

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(3)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part C of title XI of the Act is classified generally to part C (§1320d et seq.) of subchapter XI of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Section 264 of the Health Insurance Portability and Accountability Act of 1996, referred to in subsecs. (c)(3)(A) and (l)(3)(B)(iv), is section 264 of Pub. L. 104-191, which is set out as a note under section 1320d-2 of this title.

Section 300gg-21(a) of this title, referred to in subsec. (e), was in the original a reference to section 2735(a) of act July 1, 1944, and was translated as if it referred to section 2722(a) of that act to reflect the probable intent of Congress because of the renumbering of section 2735 as 2722 by Pub. L. 111-148, title I, §1563(c)(12)(D), formerly §1562(c)(12)(D), title X, §10107(b)(1), Mar. 23, 2010, 124 Stat. 269, 911. The act July 1, 1944, does not contain a section 2735.

CODIFICATION

The text of section 300gg-1 of this title, which was amended and transferred to subsecs. (b) to (f) of this section by Pub. L. 111-148, §1201(3), was based on act July 1, 1944, ch. 373, title XXVII, §2702, as added Pub. L. 104-191, title I, §102(a), Aug. 21, 1996, 110 Stat. 1961; amended Pub. L. 110-233, title I, §102(a)(1)-(3), May 21, 2008, 122 Stat. 888, 890.

PRIOR PROVISIONS

A prior section 300gg-4, act July 1, 1944, ch. 373, title XXVII, §2704, as added Pub. L. 104-204, title VI, §604(a)(3), Sept. 26, 1996, 110 Stat. 2939, which related to standards relating to benefits for mothers and newborns, was renumbered section 2725 of act July 1, 1944, by Pub. L. 111-148, title I, §1001(2), Mar. 23, 2010, 124 Stat. 130, and transferred to section 300gg-25 of this title.

A prior section 2705 of act July 1, 1944, was renumbered section 2726 and is classified to section 300gg-26 of this title.

Another prior section 2705 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238d of this title.

AMENDMENTS

2010—Pub. L. 111-148, §1201(3), transferred section 300gg-1 of this title to subsecs. (b) to (f) of this section after amending it by striking out the section catchline “Prohibiting discrimination against individual participants and beneficiaries based on health status”, by striking subsec. (a) which prohibited discrimination against individual participants in group health plans based on certain health status-related factors, by amending subsec. (b) by substituting “health insurance issuer offering group or individual health insurance coverage” for “health insurance issuer offering health insurance coverage in connection with a group health plan” in pars. (1) and (3)(B) and by inserting “or individual” after “employer” and “or individual health coverage, as the case may be” before semicolon in par. (2)(A), and by amending subsec. (e) by substituting “(a)(6)” for “(a)(1)(F)” and “300gg-3” for “300gg” and making technical amendment to reference in original act which appears in text as reference to section 300gg-21(a) of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective for plan years beginning on or after Jan. 1, 2014, see section 1255 of Pub. L. 111-148, set out as a note under section 300gg of this title.

§ 300gg-5. Non-discrimination in health care**(a) Providers**

A group health plan and a health insurance issuer offering group or individual health insurance coverage shall not discriminate with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider’s license or certification under applicable State law. This section shall not require that a group health plan or health insurance issuer contract with any health care provider willing to abide by the terms and conditions for participation established by the plan or issuer. Nothing in this section shall be construed as preventing a group health plan, a health insurance issuer, or the Secretary from establishing varying reimbursement rates based on quality or performance measures.

(b) Individuals

The provisions of section 218c¹ of title 29 (relating to non-discrimination) shall apply with respect to a group health plan or health insurance issuer offering group or individual health insurance coverage.

(July 1, 1944, ch. 373, title XXVII, §2706, as added Pub. L. 111-148, title I, §1201(4), Mar. 23, 2010, 124 Stat. 160.)

Editorial Notes

REFERENCES IN TEXT

Section 218c of title 29, referred to in subsec. (b), was in the original “section 1558 of the Patient Protection and Affordable Care Act”, meaning section 1558 of Pub. L. 111-148, and was translated as meaning section 18C of act June 25, 1938, ch. 676, which was added by section 1558 of Pub. L. 111-148, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 300gg-5, act July 1, 1944, ch. 373, title XXVII, §2705, as added Pub. L. 104-204, title VII, §703(a), Sept. 26, 1996, 110 Stat. 2947, and amended, which related to parity in mental health and substance use disorder benefits, was renumbered section 2726 of act July 1, 1944, and transferred to section 300gg-26 of this title.

A prior section 2706 of act July 1, 1944, was renumbered section 2727 and is classified to section 300gg-27 of this title.

Another prior section 2706 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238e of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective for plan years beginning on or after Jan. 1, 2014, see section 1255 of Pub. L. 111-148, set out as a note under section 300gg of this title.

IMPLEMENTING PROTECTIONS AGAINST PROVIDER DISCRIMINATION

Pub. L. 116-260, div. BB, title I, §108, Dec. 27, 2020, 134 Stat. 2859, provided that: “Not later than January 1, 2022, the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury shall issue a proposed rule implementing the protections of section 2706(a) of the Public Health Service Act (42 U.S.C. 300gg-5(a)). The Secretaries shall accept and

¹ See References in Text note below.

consider public comments on any proposed rule issued pursuant to this subsection for a period of 60 days after the date of such issuance. Not later than 6 months after the date of the conclusion of the comment period, the Secretaries shall issue a final rule implementing the protections of section 2706(a) of the Public Health Service Act (42 U.S.C. 300gg-5(a)).”

§ 300gg-6. Comprehensive health insurance coverage

(a) Coverage for essential health benefits package

A health insurance issuer that offers health insurance coverage in the individual or small group market shall ensure that such coverage includes the essential health benefits package required under section 18022(a) of this title.

(b) Cost-sharing under group health plans

A group health plan shall ensure that any annual cost-sharing imposed under the plan does not exceed the limitations provided for under paragraph (1) of section 18022(c)¹ of this title.

(c) Child-only plans

If a health insurance issuer offers health insurance coverage in any level of coverage specified under section 18022(d) of this title, the issuer shall also offer such coverage in that level as a plan in which the only enrollees are individuals who, as of the beginning of a plan year, have not attained the age of 21.

(d) Dental only

This section shall not apply to a plan described in section 18031(d)(2)(B)(ii)¹ of this title.

(July 1, 1944, ch. 373, title XXVII, § 2707, as added Pub. L. 111-148, title I, § 1201(4), Mar. 23, 2010, 124 Stat. 161; amended Pub. L. 113-93, title II, § 213(b), Apr. 1, 2014, 128 Stat. 1047.)

Editorial Notes

REFERENCES IN TEXT

Section 18022(c) of this title, referred to in subsec. (b), was in the original “section 1302(c)”, and was translated as meaning section 1302(c) of Pub. L. 111-148, par. (1) of which relates to annual limitation on cost-sharing, to reflect the probable intent of Congress.

Section 18031(d)(2)(B)(ii) of this title, referred to in subsec. (d), was in the original “section 1302(d)(2)(B)(ii)(I)”, and was translated as meaning section 1311(d)(2)(B)(ii) of Pub. L. 111-148, which relates to offering of stand-alone dental benefits, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 300gg-6, act July 1, 1944, ch. 373, title XXVII, § 2706, as added Pub. L. 105-277, div. A, § 101(f) [title IX, § 903(a)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-438, which related to required coverage for reconstructive surgery following mastectomies, was renumbered section 2727 of act July 1, 1944, and transferred to section 300gg-27 of this title.

A prior section 2707 of act July 1, 1944, was renumbered section 2728 and is classified to section 300gg-28 of this title.

Another prior section 2707 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238f of this title.

AMENDMENTS

2014—Subsec. (b). Pub. L. 113-93 substituted “paragraph (1)” for “paragraphs (1) and (2)”.

¹ See References in Text note below.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-93, title II, § 213(c), Apr. 1, 2014, 128 Stat. 1047, provided that: “The amendments made by this Act [probably means this section, amending this section and section 18022 of this title] shall be effective as if included in the enactment of the Patient Protection and Affordable Care Act (Public Law 111-148).”

EFFECTIVE DATE

Section effective for plan years beginning on or after Jan. 1, 2014, see section 1255 of Pub. L. 111-148, set out as a note under section 300gg of this title.

§ 300gg-7. Prohibition on excessive waiting periods

A group health plan and a health insurance issuer offering group health insurance coverage shall not apply any waiting period (as defined in section 300gg-3(b)(4) of this title) that exceeds 90 days.

(July 1, 1944, ch. 373, title XXVII, § 2708, as added and amended Pub. L. 111-148, title I, § 1201(4), title X, § 10103(b), Mar. 23, 2010, 124 Stat. 161, 892.)

Editorial Notes

PRIOR PROVISIONS

A prior section 300gg-7, act July 1, 1944, ch. 373, title XXVII, § 2707, as added Pub. L. 110-381, § 2(b)(1), Oct. 9, 2008, 122 Stat. 4083, which related to coverage of dependent students on medically necessary leave of absence, was renumbered section 2728 of act July 1, 1944, and transferred to section 300gg-28 of this title.

A prior section 2708 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238g of this title.

AMENDMENTS

2010—Pub. L. 111-148, § 10103(b), struck out “or individual” after “offering group”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective for plan years beginning on or after Jan. 1, 2014, see section 1255 of Pub. L. 111-148, set out as a note under section 300gg of this title.

§ 300gg-8. Coverage for individuals participating in approved clinical trials

(a) Coverage

(1) In general

If a group health plan or a health insurance issuer offering group or individual health insurance coverage provides coverage to a qualified individual, then such plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the individual's participation in such trial.

(2) Routine patient costs

(A) Inclusion

For purposes of paragraph (1)(B), subject to subparagraph (B), routine patient costs