

group of similarly situated beneficiaries, such coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this part in connection with such group.”

Par. (2)(A). Pub. L. 99-514, §1895(d)(2)(C), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “MAXIMUM PERIOD.—In the case of—

“(i) a qualifying event described in section 300bb-3(2) of this title (relating to terminations and reduced hours), the date which is 18 months after the date of the qualifying event, and

“(ii) any qualifying event not described in clause (i), the date which is 36 months after the date of the qualifying event.”

Par. (2)(C). Pub. L. 99-514, §1895(d)(3)(C), inserted at end “The payment of any premium (other than any payment referred to in the last sentence of paragraph (3)) shall be considered to be timely if made within 30 days after the date due or within such longer period as applies to or under the plan.”

Par. (2)(D). Pub. L. 99-514, §1895(d)(4)(C)(ii), (iii), substituted “Group health plan coverage” for “Reemployment” in heading, added cl. (i), and struck out former cl. (i) which read as follows: “a covered employee under any other group health plan, or”.

Par. (2)(E). Pub. L. 99-514, §1895(d)(4)(C)(i), struck out subpar. (E), remarriage of spouse, which read as follows: “In the case of an individual who is a qualified beneficiary by reason of being the spouse of a covered employee, the date on which the beneficiary remarries and becomes covered under a group health plan.”

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-40 applicable to periods of coverage which would (without regard to the amendments made by section 243 of Pub. L. 112-40) end on or after the date which is 30 days after Oct. 21, 2011, see section 243(b) of Pub. L. 112-40, set out as a note under section 4980B of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-344 applicable to periods of coverage which would (without regard to such amendment) end on or after Dec. 31, 2010, see section 116(d) of Pub. L. 111-344, set out as a note under section 4980B of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 2009 AMENDMENT

Except as otherwise provided and subject to certain applicability provisions, amendment by Pub. L. 111-5 effective upon the expiration of the 90-day period beginning on Feb. 17, 2009, see section 1891 of Pub. L. 111-5, set out as an Effective and Termination Dates of 2009 Amendment note under section 2271 of Title 19, Customs Duties.

Amendment by Pub. L. 111-5 applicable to periods of coverage which would (without regard to amendment by Pub. L. 111-5) end on or after Feb. 17, 2009, see section 1899F(d) of Pub. L. 111-5, set out as a note under section 4980B of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104-191 effective Jan. 1, 1997, regardless of whether the 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.

Amendment by Pub. L. 104-188 applicable to plan years beginning after Dec. 31, 1989, see section 1704(g)(2) of Pub. L. 104-188, set out as a note under section 4980B of Title 26.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 6702(d) of Pub. L. 101-239 provided that: “The amendments made by this section [amending this section and section 300bb-6 of this title] shall apply to plan years beginning on or after the date of the enactment of this Act [Dec. 19, 1989], regardless of whether the qualifying event occurred before, on, or after such date.”

Section 6801(b)(1)(B) of Pub. L. 101-239 provided that: “The amendments made by this paragraph [amending this section] shall apply to plan years beginning after December 31, 1989.”

Section 6801(b)(2)(B) of Pub. L. 101-239 provided that: “The amendments made by subparagraph (A) [amending this section] shall apply to—

“(i) qualifying events occurring after December 31, 1989, and

“(ii) in the case of qualified beneficiaries who elected continuation coverage after December 31, 1988, the period for which the required premium was paid (or was attempted to be paid but was rejected as such).”

Section 6801(b)(3)(B) of Pub. L. 101-239 provided that: “The amendment made by subparagraph (A) [amending this section] shall apply to plan years beginning after December 31, 1989.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by 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, Internal Revenue Code.

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.

§ 300bb-3. Qualifying event

For purposes of this subchapter, the term “qualifying event” means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this subchapter, would result in the loss of coverage of a qualified beneficiary:

- (1) The death of the covered employee.
- (2) The termination (other than by reason of such employee’s gross misconduct), or reduction of hours, of the covered employee’s employment.
- (3) The divorce or legal separation of the covered employee from the employee’s spouse.
- (4) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.].
- (5) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

(July 1, 1944, ch. 373, title XXII, §2203, as added Pub. L. 99-272, title X, §10003(a), Apr. 7, 1986, 100 Stat. 234.)

REFERENCES IN TEXT

The Social Security Act, referred to in par. (4), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Social Security 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.

§ 300bb-4. Applicable premium

For purposes of this subchapter—

(1) In general

The term “applicable premium” means, with respect to any period of continuation coverage

of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

(2) Special rule for self-insured plans

To the extent that a plan is a self-insured plan—

(A) In general

Except as provided in subparagraph (B), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

- (i) is determined on an actuarial basis, and
- (ii) takes into account such factors as the Secretary may prescribe in regulations.

(B) Determination on basis of past cost

If a plan administrator elects to have this subparagraph apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

- (i) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under paragraph (3), adjusted by
- (ii) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

(C) Subparagraph (B) not to apply where significant change

A plan administrator may not elect to have subparagraph (B) apply in any case in which there is any significant difference, between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under paragraph (3).

(3) Determination period

The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

(July 1, 1944, ch. 373, title XXII, §2204, as added Pub. L. 99-272, title X, §10003(a), Apr. 7, 1986, 100 Stat. 234.)

§ 300bb-5. Election

(a) In general

For purposes of this subchapter—

(1) Election period

The term “election period” means the period which—

(A) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

(B) is of at least 60 days’ duration, and

(C) ends not earlier than 60 days after the later of—

(i) the date described in subparagraph (A), or

(ii) in the case of any qualified beneficiary who receives notice under section 300bb-6(4) of this title, the date of such notice.

(2) Effect of election on other beneficiaries

Except as otherwise specified in an election, any election of continuation coverage by a qualified beneficiary described in subparagraph (A)(i) or (B) of section 300bb-8(3) of this title shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event. If there is a choice among types of coverage under the plan, each qualified beneficiary is entitled to make a separate selection among such types of coverage.

(b) Temporary extension of COBRA election period for certain individuals

(1) In general

In the case of a nonelecting TAA-eligible individual and notwithstanding subsection (a) of this section, such individual may elect continuation coverage under this subchapter during the 60-day period that begins on the first day of the month in which the individual becomes a TAA-eligible individual, but only if such election is made not later than 6 months after the date of the TAA-related loss of coverage.

(2) Commencement of coverage; no reach-back

Any continuation coverage elected by a TAA-eligible individual under paragraph (1) shall commence at the beginning of the 60-day election period described in such paragraph and shall not include any period prior to such 60-day election period.

(3) Preexisting conditions

With respect to an individual who elects continuation coverage pursuant to paragraph (1), the period—

(A) beginning on the date of the TAA-related loss of coverage, and

(B) ending on the first day of the 60-day election period described in paragraph (1),

shall be disregarded for purposes of determining the 63-day periods referred to in section 2701(c)(2),¹ section 1181(c)(2) of title 29, and section 9801(c)(2) of title 26.

(4) Definitions

For purposes of this subsection:

(A) Nonelecting TAA-eligible individual

The term “nonelecting TAA-eligible individual” means a TAA-eligible individual who—

- (i) has a TAA-related loss of coverage; and

¹ See References in Text note below.