

FAQs about Newborns' and Mothers' Health Protection



U.S. Department of Labor
Employee Benefits Security Administration

What is the Newborns' and Mothers' Health Protection Act?

The Newborns' and Mothers' Health Protection Act (the Newborns' Act) provides protections for mothers and their newborn children relating to the length of their hospital stays following childbirth.

Does the Newborns' Act apply to my coverage?

It depends. Even 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 "self-insured" by an employment-based plan. (You should check your Summary Plan Description (SPD), the document that outlines your benefits and your rights under the plan, 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 the coverage is provided by an insurance company or HMO (an "insured" plan), and your state has a law regulating coverage for newborns and mothers that meets specific criteria, then state law, rather than the Newborns' Act, applies. If this is the case, the state law may differ slightly from the Newborns' Act requirements, so it is important to know which law applies to the coverage offered by your plan.

For those plans with coverage that is insured by an insurance company or HMO, contact your state insurance department for the most current information on the state laws that pertain to hospital length of stay in connection with childbirth.

For those plans covered by the Federal law, the following questions apply:

I am pregnant. How does the Newborns' Act 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 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).

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 hospital 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.

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. 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.

A health plan, hospital, insurance company, or HMO, however, would not be an attending provider.

Can my group health plan require me to get permission (sometimes called prior authorization or precertification based upon medical necessity) for a 48-hour or 96-hour hospital stay?

No. A plan 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 generally can require you to notify the plan of the pregnancy in advance of an admission in order to use certain providers or facilities or to reduce your out-of-pocket costs.

Under the Newborns' Act, may group health plans 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 latter 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.

Will my group health plan tell me about the Newborns' Act and my state law protections?

A group health plan that provides maternity or newborn infant coverage must include in its Summary Plan Description (SPD) a statement describing the Federal or state law requirements applicable to the plan (or any health insurance coverage offered under the plan) relating to hospital length of stay in connection with childbirth for the mother or newborn child. If the Federal Newborns' Act law applies in some areas in which the plan operates and state laws apply in others, the SPD must describe the Federal and state law requirements that apply in each area covered by the plan.

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

No. The Newborns' Act does not require plans to provide coverage for hospital stays in connection with childbirth. However, other legal requirements, including Title VII of the Civil Rights Act of 1964 and the Affordable Care Act, may require this type of coverage. Questions regarding Title VII should be directed to the Equal Employment Opportunity Commission; see the agency's website at eeoc.gov. For information on the Affordable Care Act requirements, visit HealthCare.gov.

How does giving birth to or adopting a baby affect my rights to enroll in my health plan or health insurance coverage?

Birth and adoption (including placement for adoption) may trigger a special enrollment period during which you, your spouse, and your dependents can enroll in your employer's plan or in a plan offered through the Health Insurance Marketplace. To request special enrollment in an employer plan, you must notify your plan within 30 days of your child's birth, adoption, or placement for adoption. If you choose to enroll in Marketplace coverage, you must do so within 60 days of the birth, adoption, or placement for adoption.

Where can I get more information?

For more information regarding your rights and responsibilities under your employer-sponsored group health plan, visit the Employee Benefits Security Administration's website at dol.gov/agencies/ebsa and go to "Workers and Families". To request assistance from one of our benefits advisors, contact EBSA electronically at askebsa.dol.gov or call toll free 1-866-444-3272.

For information on state law requirements, visit the National Association of Insurance Commissioners' website at naic.org and go to States and Jurisdiction Map to find your state insurance commissioner's office.

For information on purchasing health coverage in the Health Insurance Marketplace, visit HealthCare.gov or call 1-800-318-2596.