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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:

(A) The spouse of an individual described in paragraph (1), (2), (3), or (4).

(B) A parent, stepparent, or parent-in-law of an individual described in paragraph (1) or (3).

(C) A child (including an adopted child, a stepchild, or, to the extent the Office of Personnel Management by regulation provides, a foster child) of an individual described in paragraph (1), (2), (3), or (4), if such child is at least 18 years of age.

(D) An individual having such other relationship to an individual described in paragraph (1), (2), (3), or (4) as the Office may by regulation prescribe.

(6) ELIGIBLE INDIVIDUAL.—The term ''eligible individual'' refers to an individual described in paragraph (1), (2), (3), (4), or (5).

(7) QUALIFIED CARRIER.—The term ''qualified carrier'' means an insurance company (or consortium of insurance companies) that is licensed to issue long-term care insurance in all 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).

(8) STATE.—The term ''State'' includes the District of Columbia.

(9) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—The term ''qualified long-term care insurance contract'' has the meaning given such term by section 7702B of the Internal Revenue Code of 1986.

(10) APPROPRIATE SECRETARY.—The term ''appropriate Secretary'' means—

(A) except as otherwise provided in this paragraph, the Secretary of Defense;

(B) with respect to the Coast Guard when it is not operating as a service of the Navy, the Secretary of Homeland Security;

(C) with respect to the commissioned corps of the National Oceanic and Atmospheric Administration, the Secretary of Commerce; and

(D) with respect to the commissioned corps of the Public Health Service, the Secretary of Health and Human Services.

(Added Pub. L. 106–265, title I, § 1002(a), Sept. 19, 2000, 114 Stat. 762; amended Pub. L. 107–104, § 1, Dec. 27, 2001, 115 Stat. 1001; Pub. L. 107–107, div. A, title X, § 1048(i)(6), Dec. 28, 2001, 115 Stat. 1229; Pub. L. 107–314, div. A, title XI, § 1101(a), Dec. 2, 2002, 116 Stat. 2660; Pub. L. 108–7, div. C, title III, § 138(a), Feb. 20, 2003, 117 Stat. 129; Pub. L. 108–136, div. A, title V, § 561, Nov. 24, 2003, 117 Stat. 1482; Pub. L. 109–241, title IX, § 902(a)(3), July 11, 2006, 120 Stat. 566; Pub. L. 109–356, title I, § 117(a)(3), Oct. 16, 2006, 120 Stat. 2027.)

Editorial Notes

REFERENCES IN TEXT

Section 7702B of the Internal Revenue Code of 1986, referred to in par. (9), is classified to section 7702B of Title 26, Internal Revenue Code.

AMENDMENTS

2006—Par. (1)(E). Pub. L. 109–356 added subpar. (E).

Par. (10)(B). Pub. L. 109–241 substituted ''Secretary of Homeland Security'' for ''Secretary of Transportation''.

2003—Par. (1). Pub. L. 108–136, §561(a), substituted a period for a comma at end of subpar. (D) and struck out concluding provisions which read: ''but does not include an individual employed by the government of the District of Columbia (other than an employee of the District of Columbia Courts).''

Pub. L. 108–7 inserted ''(other than an employee of the District of Columbia Courts)'' before period at end of concluding provisions.

Par. (2)(A). Pub. L. 108–136, §561(d), struck out ''of this subsection'' after ''paragraph (1)''.

Par. (2)(C). Pub. L. 108–136, §561(b), added subpar. (C).

Par. (4). Pub. L. 108–136, §561(c), substituted ''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'' for ''including a member or former member retired under chapter 1223 of title 10 who has''.

2002—Par. (1)(D). Pub. L. 107–314 added subpar. (D).

2001—Par. (2). Pub. L. 107–104 amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''The term 'annuitant' has the meaning such term would have under 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) of this subsection.''

Par. (3)(A). Pub. L. 107–107 substituted ''or'' for ''and'' after semicolon.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–104, §3, Dec. 27, 2001, 115 Stat. 1002, provided that: ''The amendments made by this Act [amending this section and section 9005 of this title] shall take effect as if included in the enactment of section 1002 of the Long-Term Care Security Act (Public Law 106–265; 114 Stat. 762).''

EFFECTIVE DATE

Pub. L. 106–265, title I, §1003, Sept. 19, 2000, 114 Stat. 770, provided that: ''The Office of Personnel Management shall take such measures as may be necessary to ensure that long-term care insurance coverage under title 5, United States Code, as amended by this title [enacting this chapter], may be obtained in time to take effect not later than the first day of the first applicable pay period of the first fiscal year which begins after the end of the 18-month period beginning on the date of the enactment of this Act [Sept. 19, 2000].''

SHORT TITLE

Pub. L. 106–265, title I, §1001, Sept. 19, 2000, 114 Stat. 762, provided that: ''This title [enacting this chapter] may be cited as the 'Long-Term Care Security Act'.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§9002. Availability of insurance

(a) IN GENERAL.—The Office of Personnel Management shall establish and, in consultation with the appropriate Secretaries, administer a program through which an individual described in paragraph (1), (2), (3), (4), or (5) of section 9001 may obtain long-term care insurance coverage under this chapter for such individual.

(b) DISCRETIONARY AUTHORITY REGARDING NONAPPROPRIATED FUND INSTRUMENTALITIES.—The Secretary of Defense may determine that a nonappropriated fund instrumentality of the Department of Defense is covered under this chapter or is covered under an alternative long-term care insurance program.

(c) GENERAL REQUIREMENTS.—Long-term care insurance may not be offered under this chapter unless—

(1) the only coverage provided is under qualified long-term care insurance contracts; and

(2) each insurance contract under which any such coverage is provided is issued by a qualified carrier.

(d) DOCUMENTATION REQUIREMENT.—As a condition for obtaining long-term care insurance coverage under this chapter based on one's status as a qualified relative, an applicant shall provide documentation to demonstrate the relationship, as prescribed by the Office.

(e) UNDERWRITING STANDARDS.—

(1) DISQUALIFYING CONDITION.—Nothing in this chapter shall be considered to require that long-term care insurance coverage be made available in the case of any individual who would be eligible for benefits immediately.

(2) SPOUSAL PARITY.—For the purpose of underwriting standards, a spouse of an individual described in paragraph (1), (2), (3), or (4) of section 9001 shall, as nearly as practicable, be treated like that individual.

(3) GUARANTEED ISSUE.—Nothing in this chapter shall be considered to require that long-term care insurance coverage be guaranteed to an eligible individual.

(4) REQUIREMENT THAT CONTRACT BE FULLY INSURED.—In addition to the requirements otherwise applicable under section 9001(9), in order to be considered a qualified long-term care insurance contract for purposes of this chapter, a contract must be fully insured, whether through reinsurance with other companies or otherwise.

(5) HIGHER STANDARDS ALLOWABLE.—Nothing in this chapter shall, in the case of an individual applying for long-term care insurance coverage under this chapter after the expiration of such individual's first opportunity to enroll, preclude the application of underwriting standards more stringent than those that would have applied if that opportunity had not yet expired.

(f) GUARANTEED RENEWABILITY.—The benefits and coverage made available to eligible individuals under any insurance contract under this chapter shall be guaranteed renewable (as defined by section 7A(2) of the model regulations described in section 7702B(g)(2) of the Internal Revenue Code of 1986), including the right to have insurance remain in effect so long as premiums continue to be timely made. However, the authority to revise premiums under this chapter shall be available only on a class basis and only to the extent otherwise allowable under section 9003(b).