



HIPAA Portability Provisions

The Health Insurance Portability and Accountability Act (HIPAA) includes provisions of Federal law governing health coverage portability, health information privacy, administrative simplification, medical savings accounts, and long-term care insurance. The responsibility of the Department of Labor and the subject of this segment of the booklet are the law's portability requirements.

Some employment-based group health plans limit or deny coverage for health conditions because they are present prior to the date coverage begins (known as "preexisting condition exclusions"). HIPAA limits which types of conditions can be subject to a preexisting condition exclusion, sets a maximum preexisting condition exclusion period, and also allows individuals to receive credit for recent prior health coverage, reducing the time they can be excluded from a new employer's health plan for a preexisting condition. Among other things, this allows employees to switch jobs without permanently losing health coverage for a preexisting condition.

In addition to the preexisting condition exclusion provisions noted above, HIPAA's portability provisions affect group health plan coverage in the following ways:

- Require group health plans and health insurance issuers to provide certificates of prior health coverage;*
- Provide certain individuals special enrollment rights in group health coverage when specific events occur, e.g., birth of a child (regardless of any open season);*
- Prohibit discrimination in group health plan eligibility, benefits, and premiums based on specific health factors; and*
- Guarantee that health coverage be available to, and can be renewed by, certain employers.*



The law's portability requirements apply generally to group health plans with two or more participants who are current employees. However, if the coverage is insured, States may elect to regulate smaller groups. In addition, HIPAA does not apply to excepted benefits, such as certain dental and vision coverage.

HIPAA's portability provisions amended ERISA, the Internal Revenue Code, and the Public Health Service (PHS) Act. The agencies responsible for these laws are the U.S. Department of Labor, the Internal Revenue Service, and the U.S. Department of Health and Human Services, respectively.

The following sections address each of HIPAA's major requirements and can be downloaded from the Waterstone website.

- *Preexisting Condition Exclusions*
- *Special Enrollment*
- *Nondiscrimination Requirements*
- *Applying and Enforcing HIPAA; State Flexibility*
- *Guaranteeing Employers the Availability and Renewability of Group Health Coverage*