

Handicapped Child

In General

A handicapped child is covered without regard to its age – so long as evidence of such handicap has been received.

Handicap means that the dependent child is incapacitated by mental retardation or physical handicap to the degree that the child is not capable of self-sustaining employment, while remaining unmarried and dependent upon the participant for support.

The child must depend upon the participant to provide his/her food, shelter and clothing to a significant degree. The participant must be providing the basic necessities of life that the child cannot provide for him/herself because of physical handicap or mental retardation. A handicapped child who continues to reside with parents because they can provide companionship, assistance with the tasks of daily living or for convenience, but who does not rely upon the parents for financial support, does not qualify. However, handicapped child continuation does not terminate because of participation in various therapeutic or rehabilitative programs (e.g., sheltered workshops) that do not result in a living wage, or because the child earns his/her own *spending money*.

Mental Handicap. For purposes of the handicapped child provision, mental retardation due to any cause which prevents self-sustaining employment permits continuation of coverage. Psychiatric conditions, nervous and mental disorders, personality disorders, neuroses, depression, and adjustment problems that affect normal daily life do NOT qualify for handicapped child continuation under the contractual provision that require continuation of coverage only for handicapped children with (specifically) mental retardation and physical handicaps.

Physical Handicap. A physical handicap is any permanent impairment or impediment of the body that makes normal achievement difficult. Common physical handicaps among children include:

- Congenital or traumatic amputations
- Degenerative or crippling orthopedic conditions
- Blindness, visual impairments
- Cardiovascular defects and anomalies
- Cerebral palsy
- Cystic fibrosis
- Deafness, hearing impairments
- Seizure disorders
- Multiple sclerosis
- Muscular dystrophy
- Paralysis.

To qualify for continuation of coverage, the impairment caused by the physical handicap must be so severe that it prevents the child from achieving the skills needed to be employable.

Government Programs for Handicapped. The amount of government benefits (not eligibility) should be considered in determining the degree to which the handicapped child remains dependent upon the employee for support. In addition, under Treasury Regulations, parents may continue to claim an exemption for a child over age 19 who is not a full-time student only if the dependent has a minimal annual income and the parents can prove that they provide at least one-half of the total support for that dependent.

Relevant Court Decisions

Parents sought to have their son, an alcoholic, age 20, declared handicapped so that he might be a covered participant in their health care plan. His medical diagnosis was one of personality disorder and alcoholism. Plaintiffs presented considerable evidence establishing that such was a disability which would qualify son to be a handicapped child and therefore continuable as a plan participant. Defendants presented a weak defense; court held a personality disorder with alcoholism was, indeed a disability and a handicap.

When plan was issued, dependent child had Down's Syndrome. Being disabled as set forth in the plan's eligibility provisions (*normal and customary duties*), the claims on the child were denied and the coverage refused. Court held, however, that plan's actions discriminated against the handicapped as prohibited by state's insurance laws. Coverage had to be extended and expenses paid.