be an attending provider if licensed in the state to provide maternity or pediatric care in connection with childbirth.

Under the Newborns' Act, when does the 48-hour (or 96-hour) period start?

If you deliver in the hospital, the 48-hour period (or 96-hour period) starts at the time of delivery. So, for example, if a woman goes into labor and is admitted to the hospital at 10 p.m. on June 11, but gives birth by vaginal delivery at 6 a.m. on June 12, the 48-hour period begins at 6 a.m. on June 12. However, if you deliver outside the hospital and you are later admitted to the hospital in connection with childbirth (as determined by the attending provider), the period begins at the time of the admission. So, for example, if a woman gives birth at home by vaginal delivery, but begins bleeding excessively in connection with childbirth and is admitted to the hospital, the 48-hour period starts at the time of admission.

Under the Newborns' Act, may a group health plan, insurance company or HMO require me to get permission (sometimes called prior authorization or pre-certification based upon medical necessity) for a 48-hour or 96-hour hospital stay?

A plan, insurance company or HMO cannot deny you or your newborn child coverage for a 48-hour stay (or 96-hour stay) because the plan claims that you, or your attending provider, have failed to show that the 48-hour stay (or 96-hour stay) is medically necessary. However, plans, insurance companies and HMOs generally can require you to notify the plan of the pregnancy in advance of an admission if you wish to use certain providers or facilities, or to reduce your out-of-pocket costs.

Under the Newborns' Act, may group health plans, insurance companies or HMOs impose deductibles or other cost-sharing provisions for hospital stays in connection with childbirth?

Yes. But only if the deductible, coinsurance, or other cost-sharing for the later part of a 48-hour (or 96-hour) stay is not greater than that imposed for the earlier part of the stay. For example, with respect to a 48-hour stay, a group health plan is permitted to cover only 80% of the cost of the hospital stay. However, a plan covering 80% of the cost of the first 24 hours could not reduce coverage to 50% for the second 24 hours.

Does the Newborns' Act require my plan to offer maternity benefits?

No. The Newborns' Act does not require plans, insurance companies or HMOs to provide coverage for hospital stays in connection with childbirth. However, other legal requirements may require this type of coverage, including Title VII of the Civil Rights Act of 1964. Questions regarding Title VII should be directed to the Equal Employment Opportunity Commission.

Does the Newborns' Act apply to my coverage?

It depends. If your plan offers benefits for hospital stays in connection with childbirth, the Newborns' Act only applies to certain coverage. Specifically, it depends on whether your coverage is insured by an insurance company or HMO or selfinsured by the employment-based plan. (You should check your Summary Plan Description (SPD) or contact your plan administrator to find out if your coverage in connection with childbirth is insured or self-insured.)

Self-insured coverage is subject to the Newborns' Act. However, if your coverage is insured by an insurance company or HMO and your state has a law regulating coverage for newborns and mothers that meet specific criteria, then your rights depend on state law, rather than the Newborns' Act. If this is the case, the state law may differ slightly from the Newborns' Act requirements, so it is important for you to know which law applies to your coverage in order to know what your rights are.

If your coverage is insured by an insurance company or HMO, you should always contact your State Insurance Commissioner's Office for the most current information.

If the Newborns' Act applies to my coverage, when do its requirements go into effect?

The Newborns' Act requirements apply to group health plans for plan years beginning on or after January 1, 1998. To find out when your plan year begins, check your Summary Plan Description (SPD) or contact your plan administrator.