

with the Government Accountability Office to provide periodic evaluations of the program.

(Added Pub. L. 108–496, § 2, Dec. 23, 2004, 118 Stat. 4005.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Dec. 23, 2004, and applicable to contracts that take effect with respect to the calendar year 2006, see section 7 of Pub. L. 108–496, set out as a note under section 8951 of this title.

§ 8961. Jurisdiction of courts

The district courts of the United States have original jurisdiction, concurrent with the United States Court of Federal Claims, of a civil action or claim against the United States under this chapter after such administrative remedies as required under section 8953(d) have been exhausted, but only to the extent judicial review is not precluded by any dispute resolution or other remedy under this chapter.

(Added Pub. L. 108–496, § 2, Dec. 23, 2004, 118 Stat. 4005.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Dec. 23, 2004, and applicable to contracts that take effect with respect to the calendar year 2006, see section 7 of Pub. L. 108–496, set out as a note under section 8951 of this title.

§ 8962. Administrative functions

(a) The Office shall prescribe regulations to carry out this chapter. The regulations may exclude an employee on the basis of the nature and type of employment or conditions pertaining to it.

(b) The Office shall, as appropriate, provide for coordinated enrollment, promotion, and education efforts as appropriate in consultation with each qualified company. The information under this subsection shall include information relating to the dental benefits available under chapter 89, including the advantages and disadvantages of obtaining additional coverage under this chapter.

(Added Pub. L. 108–496, § 2, Dec. 23, 2004, 118 Stat. 4006.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Dec. 23, 2004, and applicable to contracts that take effect with respect to the calendar year 2006, see section 7 of Pub. L. 108–496, set out as a note under section 8951 of this title.

CHAPTER 89B—ENHANCED VISION BENEFITS

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§ 8981. Definitions

In this chapter:

(1) The term “employee” means an employee defined under section 8901(1) and an employee of the District of Columbia courts.

(2) The terms “annuitant”, “member of family”, and “dependent” have the meanings as such terms are defined under paragraphs (3), (5), and (9), respectively, of section 8901.

(3) The term “eligible individual” refers to an individual described in paragraph (1), (2), or (8), without regard to whether the individual is enrolled in a health benefits plan under chapter 89.

(4) The term “Office” means the Office of Personnel Management.

(5) The term “qualified company” means a company (or consortium of companies or an employee organization defined under section 8901(8)) that offers indemnity, preferred provider organization, health maintenance organization, or discount vision programs and if required is licensed to issue applicable coverage in any number of States, taking any subsidiaries of such a company into account (and, in the case of a consortium, considering the member companies and any subsidiaries thereof, collectively).

(6) The term “employee organization” means an association or other organization of employees which is national in scope, or in which membership is open to all employees of a Government agency who are eligible to enroll in a health benefits plan under chapter 89.

(7) The term “State” includes the District of Columbia.

(8)(A) The term “covered TRICARE-eligible individual”—

(i) means an individual entitled to medical care under chapter 55 of title 10, pursuant to section 1076d, 1076e, 1079(a), 1086(c), or 1086(d) of such title, who the Secretary of Defense determines in accordance with an agreement entered into under subparagraph (B) should be an eligible individual for purposes of this chapter; and

(ii) does not include an individual covered under section 1110b of title 10.

(B) The Secretary of Defense shall enter into an agreement with the Director of the Office relating to classes of individuals described in subparagraph (A)(i) who should be eligible individuals for purposes of this chapter.

(Added Pub. L. 108–496, § 3, Dec. 23, 2004, 118 Stat. 4006; amended Pub. L. 109–356, title I, § 117(a)(2), Oct. 16, 2006, 120 Stat. 2027; Pub. L. 114–328, div. A, title VII, § 715(a)(2), Dec. 23, 2016, 130 Stat. 2221.)

Editorial Notes

AMENDMENTS

2016—Par. (3). Pub. L. 114–328, § 715(a)(2)(A), substituted “paragraph (1), (2), or (8)” for “paragraph (1) or (2)”.

Par. (8). Pub. L. 114-328, §715(a)(2)(B), added par. (8). 2006—Par. (1). Pub. L. 109-356, which directed insertion of “and an employee of the District of Columbia courts” at end of par. (1), was executed by making the insertion before the period, to reflect the probable intent of Congress.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-328 applicable with respect to the first contract year for chapter 89A or 89B of this title, as applicable, that begins on or after Jan. 1, 2018, see section 715(c) of Pub. L. 114-328, set out as a note under section 8951 of this title.

EFFECTIVE DATE

Section effective Dec. 23, 2004, and applicable to contracts that take effect with respect to the calendar year 2006, see section 7 of Pub. L. 108-496, set out as a note under section 8951 of this title.

§ 8982. Availability of vision benefits

(a) The Office shall establish and administer a program through which an eligible individual may obtain vision coverage to supplement coverage available through chapter 89.

(b) The Office shall determine, in the exercise of its reasonable discretion, the financial requirements for qualified companies to participate in the program.

(c) Nothing in this chapter shall be construed to prohibit the availability of vision benefits provided by health benefits plans under chapter 89.

(Added Pub. L. 108-496, §3, Dec. 23, 2004, 118 Stat. 4007.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Dec. 23, 2004, and applicable to contracts that take effect with respect to the calendar year 2006, see section 7 of Pub. L. 108-496, set out as a note under section 8951 of this title.

§ 8983. Contracting authority

(a)(1) The Office shall contract with a reasonable number of qualified companies for a policy or policies of benefits described under section 8984 without regard to section 6101(b) to (d) of title 41 or any other statute requiring competitive bidding. An employee organization may contract with a qualified company for the purpose of participating with that qualified company in any contract between the Office and that qualified company.

(2) The Office shall ensure that each resulting contract is awarded on the basis of contractor qualifications, price, and reasonable competition.

(b) Each contract under this section shall contain—

(1) the requirements under section 8902(d), (f), and (i) made applicable to contracts under this section by regulations prescribed by the Office;

(2) the terms of the enrollment period; and

(3) such other terms and conditions as may be mutually agreed to by the Office and the qualified company involved, consistent with the requirements of this chapter and regulations prescribed by the Office.

(c) Nothing in this chapter shall, in the case of an individual electing vision supplemental benefit coverage under this chapter after the expiration of such individual's first opportunity to enroll, preclude the application of waiting periods more stringent than those that would have applied if that opportunity had not yet expired.

(d)(1) Each contract under this chapter shall require the qualified company to agree—

(A) to provide payments or benefits to an eligible individual if such individual is entitled thereto under the terms of the contract; and

(B) with respect to disputes regarding claims for payments or benefits under the terms of the contract—

(i) to establish internal procedures designed to expeditiously resolve such disputes; and

(ii) to establish, for disputes not resolved through procedures under clause (i), procedures for 1 or more alternative means of dispute resolution involving independent third-party review under appropriate circumstances by entities mutually acceptable to the Office and the qualified company.

(2) A determination by a qualified company as to whether or not a particular individual is eligible to obtain coverage under this chapter shall be subject to review only to the extent and in the manner provided in the applicable contract.

(3) For purposes of applying the Contract Disputes Act of 1978¹ to disputes arising under this chapter between a qualified company and the Office—

(A) the agency board having jurisdiction to decide an appeal relative to such a dispute shall be such board of contract appeals as the Director of the Office of Personnel Management shall specify in writing (after appropriate arrangements, as described in section 8(c)¹ of such Act); and

(B) the district courts of the United States shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any action described in section 10(a)(1)¹ of such Act relative to such a dispute.

(e) Nothing in this section shall be considered to grant authority for the Office or third-party reviewer to change the terms of any contract under this chapter.

(f) Contracts under this chapter shall be for a uniform term of 7 years and may not be renewed automatically.

(Added Pub. L. 108-496, §3, Dec. 23, 2004, 118 Stat. 4007; amended Pub. L. 111-350, §5(a)(17), Jan. 4, 2011, 124 Stat. 3842.)

Editorial Notes

REFERENCES IN TEXT

The Contract Disputes Act of 1978, referred to in subsec. (d)(3), is Pub. L. 95-563, Nov. 1, 1978, 92 Stat. 2383, which was classified principally to chapter 9 (§601 et seq.) of former Title 41, Public Contracts, and was substantially repealed and restated as chapter 71 (§7101 et seq.) of Title 41, Public Contracts, by Pub. L. 111-350, §§3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. Sections 8(c) and 10(a)(1) of the Act, which were classified to sections

¹ See References in Text note below.

607(c) and 609(a)(1), respectively, of former Title 41, were repealed and restated as section 7105(d), (e)(1)(C) and section 7104(b)(1), respectively, of Title 41. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

AMENDMENTS

2011—Subsec. (a)(1). Pub. L. 111-350 substituted “section 6101(b) to (d) of title 41” for “section 5 of title 41”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Dec. 23, 2004, and applicable to contracts that take effect with respect to the calendar year 2006, see section 7 of Pub. L. 108-496, set out as a note under section 8951 of this title.

§ 8984. Benefits

(a) The Office may prescribe reasonable minimum standards for enhanced vision benefits plans offered under this chapter and for qualified companies offering the plans.

(b) Each contract may include more than 1 level of benefits that shall be made available to all eligible individuals.

(c) The benefits to be provided under enhanced vision benefits plans under this chapter may be of the following types:

- (1) Diagnostic (to include refractive services).
- (2) Preventive.
- (3) Eyewear.

(d) A contract approved under this chapter shall require the qualified company to cover the geographic service delivery area specified by the Office. The Office shall require qualified companies to include visually underserved areas in their service delivery areas.

(e) If an individual has vision coverage under a health benefits plan under chapter 89 and also has coverage under a plan under this chapter, the health benefits plan under chapter 89 shall be the first payor of any benefit payments.

(Added Pub. L. 108-496, § 3, Dec. 23, 2004, 118 Stat. 4008.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Dec. 23, 2004, and applicable to contracts that take effect with respect to the calendar year 2006, see section 7 of Pub. L. 108-496, set out as a note under section 8951 of this title.

§ 8985. Information to individuals eligible to enroll

(a) The qualified companies at the direction and with the approval of the Office, shall make available to each individual eligible to enroll in a vision benefits plan information on services and benefits (including maximums, limitations, and exclusions), that the Office considers necessary to enable the individual to make an informed decision about electing coverage.

(b) The Office shall make available to each individual eligible to enroll in a vision benefits plan, information on services and benefits provided by qualified companies participating under chapter 89.

(Added Pub. L. 108-496, § 3, Dec. 23, 2004, 118 Stat. 4008.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Dec. 23, 2004, and applicable to contracts that take effect with respect to the calendar year 2006, see section 7 of Pub. L. 108-496, set out as a note under section 8951 of this title.

§ 8986. Election of coverage

(a) An eligible individual may enroll in a vision benefits plan for self-only, self plus one, or for self and family. If an eligible individual has a spouse who is also eligible to enroll, either spouse, but not both, may enroll for self plus one or self and family. An individual may not be enrolled both as an employee, annuitant, or other individual eligible to enroll and as a member of the family.

(b) The Office shall prescribe regulations under which—

- (1) an eligible individual may enroll in a vision benefits plan; and
- (2) an enrolled individual may change the self-only, self plus one, or self and family coverage of that individual.

(c)(1) Regulations under subsection (b) shall permit an eligible individual to cancel or transfer the enrollment of that individual to another vision benefits plan—

(A) before the start of any contract term in which there is a change in rates charged or benefits provided, in which a new plan is offered, or in which an existing plan is terminated; or

(B) during other times and under other circumstances specified by the Office.

(2) A transfer under paragraph (1) shall be subject to waiting periods provided under a new plan.

(d) Coverage under a vision benefits plan under this chapter for any employee or a covered TRICARE-eligible individual enrolled in such a plan and who, as a result of a lapse in appropriations, is furloughed or excepted from furlough and working without pay shall continue during such lapse and may not be cancelled as a result of nonpayment of premiums or other periodic charges due to such lapse.

(Added Pub. L. 108-496, § 3, Dec. 23, 2004, 118 Stat. 4008; amended Pub. L. 116-92, div. A, title XI, § 1111(a)(2), Dec. 20, 2019, 133 Stat. 1601.)

Editorial Notes

AMENDMENTS

2019—Subsec. (d). Pub. L. 116-92 added subsec. (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2019 AMENDMENT

Amendment by Pub. L. 116-92 applicable to any contract for supplemental vision insurance under this chapter entered into before, on, or after Dec. 20, 2019, see section 1111(c) of Pub. L. 116-92, set out as a note under section 8956 of this title.

EFFECTIVE DATE

Section effective Dec. 23, 2004, and applicable to contracts that take effect with respect to the calendar

year 2006, see section 7 of Pub. L. 108-496, set out as a note under section 8951 of this title.

§ 8987. Coverage of restored survivor or disability annuitants

A surviving spouse, disability annuitant, or surviving child whose annuity is terminated and is later restored, may continue enrollment in a vision benefits plan subject to the terms and conditions prescribed in regulations issued by the Office.

(Added Pub. L. 108-496, § 3, Dec. 23, 2004, 118 Stat. 4009.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Dec. 23, 2004, and applicable to contracts that take effect with respect to the calendar year 2006, see section 7 of Pub. L. 108-496, set out as a note under section 8951 of this title.

§ 8988. Premiums

(a) Each eligible individual obtaining supplemental vision coverage under this chapter shall be responsible for 100 percent of the premiums for such coverage.

(b) The Office shall prescribe regulations specifying the terms and conditions under which individuals are required to pay the premiums for enrollment.

(c) The amount necessary to pay the premiums for enrollment may—

(1) in the case of an employee, be withheld from the pay of such an employee;

(2) in the case of an annuitant, be withheld from the annuity of such an annuitant;

(3) in the case of a covered TRICARE-eligible individual who receives pay from the Federal Government or an annuity from the Federal Government due to the death of a member of the uniformed services (as defined in section 101 of title 10), and is not a former spouse of a member of the uniformed services, be withheld from—

(A) the pay (including retired pay) of such individual; or

(B) the annuity paid to such individual; or

(4) in the case of a covered TRICARE-eligible individual who is not described in paragraph (3), be billed to such individual directly.

(d) All amounts withheld under this section shall be paid directly to the qualified company.

(e) Each participating qualified company shall maintain accounting records that contain such information and reports as the Office may require.

(f)(1) The Employee Health Benefits Fund is available, without fiscal year limitation, for reasonable expenses incurred by the Office in administering this chapter before the first day of the first contract period, including reasonable implementation costs.

(2)(A) There is established in the Employees Health Benefits Fund a Vision Benefits Administrative Account, which shall be available to the Office, without fiscal year limitation, to defray reasonable expenses incurred by the Office in administering this chapter after the start of the first contract year.

(B) A contract under this chapter shall include appropriate provisions under which the qualified company involved shall, during each year, make such periodic contributions to the Vision Benefits Administrative Account as necessary to ensure that the reasonable anticipated expenses of the Office in administering this chapter during such year are defrayed.

(Added Pub. L. 108-496, § 3, Dec. 23, 2004, 118 Stat. 4009; amended Pub. L. 114-328, div. A, title VII, § 715(b)(2), Dec. 23, 2016, 130 Stat. 2222.)

Editorial Notes

AMENDMENTS

2016—Subsec. (c)(3), (4). Pub. L. 114-328 added pars. (3) and (4).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2016 AMENDMENT

Amendment by Pub. L. 114-328 applicable with respect to the first contract year for chapter 89A or 89B of this title, as applicable, that begins on or after Jan. 1, 2018, see section 715(c) of Pub. L. 114-328, set out as a note under section 8951 of this title.

EFFECTIVE DATE

Section effective Dec. 23, 2004, and applicable to contracts that take effect with respect to the calendar year 2006, see section 7 of Pub. L. 108-496, set out as a note under section 8951 of this title.

§ 8989. Preemption

The terms of any contract that relate to the nature, provision, or extent of coverage or benefits (including payments with respect to benefits) shall supersede and preempt any State or local law, or any regulation issued thereunder, which relates to vision benefits, insurance, plans, or contracts.

(Added Pub. L. 108-496, § 3, Dec. 23, 2004, 118 Stat. 4010.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Dec. 23, 2004, and applicable to contracts that take effect with respect to the calendar year 2006, see section 7 of Pub. L. 108-496, set out as a note under section 8951 of this title.

§ 8990. Studies, reports, and audits

(a) Each contract shall contain provisions requiring the qualified company to—

(1) furnish such reasonable reports as the Office determines to be necessary to enable it to carry out its functions under this chapter; and

(2) permit the Office and representatives of the Government Accountability Office to examine such records of the qualified company as may be necessary to carry out the purposes of this chapter.

(b) Each Federal agency shall keep such records, make such certifications, and furnish the Office, the qualified company, or both, with such information and reports as the Office may require.

(c) The Office shall conduct periodic reviews of plans under this chapter, including a comparison of the vision benefits available under chap-

ter 89, to ensure the competitiveness of plans under this chapter. The Office shall cooperate with the Government Accountability Office to provide periodic evaluations of the program.

(Added Pub. L. 108–496, § 3, Dec. 23, 2004, 118 Stat. 4010.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Dec. 23, 2004, and applicable to contracts that take effect with respect to the calendar year 2006, see section 7 of Pub. L. 108–496, set out as a note under section 8951 of this title.

§ 8991. Jurisdiction of courts

The district courts of the United States have original jurisdiction, concurrent with the United States Court of Federal Claims, of a civil action or claim against the United States under this chapter after such administrative remedies as required under section 8983(d) have been exhausted, but only to the extent judicial review is not precluded by any dispute resolution or other remedy under this chapter.

(Added Pub. L. 108–496, § 3, Dec. 23, 2004, 118 Stat. 4010.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Dec. 23, 2004, and applicable to contracts that take effect with respect to the calendar year 2006, see section 7 of Pub. L. 108–496, set out as a note under section 8951 of this title.

§ 8992. Administrative functions

(a) The Office shall prescribe regulations to carry out this chapter. The regulations may exclude an employee on the basis of the nature and type of employment or conditions pertaining to it.

(b) The Office shall, as appropriate, provide for coordinated enrollment, promotion, and education efforts as appropriate in consultation with each qualified company. The information under this subsection shall include information relating to the vision benefits available under chapter 89, including the advantages and disadvantages of obtaining additional coverage under this chapter.

(Added Pub. L. 108–496, § 3, Dec. 23, 2004, 118 Stat. 4010.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Dec. 23, 2004, and applicable to contracts that take effect with respect to the calendar year 2006, see section 7 of Pub. L. 108–496, set out as a note under section 8951 of this title.

CHAPTER 90—LONG-TERM CARE INSURANCE

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§ 9001. Definitions

For purposes of this chapter:

(1) **EMPLOYEE.**—The term “employee” means—

(A) an employee as defined by section 8901(1);

(B) an individual described in section 2105(e);

(C) an individual employed by the Tennessee Valley Authority;

(D) an employee of a nonappropriated fund instrumentality of the Department of Defense described in section 2105(c); and

(E) an employee of the District of Columbia courts.

(2) **ANNUITANT.**—The term “annuitant” means—

(A) any individual who would satisfy the requirements of paragraph (3) of section 8901 if, for purposes of such paragraph, the term “employee” were considered to have the meaning given to it under paragraph (1);

(B) any individual who—

(i) satisfies all requirements for title to an annuity under subchapter III of chapter 83, chapter 84, or any other retirement system for employees of the Government (whether based on the service of such individual or otherwise), and files application therefor;

(ii) is at least 18 years of age; and

(iii) would not (but for this subparagraph) otherwise satisfy the requirements of this paragraph; and

(C) any former employee who, on the basis of his or her service, would meet all requirements for being considered an “annuitant” within the meaning of subchapter III of chapter 83, chapter 84, or any other retirement system for employees of the Government, but for the fact that such former employee has not attained the minimum age for title to annuity.

(3) **MEMBER OF THE UNIFORMED SERVICES.**—The term “member of the uniformed services” means a member of the uniformed services, other than a retired member of the uniformed services, who is—

(A) on active duty or full-time National Guard duty for a period of more than 30 days; or

(B) a member of the Selected Reserve.

(4) **RETIRED MEMBER OF THE UNIFORMED SERVICES.**—The term “retired member of the uniformed services” means a member or former member of the uniformed services entitled to retired or retainer pay, and a member who has been transferred to the Retired Reserve and who would be entitled to retired pay under chapter 1223 of title 10 but for not having attained the age of 60 and who satisfies such eligibility requirements as the Office of Personnel Management prescribes under section 9008.

(5) **QUALIFIED RELATIVE.**—The term “qualified relative” means each of the following: