

the premium required by the program (adjusted based on the age factors applied to the prior coverage)—

(I) the prior coverage is a policy that is no longer being actively marketed (as defined by the Secretary) by the issuer; or

(II) the prior coverage is a policy for which duration of coverage form<sup>1</sup> issue or health status are factors that can be considered in determining premiums at renewal.

**(3) Construction**

Nothing in this subsection shall be construed as constituting exclusive remedies for violations of criteria established under paragraph (1) or as preventing States from applying or enforcing such paragraph or other provisions under law with respect to health insurance issuers.

**(f) Oversight**

The Secretary shall establish—

(1) an appeals process to enable individuals to appeal a determination under this section; and

(2) procedures to protect against waste, fraud, and abuse.

**(g) Funding; termination of authority**

**(1) In general**

There is appropriated to the Secretary, out of any moneys in the Treasury not otherwise appropriated, \$5,000,000,000 to pay claims against (and the administrative costs of) the high risk pool under this section that are in excess of the amount of premiums collected from eligible individuals enrolled in the high risk pool. Such funds shall be available without fiscal year limitation.

**(2) Insufficient funds**

If the Secretary estimates for any fiscal year that the aggregate amounts available for the payment of the expenses of the high risk pool will be less than the actual amount of such expenses, the Secretary shall make such adjustments as are necessary to eliminate such deficit.

**(3) Termination of authority**

**(A) In general**

Except as provided in subparagraph (B), coverage of eligible individuals under a high risk pool in a State shall terminate on January 1, 2014.

**(B) Transition to Exchange**

The Secretary shall develop procedures to provide for the transition of eligible individuals enrolled in health insurance coverage offered through a high risk pool established under this section into qualified health plans offered through an Exchange. Such procedures shall ensure that there is no lapse in coverage with respect to the individual and may extend coverage after the termination of the risk pool involved, if the Secretary determines necessary to avoid such a lapse.

**(4) Limitations**

The Secretary has the authority to stop taking applications for participation in the program under this section to comply with the funding limitation provided for in paragraph (1).

**(5) Relation to State laws**

The standards established under this section shall supersede any State law or regulation (other than State licensing laws or State laws relating to plan solvency) with respect to qualified high risk pools which are established in accordance with this section.

(Pub. L. 111-148, title I, §1101, Mar. 23, 2010, 124 Stat. 141.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c)(2)(C)(i), is Pub. L. 111-148, Mar. 23, 2010, 124 Stat. 119, known as the Patient Protection and Affordable Care Act. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The date on which such amendments take effect, referred to in subsec. (c)(2)(C)(i), is the date on which the amendments by Pub. L. 111-148 to section 300gg of this title take effect, which is Jan. 1, 2014. See section 1255 of Pub. L. 111-148, set out as an Effective Date note under section 300gg of this title.

SHORT TITLE

Pub. L. 111-148, §1(a), Mar. 23, 2010, 124 Stat. 119, provided that: "This Act [see Tables for classification] may be cited as the 'Patient Protection and Affordable Care Act'."

**§ 18002. Reinsurance for early retirees**

**(a) Administration**

**(1) In general**

Not later than 90 days after March 23, 2010, the Secretary shall establish a temporary reinsurance program to provide reimbursement to participating employment-based plans for a portion of the cost of providing health insurance coverage to early retirees (and to the eligible spouses, surviving spouses, and dependents of such retirees) during the period beginning on the date on which such program is established and ending on January 1, 2014.

**(2) Reference**

In this section:

**(A) Health benefits**

The term "health benefits" means medical, surgical, hospital, prescription drug, and such other benefits as shall be determined by the Secretary, whether self-funded, or delivered through the purchase of insurance or otherwise.

**(B) Employment-based plan**

The term "employment-based plan" means a group benefits plan providing health benefits that—

(i) is—

(I) maintained by one or more current or former employers (including without limitation any State or local government or political subdivision thereof or any agency or instrumentality of any of the foregoing), employee organization, a

<sup>1</sup> So in original. Probably should be "from".

voluntary employees' beneficiary association, or a committee or board of individuals appointed to administer such plan; or

(II) a multiemployer plan (as defined in section 1002(37) of title 29); and

(ii) provides health benefits to early retirees.

**(C) Early retirees**

The term "early retirees" means individuals who are age 55 and older but are not eligible for coverage under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], and who are not active employees of an employer maintaining, or currently contributing to, the employment-based plan or of any employer that has made substantial contributions to fund such plan.

**(b) Participation**

**(1) Employment-based plan eligibility**

A participating employment-based plan is an employment-based plan that—

(A) meets the requirements of paragraph (2) with respect to health benefits provided under the plan; and

(B) submits to the Secretary an application for participation in the program, at such time, in such manner, and containing such information as the Secretary shall require.

**(2) Employment-based health benefits**

An employment-based plan meets the requirements of this paragraph if the plan—

(A) implements programs and procedures to generate cost-savings with respect to participants with chronic and high-cost conditions;

(B) provides documentation of the actual cost of medical claims involved; and

(C) is certified by the Secretary.

**(c) Payments**

**(1) Submission of claims**

**(A) In general**

A participating employment-based plan shall submit claims for reimbursement to the Secretary which shall contain documentation of the actual costs of the items and services for which each claim is being submitted.

**(B) Basis for claims**

Claims submitted under subparagraph (A) shall be based on the actual amount expended by the participating employment-based plan involved within the plan year for the health benefits provided to an early retiree or the spouse, surviving spouse, or dependent of such retiree. In determining the amount of a claim for purposes of this subsection, the participating employment-based plan shall take into account any negotiated price concessions (such as discounts, direct or indirect subsidies, rebates, and direct or indirect remunerations) obtained by such plan with respect to such health benefit. For purposes of determining the amount of any such claim, the costs paid by the early re-

tiree or the retiree's spouse, surviving spouse, or dependent in the form of deductibles, co-payments, or co-insurance shall be included in the amounts paid by the participating employment-based plan.

**(2) Program payments**

If the Secretary determines that a participating employment-based plan has submitted a valid claim under paragraph (1), the Secretary shall reimburse such plan for 80 percent of that portion of the costs attributable to such claim that exceed \$15,000, subject to the limits contained in paragraph (3).

**(3) Limit**

To be eligible for reimbursement under the program, a claim submitted by a participating employment-based plan shall not be less than \$15,000 nor greater than \$90,000. Such amounts shall be adjusted each fiscal year based on the percentage increase in the Medical Care Component of the Consumer Price Index for all urban consumers (rounded to the nearest multiple of \$1,000) for the year involved.

**(4) Use of payments**

Amounts paid to a participating employment-based plan under this subsection shall be used to lower costs for the plan. Such payments may be used to reduce premium costs for an entity described in subsection (a)(2)(B)(i) or to reduce premium contributions, co-payments, deductibles, co-insurance, or other out-of-pocket costs for plan participants. Such payments shall not be used as general revenues for an entity described in subsection (a)(2)(B)(i). The Secretary shall develop a mechanism to monitor the appropriate use of such payments by such entities.

**(5) Payments not treated as income**

Payments received under this subsection shall not be included in determining the gross income of an entity described in subsection (a)(2)(B)(i) that is maintaining or currently contributing to a participating employment-based plan.

**(6) Appeals**

The Secretary shall establish—

(A) an appeals process to permit participating employment-based plans to appeal a determination of the Secretary with respect to claims submitted under this section; and

(B) procedures to protect against fraud, waste, and abuse under the program.

**(d) Audits**

The Secretary shall conduct annual audits of claims data submitted by participating employment-based plans under this section to ensure that such plans are in compliance with the requirements of this section.

**(e) Funding**

There is appropriated to the Secretary, out of any moneys in the Treasury not otherwise appropriated, \$5,000,000,000 to carry out the program under this section. Such funds shall be available without fiscal year limitation.

**(f) Limitation**

The Secretary has the authority to stop taking applications for participation in the pro-

gram based on the availability of funding under subsection (e).

(Pub. L. 111-148, title I, §1102, title X, §10102(a), Mar. 23, 2010, 124 Stat. 143, 892.)

#### REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(2)(C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title XVIII of the Act is classified generally to subchapter XVIII (§1395 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

#### AMENDMENTS

2010—Subsec. (a)(2)(B). Pub. L. 111-148, §10102(a)(1), substituted “group benefits plan providing health benefits” for “group health benefits plan” in introductory provisions.

Subsec. (a)(2)(B)(i)(I). Pub. L. 111-148, §10102(a)(2), inserted “or any agency or instrumentality of any of the foregoing” after “political subdivision thereof”.

### § 18003. Immediate information that allows consumers to identify affordable coverage options

#### (a) Internet portal to affordable coverage options (1) Immediate establishment

Not later than July 1, 2010, the Secretary, in consultation with the States, shall establish a mechanism, including an Internet website, through which a resident of, or small business in, any State may identify affordable health insurance coverage options in that State.

#### (2) Connecting to affordable coverage

An Internet website established under paragraph (1) shall, to the extent practicable, provide ways for residents of, and small businesses in, any State to receive information on at least the following coverage options:

(A) Health insurance coverage offered by health insurance issuers, other than coverage that provides reimbursement only for the treatment or mitigation of—

- (i) a single disease or condition; or
- (ii) an unreasonably limited set of diseases or conditions (as determined by the Secretary).

(B) Medicaid coverage under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

(C) Coverage under title XXI of the Social Security Act [42 U.S.C. 1397aa et seq.].

(D) A State health benefits high risk pool, to the extent that such high risk pool is offered in such State; and

(E) Coverage under a high risk pool under section 18001 of this title.

(F) Coverage within the small group market for small businesses and their employees, including reinsurance for early retirees under section 18002 of this title, tax credits available under section 45R of title 26 (as added by section 1421), and other information specifically for small businesses regarding affordable health care options.

#### (b) Enhancing comparative purchasing options

##### (1) In general

Not later than 60 days after March 23, 2010, the Secretary shall develop a standardized for-

mat to be used for the presentation of information relating to the coverage options described in subsection (a)(2). Such format shall, at a minimum, require the inclusion of information on the percentage of total premium revenue expended on nonclinical costs (as reported under section 300gg-18(a) of this title), eligibility, availability, premium rates, and cost sharing with respect to such coverage options and be consistent with the standards adopted for the uniform explanation of coverage as provided for in section 300gg-15 of this title.

#### (2) Use of format

The Secretary shall utilize the format developed under paragraph (1) in compiling information concerning coverage options on the Internet website established under subsection (a).

#### (c) Authority to contract

The Secretary may carry out this section through contracts entered into with qualified entities.

(Pub. L. 111-148, title I, §1103, title X, §10102(b), Mar. 23, 2010, 124 Stat. 146, 892.)

#### REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(2)(B), (C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XIX and XXI of the Act are classified generally to subchapters XIX (§1396 et seq.) and XXI (§1397aa et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Section 1421, referred to in subsec. (a)(2)(F), means section 1421 of Pub. L. 111-148.

#### AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111-148, §10102(b)(1), which directed insertion of “, or small business in,” after “residents of any”, was executed by making the insertion after “resident of” to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 111-148, §10102(b)(2), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows:

“An Internet website established under paragraph (1) shall, to the extent practicable, provide ways for residents of any State to receive information on at least the following coverage options:

“(A) Health insurance coverage offered by health insurance issuers, other than coverage that provides reimbursement only for the treatment or mitigation of—

- “(i) a single disease or condition; or
- “(ii) an unreasonably limited set of diseases or conditions (as determined by the Secretary);

“(B) Medicaid coverage under title XIX of the Social Security Act.

“(C) Coverage under title XXI of the Social Security Act.

“(D) A State health benefits high risk pool, to the extent that such high risk pool is offered in such State; and

“(E) Coverage under a high risk pool under section 18001 of this title.”

#### SUBCHAPTER II—OTHER PROVISIONS

### § 18011. Preservation of right to maintain existing coverage

#### (a) No changes to existing coverage

##### (1) In general

Nothing in this Act (or an amendment made by this Act) shall be construed to require that