

for any liability for premiums under this section which, but for this sentence, would be required to be paid by the last signatory operator or any related person.”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. C, title II, § 212(b)(2)(C), Dec. 20, 2006, 120 Stat. 3026, provided that: “The amendments made by this paragraph [amending this section] shall apply to fiscal years beginning on or after October 1, 2010.”

Subchapter D—Other Provisions

- Sec. 9721. Civil enforcement.
- 9722. Sham transactions.

§ 9721. Civil enforcement

The provisions of section 4301 of the Employee Retirement Income Security Act of 1974 shall apply, in the same manner as any claim arising out of an obligation to pay withdrawal liability under subtitle E of title IV of such Act, to any claim—

- (1) arising out of an obligation to pay any amount required to be paid by this chapter; or
- (2) arising out of an obligation to pay any amount required by section 402(h)(5)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(5)(B)(ii)).

(Added Pub. L. 102-486, title XIX, § 19143(a), Oct. 24, 1992, 106 Stat. 3055; amended Pub. L. 109-432, div. C, title II, § 213(b)(2), Dec. 20, 2006, 120 Stat. 3027.)

REFERENCES IN TEXT

The Employee Retirement Income Security Act of 1974, referred to in text, is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 829, as amended. Subtitle E of title IV of the Act is classified generally to subtitle E (§ 1381 et seq.) of subchapter III of chapter 18 of Title 29, Labor. Section 4301 of the Act is classified to section 1451 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

AMENDMENTS

2006—Pub. L. 109-432 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: “The provisions of section 4301 of the Employee Retirement Income Security Act of 1974 shall apply to any claim arising out of an obligation to pay any amount required to be paid by this chapter in the same manner as any claim arising out of an obligation to pay withdrawal liability under subtitle E of title IV of such Act. For purposes of the preceding sentence, a signatory operator and related persons shall be treated in the same manner as employers.”

§ 9722. Sham transactions

If a principal purpose of any transaction is to evade or avoid liability under this chapter, this chapter shall be applied (and such liability shall be imposed) without regard to such transaction.

(Added Pub. L. 102-486, title XIX, § 19143(a), Oct. 24, 1992, 106 Stat. 3056.)

Subtitle K—Group Health Plan Requirements

Chapter		Sec. ¹
100.	Group health plan requirements	9801

¹ Section number editorially supplied.

AMENDMENTS

1997—Pub. L. 105-34, title XV, § 1531(a)(1), Aug. 5, 1997, 111 Stat. 1080, struck out “Portability, Access, and Renewability” before “Requirements” in subtitle heading and made similar change in item for chapter 100.

CHAPTER 100—GROUP HEALTH PLAN REQUIREMENTS

Subchapter		Sec. ¹
A.	Requirements relating to portability, access, and renewability	9801
B.	Other requirements	9811
C.	General provisions	9831

AMENDMENTS

1997—Pub. L. 105-34, title XV, § 1531(a)(1), Aug. 5, 1997, 111 Stat. 1080, struck out “PORTABILITY, ACCESS, AND RENEWABILITY” in chapter heading and added analysis for chapter.

Subchapter A—Requirements Relating to Portability, Access, and Renewability

- Sec. 9801. Increased portability through limitation on preexisting condition exclusions.
 - 9802. Prohibiting discrimination against individual participants and beneficiaries based on health status.
 - 9803. Guaranteed renewability in multiemployer plans and certain multiple employer welfare arrangements.
- [9804-9806. Renumbered.]

AMENDMENTS

1997—Pub. L. 105-34, title XV, § 1531(a)(1), Aug. 5, 1997, 111 Stat. 1081, added subchapter heading and items 9801 to 9803 and struck out former items 9801 “Increased portability through limitation on preexisting condition exclusions”, 9802 “Prohibiting discrimination against individual participants and beneficiaries based on health status”, 9803 “Guaranteed renewability in multiemployer plans and certain multiple employer welfare arrangements”, 9804 “General exceptions”, 9805 “Definitions”, and 9806 “Regulations”.

§ 9801. Increased portability through limitation on preexisting condition exclusions

(a) Limitation on preexisting condition exclusion period; crediting for periods of previous coverage

Subject to subsection (d), a group health plan may, with respect to a participant or beneficiary, impose a preexisting condition exclusion only if—

- (1) such exclusion relates to a condition (whether physical or mental), regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the 6-month period ending on the enrollment date;
- (2) such exclusion extends for a period of not more than 12 months (or 18 months in the case of a late enrollee) after the enrollment date; and
- (3) the period of any such preexisting condition exclusion is reduced by the length of the aggregate of the periods of creditable coverage (if any) applicable to the participant or beneficiary as of the enrollment date.

(b) Definitions

For purposes of this section—

¹ Section numbers editorially supplied.