

L. 111-148, Mar. 23, 2010, 124 Stat. 119. Section 9010 of the Act was set out as a note preceding section 4001 of Title 26, Internal Revenue Code, prior to repeal by Pub. L. 116-94, div. N, title I, §502(a), Dec. 20, 2019, 133 Stat. 3119. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

The Health Care and Education Reconciliation Act of 2010, referred to in subssecs. (a) and (d)(2)(G), is Pub. L. 111-152, Mar. 30, 2010, 124 Stat. 1029. For complete classification of this Act to the Code, see Short Title of 2010 Amendment note set out under section 1305 of this title and Tables.

Section 4980I of title 26, referred to in subsec. (b)(2), was repealed by Pub. L. 116-94, div. N, title I, §503(a), Dec. 20, 2019, 133 Stat. 3119.

The Public Health Service Act, referred to in subsec. (d)(2)(G), is act July 1, 1944, ch. 373, 58 Stat. 682, which is classified generally to chapter 6A (§201 et seq.) of this title. Title XXVII of the Act is classified generally to subchapter XXV (§300gg et seq.) of chapter 6A. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

The Employee Retirement Income Security Act of 1974, referred to in subsec. (d)(2)(G), is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 832. Part 7 of subtitle B of title I of the Act is classified generally to part 7 (§1181 et seq.) of subtitle B of subchapter I of chapter 18 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

This Act, referred to in subssecs. (e) and (f), is div. M of Pub. L. 113-235, Dec. 16, 2014, 128 Stat. 2767, known as the Expatriate Health Coverage Clarification Act of 2014. For complete classification of this Act to the Code, see Short Title of 2014 Amendment note set out under section 18001 of this title and Tables.

#### CODIFICATION

Section was enacted as part of the Expatriate Health Coverage Clarification Act of 2014, and also as part of the Consolidated and Further Continuing Appropriations Act, 2015, and not as part of title I of the Patient Protection and Affordable Care Act which enacted this chapter.

### SUBCHAPTER III—AVAILABLE COVERAGE CHOICES FOR ALL AMERICANS

#### PART A—ESTABLISHMENT OF QUALIFIED HEALTH PLANS

### § 18021. Qualified health plan defined

#### (a) Qualified health plan

In this title:<sup>1</sup>

##### (1) In general

The term “qualified health plan” means a health plan that—

(A) has in effect a certification (which may include a seal or other indication of approval) that such plan meets the criteria for certification described in section 18031(c) of this title issued or recognized by each Exchange through which such plan is offered;

(B) provides the essential health benefits package described in section 18022(a) of this title; and

(C) is offered by a health insurance issuer that—

(i) is licensed and in good standing to offer health insurance coverage in each State in which such issuer offers health insurance coverage under this title;<sup>1</sup>

(ii) agrees to offer at least one qualified health plan in the silver level and at least one plan in the gold level in each such Exchange;

(iii) agrees to charge the same premium rate for each qualified health plan of the issuer without regard to whether the plan is offered through an Exchange or whether the plan is offered directly from the issuer or through an agent; and

(iv) complies with the regulations developed by the Secretary under section 18031(d) of this title and such other requirements as an applicable Exchange may establish.

#### (2) Inclusion of CO-OP plans and multi-State qualified health plans

Any reference in this title<sup>1</sup> to a qualified health plan shall be deemed to include a qualified health plan offered through the CO-OP program under section 18042 of this title, and a multi-State plan under section 18054 of this title, unless specifically provided for otherwise.

#### (3) Treatment of qualified direct primary care medical home plans

The Secretary of Health and Human Services shall permit a qualified health plan to provide coverage through a qualified direct primary care medical home plan that meets criteria established by the Secretary, so long as the qualified health plan meets all requirements that are otherwise applicable and the services covered by the medical home plan are coordinated with the entity offering the qualified health plan.

#### (4) Variation based on rating area

A qualified health plan, including a multi-State qualified health plan, may as appropriate vary premiums by rating area (as defined in section 300gg(a)(2) of this title).

#### (b) Terms relating to health plans

In this title:<sup>1</sup>

##### (1) Health plan

###### (A) In general

The term “health plan” means health insurance coverage and a group health plan.

###### (B) Exception for self-insured plans and MEWAs

Except to the extent specifically provided by this title,<sup>1</sup> the term “health plan” shall not include a group health plan or multiple employer welfare arrangement to the extent the plan or arrangement is not subject to State insurance regulation under section 1144 of title 29.

##### (2) Health insurance coverage and issuer

The terms “health insurance coverage” and “health insurance issuer” have the meanings given such terms by section 300gg-91(b) of this title.

##### (3) Group health plan

The term “group health plan” has the meaning given such term by section 300gg-91(a) of this title.

<sup>1</sup> See References in Text note below.

(Pub. L. 111-148, title I, §1301, title X, §10104(a), Mar. 23, 2010, 124 Stat. 162, 896.)

### Editorial Notes

#### REFERENCES IN TEXT

This title, where footnoted in text, is title I of Pub. L. 111-148, Mar. 23, 2010, 124 Stat. 130, which enacted this chapter and enacted, amended, and transferred numerous other sections and notes in the Code. For complete classification of title I to the Code, see Tables.

#### AMENDMENTS

2010—Subsec. (a)(2) to (4). Pub. L. 111-148, §10104(a), added pars. (2) to (4) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: “Any reference in this title to a qualified health plan shall be deemed to include a qualified health plan offered through the CO-OP program under section 18042 of this title or a community health insurance option under section 18043 of this title, unless specifically provided for otherwise.”

## § 18022. Essential health benefits requirements

### (a) Essential health benefits package

In this title,<sup>1</sup> the term “essential health benefits package” means, with respect to any health plan, coverage that—

- (1) provides for the essential health benefits defined by the Secretary under subsection (b);
- (2) limits cost-sharing for such coverage in accordance with subsection (c); and
- (3) subject to subsection (e), provides either the bronze, silver, gold, or platinum level of coverage described in subsection (d).

### (b) Essential health benefits

#### (1) In general

Subject to paragraph (2), the Secretary shall define the essential health benefits, except that such benefits shall include at least the following general categories and the items and services covered within the categories:

- (A) Ambulatory patient services.
- (B) Emergency services.
- (C) Hospitalization.
- (D) Maternity and newborn care.
- (E) Mental health and substance use disorder services, including behavioral health treatment.
- (F) Prescription drugs.
- (G) Rehabilitative and habilitative services and devices.
- (H) Laboratory services.
- (I) Preventive and wellness services and chronic disease management.
- (J) Pediatric services, including oral and vision care.

#### (2) Limitation

##### (A) In general

The Secretary shall ensure that the scope of the essential health benefits under paragraph (1) is equal to the scope of benefits provided under a typical employer plan, as determined by the Secretary. To inform this determination, the Secretary of Labor shall conduct a survey of employer-sponsored coverage to determine the benefits typically covered by employers, including multiem-

ployer plans, and provide a report on such survey to the Secretary.

### (B) Certification

In defining the essential health benefits described in paragraph (1), and in revising the benefits under paragraph (4)(H), the Secretary shall submit a report to the appropriate committees of Congress containing a certification from the Chief Actuary of the Centers for Medicare & Medicaid Services that such essential health benefits meet the limitation described in paragraph (2).

### (3) Notice and hearing

In defining the essential health benefits described in paragraph (1), and in revising the benefits under paragraph (4)(H), the Secretary shall provide notice and an opportunity for public comment.

### (4) Required elements for consideration

In defining the essential health benefits under paragraph (1), the Secretary shall—

(A) ensure that such essential health benefits reflect an appropriate balance among the categories described in such subsection,<sup>2</sup> so that benefits are not unduly weighted toward any category;

(B) not make coverage decisions, determine reimbursement rates, establish incentive programs, or design benefits in ways that discriminate against individuals because of their age, disability, or expected length of life;

(C) take into account the health care needs of diverse segments of the population, including women, children, persons with disabilities, and other groups;

(D) ensure that health benefits established as essential not be subject to denial to individuals against their wishes on the basis of the individuals' age or expected length of life or of the individuals' present or predicted disability, degree of medical dependency, or quality of life;

(E) provide that a qualified health plan shall not be treated as providing coverage for the essential health benefits described in paragraph (1) unless the plan provides that—

(i) coverage for emergency department services will be provided without imposing any requirement under the plan for prior authorization of services or any limitation on coverage where the provider of services does not have a contractual relationship with the plan for the providing of services that is more restrictive than the requirements or limitations that apply to emergency department services received from providers who do have such a contractual relationship with the plan; and

(ii) if such services are provided out-of-network, the cost-sharing requirement (expressed as a copayment amount or coinsurance rate) is the same requirement that would apply if such services were provided in-network;

(F) provide that if a plan described in section 18031(b)(2)(B)(ii)<sup>3</sup> of this title (relating

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. Probably should be “paragraph.”

<sup>3</sup> So in original. Probably should be “18031(d)(2)(B)(ii)”.