

Pub. L. 104-191, title IV, § 421(b)(2), Aug. 21, 1996, 110 Stat. 2088.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles II and XVI of the Social Security Act are classified generally to subchapters II (§ 401 et seq.) and XVI (§ 1381 et seq.), respectively, 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

1996—Subsec. (a)(3). Pub. L. 104-191 substituted “at any time during the first 60 days of continuation coverage under this part” for “at the time of a qualifying event described in section 1163(2) of this title”.

1989—Pub. L. 101-239, § 7891(d)(1)(A)(ii), designated first sentence as subsec. (a), added subsec. (b), designated second sentence as subsec. (c), and substituted “For purposes of subsection (a)(4) of this section” for “For purposes of paragraph (4)”.

Pub. L. 101-239, § 7891(d)(1)(A)(i)(II), inserted in last sentence “(or, in the case of a group health plan which is a multiemployer plan, such longer period of time as may be provided in the terms of the plan)” after “14 days”.

Pub. L. 101-239, § 7891(d)(1)(A)(i)(I), inserted “(or, in the case of a group health plan which is a multiemployer plan, such longer period of time as may be provided in the terms of the plan)” after “30 days” in par. (2).

Pub. L. 101-239, § 6703(c), inserted “and each qualified beneficiary who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in section 1163(2) of this title is responsible for notifying the plan administrator of such determination within 60 days after the date of the determination and for notifying the plan administrator within 30 days after the date of any final determination under such title or titles that the qualified beneficiary is no longer disabled” before comma in par. (3).

1986—Par. (2). Pub. L. 99-509 substituted “(4), or (6)” for “or (4)”.

Par. (3). Pub. L. 99-514 inserted “within 60 days after the date of the qualifying event”.

Par. (4)(A). Pub. L. 99-509 substituted “(4), or (6)” for “or (4)”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-191 effective Jan. 1, 1997, regardless of whether qualifying event occurred before, on, or after such date, see section 421(d) of Pub. L. 104-191 set out as a note under section 4980B of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 6703(c) of Pub. L. 101-239 applicable to plan years beginning on or after Dec. 19, 1989, regardless of whether the qualifying event occurred before, on, or after such date, see section 6703(d) of Pub. L. 101-239, set out as a note under section 1162 of this title.

Amendment by section 7891(d)(1)(A) of Pub. L. 101-239 applicable with respect to plan years beginning on or after Jan. 1, 1990, see section 7891(d)(1)(C) of Pub. L. 101-239, set out as a note under section 4980B of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-514 applicable only with respect to qualifying events occurring after Oct. 22, 1986, see section 1895(d)(6)(D) 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 Con-

solidated 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, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

NOTIFICATION TO COVERED EMPLOYEES

Section 10002(e) of Pub. L. 99-272 provided that: “At the time that the amendments made by this section [enacting this part and amending section 1132 of this title] apply to a group health plan (within the meaning of section 607(1) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1167(1)]), the plan shall notify each covered employee, and spouse of the employee (if any), who is covered under the plan at that time of the continuation coverage required under part 6 of subtitle B of title I of such Act [this part]. The notice furnished under this subsection is in lieu of notice that may otherwise be required under section 606(1) of such Act [29 U.S.C. 1166(1)] with respect to such individuals.”

§ 1167. Definitions and special rules

For purposes of this part—

(1) Group health plan

The term “group health plan” means an employee welfare benefit plan providing medical care (as defined in section 213(d) of title 26) to participants or beneficiaries directly or through insurance, reimbursement, or otherwise. Such term shall not include any plan substantially all of the coverage under which is for qualified long-term care services (as defined in section 7702B(c) of title 26).

(2) Covered employee

The term “covered employee” means an individual who is (or was) provided coverage under a group health plan by virtue of the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1) of title 26).

(3) Qualified beneficiary

(A) In general

The term “qualified beneficiary” means, with respect to a covered employee under a group health plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan—

- (i) as the spouse of the covered employee, or
- (ii) as the dependent child of the employee.

Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continuation coverage under this part.

(B) Special rule for terminations and reduced employment

In the case of a qualifying event described in section 1163(2) of this title, the term

“qualified beneficiary” includes the covered employee.

(C) Special rule for retirees and widows

In the case of a qualifying event described in section 1163(6) of this title, the term “qualified beneficiary” includes a covered employee who had retired on or before the date of substantial elimination of coverage and any other individual who, on the day before such qualifying event, is a beneficiary under the plan—

- (i) as the spouse of the covered employee,
- (ii) as the dependent child of the employee, or
- (iii) as the surviving spouse of the covered employee.

(4) Employer

Subsection (n) (relating to leased employees) and subsection (t) (relating to application of controlled group rules to certain employee benefits) of section 414 of title 26 shall apply for purposes of this part in the same manner and to the same extent as such subsections apply for purposes of section 106 of title 26. Any regulations prescribed by the Secretary pursuant to the preceding sentence shall be consistent and coextensive with any regulations prescribed for similar purposes by the Secretary of the Treasury (or such Secretary’s delegate) under such subsections.

(5) Optional extension of required periods

A group health plan shall not be treated as failing to meet the requirements of this part solely because the plan provides both—

- (A) that the period of extended coverage referred to in section 1162(2) of this title commences with the date of the loss of coverage, and
- (B) that the applicable notice period provided under section 1166(a)(2) of this title commences with the date of the loss of coverage.

(Pub. L. 93-406, title I, §607, as added Pub. L. 99-272, title X, §10002(a), Apr. 7, 1986, 100 Stat. 231; amended Pub. L. 99-509, title IX, §9501(c)(2), Oct. 21, 1986, 100 Stat. 2077; Pub. L. 99-514, title XVIII, §1895(d)(8), (9)(A), Oct. 22, 1986, 100 Stat. 2940; Pub. L. 100-647, title III, §3011(b)(6), Nov. 10, 1988, 102 Stat. 3625; Pub. L. 101-239, title VII, §§7862(c)(2)(A), (6)(A), 7891(a)(1), (d)(2)(B)(i), Dec. 19, 1989, 103 Stat. 2432, 2433, 2445, 2446; Pub. L. 104-191, title III, §321(d)(2), title IV, §421(b)(3), Aug. 21, 1996, 110 Stat. 2058, 2088.)

AMENDMENTS

1996—Par. (1). Pub. L. 104-191, §321(d)(2), inserted at end “Such term shall not include any plan substantially all of the coverage under which is for qualified long-term care services (as defined in section 7702B(c) of title 26).”

Par. (3)(A). Pub. L. 104-191, §421(b)(3), inserted at end “Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continuation coverage under this part.”

1989—Pub. L. 101-239, §7891(d)(2)(B)(i)(I), inserted “and special rules” after “Definitions” in section catchline.

Par. (1). Pub. L. 101-239, §7862(c)(6)(A), repealed Pub. L. 100-647, §3011(b)(6), see 1988 Amendment note below.

Pub. L. 101-239, §7891(a)(1), substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”,

which for purposes of codification was translated as “title 26” thus requiring no change in text.

Par. (2). Pub. L. 101-239, §7862(c)(2)(A), substituted “the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1) of title 26)” for “the individual’s employment or previous employment with an employer”.

Par. (5). Pub. L. 101-239, §7891(d)(2)(B)(i)(II), added par. (5).

1988—Par. (1). Pub. L. 100-647, §3011(b)(6), which directed amendment of par. (1) by substituting “section 162(i)(2) of title 26” for “section 162(i)(3) of title 26”, was repealed by Pub. L. 101-239, §7862(c)(6)(A).

Pub. L. 99-514, §1895(d)(8), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The term ‘group health plan’ means an employee welfare benefit plan that is a group health plan (within the meaning of section 162(i)(3) of title 26).”

Par. (3)(C). Pub. L. 99-509 added subpar. (C).

Par. (4). Pub. L. 99-514, §1895(d)(9)(A), added par. (4).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 321(d)(2) of Pub. L. 104-191 applicable to contracts issued after Dec. 31, 1996, see section 321(f) of Pub. L. 104-191, set out as an Effective Date note under section 7702B of Title 26, Internal Revenue Code.

Amendment by section 421(b)(3) of Pub. L. 104-191 effective Jan. 1, 1997, regardless of whether qualifying event occurred before, on, or after such date, see section 421(d) of Pub. L. 104-191 set out as a note under section 4980B of Title 26.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7862(c)(2)(A) of Pub. L. 101-239 applicable to plan years beginning after Dec. 31, 1989, see section 7862(c)(2)(C) of Pub. L. 101-239, set out as a note under section 4980B of Title 26, Internal Revenue Code.

Section 7862(c)(6)(B) of Pub. L. 101-239 provided that: “Subparagraph (A) [repealing section 3011(b)(6) of Pub. L. 100-647, which amended this section] shall be effective as if included in the enactment of section 3011(b) of the Technical and Miscellaneous Revenue Act of 1988 [Pub. L. 100-647].”

Amendment by section 7891(a)(1) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 7891(f) of Pub. L. 101-239, set out as a note under section 1002 of this title.

Amendment by section 7891(d)(2)(B)(i) of Pub. L. 101-239 applicable with respect to plan years beginning on or after Jan. 1, 1990, see section 7891(d)(2)(C) of Pub. L. 101-239, set out as a note under section 4980B of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to taxable years beginning after Dec. 31, 1988, but not applicable to any plan for any plan year to which section 162(k) of Title 26, Internal Revenue Code (as in effect on the day before Nov. 10, 1988) did not apply by reason of section 10001(e)(2) of Pub. L. 99-272, see section 3011(d) of Pub. L. 100-647, set out as a note under section 162 of Title 26.

EFFECTIVE DATE OF 1986 AMENDMENTS

Section 1895(d)(9)(B) of Pub. L. 99-514 provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect in the same manner and to the same extent as the amendments made by subsections (e) and (i) of section 1151 of this Act [amending sections 132 and 414 of Title 26, Internal Revenue Code, see section 1151(k) of Pub. L. 99-514, set out as an Effective Date note under section 89 of Title 26].”

Amendment by section 1895(d)(8) of 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.

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, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

§ 1168. Regulations

The Secretary may prescribe regulations to carry out the provisions of this part.

(Pub. L. 93-406, title I, § 608, as added Pub. L. 99-272, title X, § 10002(a), Apr. 7, 1986, 100 Stat. 231.)

§ 1169. Additional standards for group health plans

(a) Group health plan coverage pursuant to medical child support orders

(1) In general

Each group health plan shall provide benefits in accordance with the applicable requirements of any qualified medical child support order. A qualified medical child support order with respect to any participant or beneficiary shall be deemed to apply to each group health plan which has received such order, from which the participant or beneficiary is eligible to receive benefits, and with respect to which the requirements of paragraph (4) are met.

(2) Definitions

For purposes of this subsection—

(A) Qualified medical child support order

The term “qualified medical child support order” means a medical child support order—

(i) which creates or recognizes the existence of an alternate recipient’s right to, or assigns to an alternate recipient the right to, receive benefits for which a participant or beneficiary is eligible under a group health plan, and

(ii) with respect to which the requirements of paragraphs (3) and (4) are met.

(B) Medical child support order

The term “medical child support order” means any judgment, decree, or order (including approval of a settlement agreement) which—

(i) provides for child support with respect to a child of a participant under a group health plan or provides for health benefit coverage to such a child, is made pursuant to a State domestic relations law (including a community property law), and relates to benefits under such plan, or

(ii) is made pursuant to a law relating to medical child support described in section 1908 of the Social Security Act [42 U.S.C. 1396g-1] (as added by section 13822¹ of the Omnibus Budget Reconciliation Act of 1993) with respect to a group health plan,

if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued through an administrative process established under State law and has the force and effect of law under applicable State law. For purposes of this subparagraph, an administrative notice which is issued pursuant to an administrative process referred to in subclause (II) of the preceding sentence and which has the effect of an order described in clause (i) or (ii) of the preceding sentence shall be treated as such an order.

(C) Alternate recipient

The term “alternate recipient” means any child of a participant who is recognized under a medical child support order as having a right to enrollment under a group health plan with respect to such participant.

(D) Child

The term “child” includes any child adopted by, or placed for adoption with, a participant of a group health plan.

(3) Information to be included in qualified order

A medical child support order meets the requirements of this paragraph only if such order clearly specifies—

(A) the name and the last known mailing address (if any) of the participant and the name and mailing address of each alternate recipient covered by the order, except that, to the extent provided in the order, the name and mailing address of an official of a State or a political subdivision thereof may be substituted for the mailing address of any such alternate recipient,

(B) a reasonable description of the type of coverage to be provided to each such alternate recipient, or the manner in which such type of coverage is to be determined, and

(C) the period to which such order applies.

(4) Restriction on new types or forms of benefits

A medical child support order meets the requirements of this paragraph only if such order does not require a plan to provide any type or form of benefit, or any option, not otherwise provided under the plan, except to the extent necessary to meet the requirements of a law relating to medical child support described in section 1908 of the Social Security Act [42 U.S.C. 1396g-1] (as added by section 13822¹ of the Omnibus Budget Reconciliation Act of 1993).

(5) Procedural requirements

(A) Timely notifications and determinations

In the case of any medical child support order received by a group health plan—

(i) the plan administrator shall promptly notify the participant and each alternate

¹ So in original. Probably should be section “13623”.