

When Is a Dependent Child Considered to Be Age 26 for Purposes of Terminating Group Health Plan Coverage?

EBIA Weekly (August 3, 2023)

QUESTION: Our company sponsors a group health plan that offers coverage to eligible employees and dependent children. We understand that we must make coverage available until a child is age 26. At what point during the month of the child's 26th birthday is it permissible for our plan to terminate coverage for the child?

ANSWER: Group health plans that offer dependent coverage are required to continue making coverage available for an employee's child until the child's 26th birthday—regardless of the child's residency, financial dependence, student status, employment, or other factors. Your plan will satisfy the dependent coverage requirement if coverage is provided until a child attains 26 years of age. As an example, assume an employee's child's birthday is July 17. The plan need only offer coverage for the child through the day before his or her 26th birthday—i.e., July 16.

Keep in mind, however, that if your company is an applicable large employer (i.e., if you employed an average of 50 or more full-time employees (or equivalents) in the preceding year), you could face potential employer shared responsibility penalties if you do not offer coverage to an employee's child through the last day of the month containing the child's 26th birthday. Applicable large employers may be subject to these penalties if they fail to offer adequate health insurance to full-time employees "and their dependents." For this purpose, "dependents" means an employee's children, as defined in Code § 152(f)(1) but excluding stepchildren and foster children, who are under 26 years of age. Regulations implementing the penalties specifically provide that a child is a dependent for the entire calendar month during which he or she attains age 26. Thus, in the example above, coverage must be offered through July 31 to avoid potential penalties. Absent information to the contrary, employers may rely on employees' representations concerning the identity and ages of the employees' children.

For more information, see EBIA's Health Care Reform manual at Sections XI.B ("Requirement to Extend Coverage to Children Under Age 26"), XXVIII.D ("Assessable Payment (Penalty Tax) When Coverage Not Offered to Enough Full-Time Employees and Dependents (the 'Subsection (a) Penalty')"), and XXVIII.E ("Assessable Payment (Penalty Tax) When Inadequate Coverage Offered to Full-Time Employees and Dependents (the 'Subsection (b) Penalty')"). See also EBIA's Group Health Plan Mandates manual at Section VII.B ("Required Coverage for Children Under Age 26") and EBIA's Self-Insured Health Plans manual at Section XIV.E ("Beneficiary Eligibility").

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