

Newborns' and Mothers' Health Protection Act (NMHPA)

The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) is a federal law that affects the length of time a mother and newborn child are covered for a hospital stay in connection with childbirth. In general, group health plans and health insurance issuers that are subject to NMHPA 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.

If you deliver your baby in the hospital, the 48-hour (or 96-hour) period starts at the time of delivery. If you deliver your baby 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.

If the attending provider, in consultation with the mother, determines that either the mother or the newborn child can be discharged before the 48-hour (or 96-hour) period, the group health plan or health insurance issuer does not have to continue covering the stay for the one ready for discharge. An attending provider is an individual, licensed under State law, who is directly responsible for providing maternity or pediatric care to the mother or the newborn child. In addition to physicians, an individual such as a nurse midwife, physician assistant, or nurse practitioner may be an attending provider. A health plan, hospital, insurance company, or HMO would NOT be an attending provider.

This law applies to two different types of coverage:

1. Group health plans (provided by an employer or union);
2. Individual health insurance policies (not based on employment).

Group health plans can either be “insured” plans that purchase health insurance from a health insurance issuer, or “self-funded” plans that pay for coverage directly. How they are regulated depends on whether they are sponsored by private employers, or state or local (“non-federal”) governmental employers. Private group health plans are regulated by the Department of Labor. State and local governmental plans, for purposes of WHCRA, are regulated by CMS. If any group health plan buys insurance, the insurance itself is regulated by the State’s insurance department.

If you are in a private, self-funded group health plan, your health coverage must comply with NMHPA standards. If you are enrolled in a group health plan through your own or a spouse’s employment, you can contact the employer’s plan administrator to find out if your group coverage is insured or self-funded, and determine what entity or entities regulate your benefits.

Newborns’ and Mothers’ Health Protection Act, Retrieved December 2, 2016 from Centers for Medicare and Medicaid website: https://www.cms.gov/CCIIO/Programs-and-Initiatives/Other-Insurance-Protections/nmhpfa_factsheet.html

However, if you are in an insured group health plan or if you have individual (non-employment based) insurance coverage, the Federal NMHPA standards might NOT apply directly if your State has a law with similar protections. Contact your State's insurance department to find out what law applies in your state, and about whether any additional protections apply to your coverage.

Individual health insurance policies (not sold in connection with employment) are primarily regulated by the State insurance departments.

NMHPA does not apply to high risk pools since the pool is not an issuer of health insurance. The pool is a means by which individuals obtain health coverage.

It is important to note that the coverage subject to NMHPA is the mother's coverage, regardless of whether the newborn is covered separately. In order to have your newborn added to a policy, you must enroll the newborn within the timeframe specified by the plan.

Note: A non-Federal governmental employer that does not purchase insurance may elect to exempt the plan from the requirements of the NMHPA (opt out) by following the Procedures & Requirements for HIPAA Exemption Election posted on the Self-Funded Non-Federal Governmental Plans webpage at

http://cms.gov/cciiio/resources/files/hipaa_exemption_election_instructions_04072011.html,

including issuing a notice of opt-out to enrollees at the time of enrollment and on an annual basis. For a list of plans that have opted out of NMHPA, go to

<http://cms.gov/cciiio/resources/other/index.html#nonfed> and click on "List of HIPAA Opt-out Elections for Self-funded Non-Federal Governmental Plans."

If you have concerns about your plan's compliance with NMHPA, contact our help line at 1-877-267-2323 extension 6-1565 or at phig@cms.hhs.gov.