

lough resulting from a lapse in appropriations, including provision for direct payment to carrier for certain individuals, see section 1111(b) of Pub. L. 116-92, set out as a note under section 8956 of this title.

#### § 9004. Financing

(a) IN GENERAL.—Each eligible individual obtaining long-term care insurance coverage under this chapter shall be responsible for 100 percent of the premiums for such coverage.

##### (b) WITHHOLDINGS.—

(1) IN GENERAL.—The amount necessary to pay the premiums for enrollment may—

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

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

(C) in the case of a member of the uniformed services described in section 9001(3), be withheld from the pay of such member; and

(D) in the case of a retired member of the uniformed services described in section 9001(4), be withheld from the retired pay or retainer pay payable to such member.

(2) VOLUNTARY WITHHOLDINGS FOR QUALIFIED RELATIVES.—Withholdings to pay the premiums for enrollment of a qualified relative may, upon election of the appropriate eligible individual (described in section 9001(1)–(4)), be withheld under paragraph (1) to the same extent and in the same manner as if enrollment were for such individual.

(c) DIRECT PAYMENTS.—All amounts withheld under this section shall be paid directly to the carrier.

(d) OTHER FORMS OF PAYMENT.—Any enrollee who does not elect to have premiums withheld under subsection (b) or whose pay, annuity, or retired or retainer pay (as referred to in subsection (b)(1)) is insufficient to cover the withholding required for enrollment (or who is not receiving any regular amounts from the Government, as referred to in subsection (b)(1), from which any such withholdings may be made, and whose premiums are not otherwise being provided for under subsection (b)(2)) shall pay an amount equal to the full amount of those charges directly to the carrier.

(e) SEPARATE ACCOUNTING REQUIREMENT.—Each carrier participating under this chapter shall maintain records that permit it to account for all amounts received under this chapter (including investment earnings on those amounts) separate and apart from all other funds.

##### (f) REIMBURSEMENTS.—

##### (1) REASONABLE INITIAL COSTS.—

(A) IN GENERAL.—The Employees' Life Insurance Fund is available, without fiscal year limitation, for reasonable expenses incurred by the Office of Personnel Management in administering this chapter before the start of the 7-year period described in section 9003(d)(2)(B), including reasonable implementation costs.

(B) REIMBURSEMENT REQUIREMENT.—Such Fund shall be reimbursed, before the end of the first year of that 7-year period, for all amounts obligated or expended under subparagraph (A) (including lost investment in-

come). Such reimbursement shall be made by carriers, on a pro rata basis, in accordance with appropriate provisions which shall be included in master contracts under this chapter.

##### (2) SUBSEQUENT COSTS.—

(A) IN GENERAL.—There is hereby established in the Employees' Life Insurance Fund a Long-Term Care 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 7-year period described in section 9003(d)(2)(B).

(B) REIMBURSEMENT REQUIREMENT.—Each master contract under this chapter shall include appropriate provisions under which the carrier involved shall, during each year, make such periodic contributions to the Long-Term Care Administrative Account as necessary to ensure that the reasonable anticipated expenses of the Office in administering this chapter during such year (adjusted to reconcile for any earlier overestimates or underestimates under this subparagraph) are defrayed.

(Added Pub. L. 106-265, title I, § 1002(a), Sept. 19, 2000, 114 Stat. 766.)

#### § 9005. Preemption

(a) CONTRACTUAL PROVISIONS.—The terms of any contract under this chapter which 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 long-term care insurance or contracts.

##### (b) PREMIUMS.—

(1) IN GENERAL.—No tax, fee, or other monetary payment may be imposed or collected, directly or indirectly, by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, on, or with respect to, any premium paid for an insurance policy under this chapter.

(2) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed to exempt any company or other entity issuing a policy of insurance under this chapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by such entity from business conducted under this chapter, if that tax, fee, or payment is applicable to a broad range of business activity.

(Added Pub. L. 106-265, title I, § 1002(a), Sept. 19, 2000, 114 Stat. 768; amended Pub. L. 107-104, § 2, Dec. 27, 2001, 115 Stat. 1001.)

#### Editorial Notes

##### AMENDMENTS

2001—Pub. L. 107-104 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).