

Insurance Carrier Reimbursement for Travel and Lodging Expenses

The following information has been extracted from the corresponding document issued by Brown & Brown in June 2022: *Employee Benefit Implications of Overturning Roe v. Wade*.

On June 24, 2022, the U.S. Supreme Court issued a decision in *Dobbs v. Jackson Women’s Health Organization*, holding that the Constitution does not confer a right to abortion and that the authority to regulate abortions belongs to the individual states.

This decision overturned *Roe v. Wade* and *Planned Parenthood of Southeastern PA. v. Casey*, which had established a constitutional right to abortions and limited the states’ ability to regulate them. As a result of the decision, each state can determine if and how to restrict access to abortions within its particular domain.

<p>Federal Issues: Group Health Plan Coverage for Abortion</p>	<p>The <i>Dobbs</i> decision does not impact the federal laws governing group health plan coverage for abortions, which currently do not prohibit group health plans from providing coverage for abortions.</p>
<p>State Issues: State Regulation of Group Insurance and <u>Fully Insured</u> Group Health Plans</p>	<p>In general, states are permitted to enact insurance laws regulating health insurance policies, including policies issued to employers to provide benefits under an ERISA plan. Individual states may impose restrictions or prohibit coverage for abortion services under group insurance policies subject to state’s insurance laws.</p> <p>In turn, insurers are required to issue policies consistent with those restrictions, which results in employers sponsoring fully insured plans having little ability to dictate whether abortions are covered.</p>
<p>State Issues: State Regulation of Group Insurance and <u>Self-Insured</u> Group Health Plans</p>	<p>Under ERISA §514, any state law that relates to ERISA employee benefit plans is preempted. Due to this preemption, self-insured health plans subject to ERISA are generally not subject to state insurance laws or laws that purport to treat the self-insured health plan as insurance.</p> <p>State laws that prohibit or restrict health plan coverage for abortion seemingly would fall within the scope of ERISA preemption. However, the courts ultimately determine the application and enforcement of ERISA preemption.</p> <p>As a result, the full scope of ERISA preemption in this area may not be known for some time.</p>

For updated policies per state, employers can access the *Guttmacher Institute’s Interactive Map showing US Abortion Policies and Access After Roe* at: <https://states.guttmacher.org/policies/new-york/abortion-policies>

August 8, 2022: NYS Department of Finance (DFS) released their *Review Standards for Large Group Medical and Other Similar-Type Comprehensive Health Insurance for Group Commercial Insurers Subject to Article 32, Article 43 Corporations, and other HMO’s*. DFS provided Model Language for insurance carriers to add a rider for Reimbursement for Travel and Lodging Expenses – this is an **optional rider** for insurance carriers to incorporate into their Group Health plans. Under the *Description of Review Standards Requirements*, DFS states (Page 51):

“This policy or contract form provides benefits for certain travel and lodging expenses for travel to another state to access covered services when access to covered services is not available due to a law or regulation in the state in which the insured resides.”

While language from NYS DFS may change, all reimbursements are subject to the IRS limits for medical travel reimbursement under Code section 213(d):

- Lodging is capped at \$50 per night per person.
- If traveling by automobile, the medical standard mileage rate is less than the mileage rate for business travel purposes at 22 cents per mile (may be updated in 2023).
- Other modes of travel (train, plane, bus, etc.) are permitted without an express limit, but in all cases, the transportation must be primarily for medical care and not for non-medical purposes.
- Meals can be reimbursed only if obtained within the hospital (or similar institution) where the procedure is performed.
- Travel expenses for medically necessary travel companions, such as the parent of a minor child, are also covered under these rules.

New York State Insurance Carriers (as of 11/1/22):

Insurance Carrier	Reimbursement for Travel and Lodging Expenses
Aetna	Large Groups will need to opt-into the benefit of \$3,000 (per member) reimbursement, it will not be automatically included.
CDPHP	Reimbursement will not be added to plans for 2023.
Excellus BCBS	Effective 1/1/23, a \$4,000 (per member) reimbursement will automatically be included in all Fully Insured Large Group and Small Groups without a religious exemption. This will be added with no rate impact. Self-Insured Groups (including Article 47 and minimum premium) will have the option to elect this benefit.
Highmark BSNENY	Rider will be available to Fully Insured Large Groups to add to plans effective 1/1/2023. Cost of the rider and benefit are not yet confirmed.
Independent Health	Reimbursement will not be added to plans for 2023.
MVP Health Care	Effective 1/1/23, a \$4,000 (per member) reimbursement will be automatically added to Small Group Plans and an optional rider for Large Group Plans. The benefit is being offered at “no cost” and will be reassessed in 2023.
United HealthCare	Benefit is not currently available to Fully Insured plans. Self-Insured groups have the option of adding the benefit.

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