

104-191 set out as a note under section 4980B of Title 26, Internal Revenue Code.

Amendment by Pub. L. 104-188 applicable to plan years beginning after Dec. 31, 1989, see section 1704(g)(2) of Pub. L. 104-188, set out as a note under section 4980B of Title 26.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VI, §6703(d), Dec. 19, 1989, 103 Stat. 2296, provided that: "The amendments made by this section [amending this section and section 1166 of this title] shall apply to plan years beginning on or after the date of the enactment of this Act [Dec. 19, 1989], regardless of whether the qualifying event occurred before, on, or after such date."

Amendment by section 7862(c)(3)(B) of Pub. L. 101-239 applicable to (i) qualifying events occurring after Dec. 31, 1989, and (ii) in the case of qualified beneficiaries who elected continuation coverage after Dec. 31, 1988, the period for which the required premium was paid (or was attempted to be paid but was rejected as such), see section 7862(c)(3)(D) of Pub. L. 101-239, set out as a note under section 162 of Title 26, Internal Revenue Code.

Amendment by section 7862(c)(4)(A) of Pub. L. 101-239 applicable to plan years beginning after Dec. 31, 1989, see section 7862(c)(4)(C) of Pub. L. 101-239, set out as a note under section 4980B of Title 26.

Amendment by section 7862(c)(5)(B) of Pub. L. 101-239 applicable to plan years beginning after Dec. 31, 1989, see section 7862(c)(5)(C) of Pub. L. 101-239, set out as a note under section 4980B of Title 26.

#### EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99-272, see section 1895(e) of Pub. L. 99-514, set out as a note under section 162 of Title 26, Internal Revenue Code.

Amendment by Pub. L. 99-509 effective, except as otherwise provided, as if included in title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99-272, see section 9501(e) of Pub. L. 99-509, set out as a note under section 162 of Title 26.

#### PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, set out as a note under section 401 of Title 26, Internal Revenue Code.

### § 1163. Qualifying event

For purposes of this part, the term "qualifying event" means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this part, would result in the loss of coverage of a qualified beneficiary:

- (1) The death of the covered employee.
- (2) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.
- (3) The divorce or legal separation of the covered employee from the employee's spouse.
- (4) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.].
- (5) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

(6) A proceeding in a case under title 11, commencing on or after July 1, 1986, with respect to the employer from whose employment the covered employee retired at any time.

In the case of an event described in paragraph (6), a loss of coverage includes a substantial elimination of coverage with respect to a qualified beneficiary described in section 1167(3)(C) of this title within one year before or after the date of commencement of the proceeding.

(Pub. L. 93-406, title I, §603, as added Pub. L. 99-272, title X, §10002(a), Apr. 7, 1986, 100 Stat. 229; amended Pub. L. 99-509, title IX, §9501(a)(2), Oct. 21, 1986, 100 Stat. 2076.)

### Editorial Notes

#### REFERENCES IN TEXT

The Social Security Act, referred to in par. (4), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title XVIII of the Social Security Act is classified generally to subchapter XVIII (§1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

#### AMENDMENTS

1986—Pub. L. 99-509 added par. (6) and last sentence.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-509 effective, except as otherwise provided, as if included in title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99-272, see section 9501(e) of Pub. L. 99-509, set out as a note under section 162 of Title 26, Internal Revenue Code.

### § 1164. Applicable premium

For purposes of this part—

#### (1) In general

The term "applicable premium" means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

#### (2) Special rule for self-insured plans

To the extent that a plan is a self-insured plan—

##### (A) In general

Except as provided in subparagraph (B), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

- (i) is determined on an actuarial basis, and
- (ii) takes into account such factors as the Secretary may prescribe in regulations.

##### (B) Determination on basis of past cost

If an administrator elects to have this subparagraph apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—