

qualified company involved, consistent with the requirements of this chapter and regulations prescribed by the Office.

(c) Nothing in this chapter shall, in the case of an individual electing dental supplemental benefit coverage under this chapter after the expiration of such individual's first opportunity to enroll, preclude the application of waiting periods more stringent than those that would have applied if that opportunity had not yet expired.

(d)(1) Each contract under this chapter shall require the qualified company to agree—

(A) to provide payments or benefits to an eligible individual if such individual is entitled thereto under the terms of the contract; and

(B) with respect to disputes regarding claims for payments or benefits under the terms of the contract—

(i) to establish internal procedures designed to expeditiously resolve such disputes; and

(ii) to establish, for disputes not resolved through procedures under clause (i), procedures for 1 or more alternative means of dispute resolution involving independent third-party review under appropriate circumstances by entities mutually acceptable to the Office and the qualified company.

(2) A determination by a qualified company as to whether or not a particular individual is eligible to obtain coverage under this chapter shall be subject to review only to the extent and in the manner provided in the applicable contract.

(3) For purposes of applying the Contract Disputes Act of 1978<sup>1</sup> to disputes arising under this chapter between a qualified company and the Office—

(A) the agency board having jurisdiction to decide an appeal relative to such a dispute shall be such board of contract appeals as the Director of the Office of Personnel Management shall specify in writing (after appropriate arrangements, as described in section 8(c)<sup>1</sup> of such Act); and

(B) the district courts of the United States shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any action described in section 10(a)(1)<sup>1</sup> of such Act relative to such a dispute.

(e) Nothing in this section shall be considered to grant authority for the Office or third-party reviewer to change the terms of any contract under this chapter.

(f) Contracts under this chapter shall be for a uniform term of 7 years and may not be renewed automatically.

(Added Pub. L. 108-496, § 2, Dec. 23, 2004, 118 Stat. 4002; amended Pub. L. 111-350, § 5(a)(16), Jan. 4, 2011, 124 Stat. 3842.)

#### REFERENCES IN TEXT

The Contract Disputes Act of 1978, referred to in subsec. (d)(3), is Pub. L. 95-563, Nov. 1, 1978, 92 Stat. 2383, which was classified principally to chapter 9 (§ 601 et seq.) of former Title 41, Public Contracts, and was substantially repealed and restated as chapter 71 (§ 7101 et seq.) of Title 41, Public Contracts, by Pub. L. 111-350, §§ 3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. Sections 8(c)

and 10(a)(1) of the Act, which were classified to sections 607(c) and 609(a)(1), respectively, of former Title 41, were repealed and restated as section 7105(d), (e)(1)(C) and section 7104(b)(1), respectively, of Title 41. For complete classification of this Act to the Code, see Tables. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

#### AMENDMENTS

2011—Subsec. (a)(1). Pub. L. 111-350 substituted “section 6101(b) to (d) of title 41” for “section 5 of title 41”.

#### § 8954. Benefits

(a) The Office may prescribe reasonable minimum standards for enhanced dental benefits plans offered under this chapter and for qualified companies offering the plans.

(b) Each contract may include more than 1 level of benefits that shall be made available to all eligible individuals.

(c) The benefits to be provided under enhanced dental benefits plans under this chapter may be of the following types:

- (1) Diagnostic.
- (2) Preventive.
- (3) Emergency care.
- (4) Restorative.
- (5) Oral and maxillofacial surgery.
- (6) Endodontics.
- (7) Periodontics.
- (8) Prosthodontics.
- (9) Orthodontics.

(d) A contract approved under this chapter shall require the qualified company to cover the geographic service delivery area specified by the Office. The Office shall require qualified companies to include dentally underserved areas in their service delivery areas.

(e) If an individual has dental coverage under a health benefits plan under chapter 89 and also has coverage under a plan under this chapter, the health benefits plan under chapter 89 shall be the first payor of any benefit payments.

(Added Pub. L. 108-496, § 2, Dec. 23, 2004, 118 Stat. 4003.)

#### § 8955. Information to individuals eligible to enroll

(a) The qualified companies<sup>1</sup> at the direction and with the approval of the Office, shall make available to each individual eligible to enroll in a dental benefits plan information on services and benefits (including maximums, limitations, and exclusions), that the Office considers necessary to enable the individual to make an informed decision about electing coverage.

(b) The Office shall make available to each individual eligible to enroll in a dental benefits plan, information on services and benefits provided by qualified companies participating under chapter 89.

(Added Pub. L. 108-496, § 2, Dec. 23, 2004, 118 Stat. 4004.)

#### § 8956. Election of coverage

(a) An eligible individual may enroll in a dental benefits plan for self-only, self plus one, or for self and family. If an eligible individual has

<sup>1</sup> See References in Text note below.

<sup>1</sup> So in original. Probably should be followed by a comma.

a spouse who is also eligible to enroll, either spouse, but not both, may enroll for self plus one or self and family. An individual may not be enrolled both as an employee, annuitant, or other individual eligible to enroll and as a member of the family.

(b) The Office shall prescribe regulations under which—

(1) an eligible individual may enroll in a dental benefits plan; and

(2) an enrolled individual may change the self-only, self plus one, or self and family coverage of that individual.

(c)(1) Regulations under subsection (b) shall permit an eligible individual to cancel or transfer the enrollment of that individual to another dental benefits plan—

(A) before the start of any contract term in which there is a change in rates charged or benefits provided, in which a new plan is offered, or in which an existing plan is terminated; or

(B) during other times and under other circumstances specified by the Office.

(2) A transfer under paragraph (1) shall be subject to waiting periods provided under a new plan.

(Added Pub. L. 108-496, § 2, Dec. 23, 2004, 118 Stat. 4004.)

#### **§ 8957. Coverage of restored survivor or disability annuitants**

A surviving spouse, disability annuitant, or surviving child whose annuity is terminated and is later restored, may continue enrollment in a dental benefits plan subject to the terms and conditions prescribed in regulations issued by the Office.

(Added Pub. L. 108-496, § 2, Dec. 23, 2004, 118 Stat. 4004.)

#### **§ 8958. Premiums**

(a) Each eligible individual obtaining supplemental dental coverage under this chapter shall be responsible for 100 percent of the premiums for such coverage.

(b) The Office shall prescribe regulations specifying the terms and conditions under which individuals are required to pay the premiums for enrollment.

(c) The amount necessary to pay the premiums for enrollment may—

(1) in the case of an employee, be withheld from the pay of such an employee; or

(2) in the case of an annuitant, be withheld from the annuity of such an annuitant.

(d) All amounts withheld under this section shall be paid directly to the qualified company.

(e) Each participating qualified company shall maintain accounting records that contain such information and reports as the Office may require.

(f)(1) The Employee Health Benefits Fund is available, without fiscal year limitation, for reasonable expenses incurred by the Office in administering this chapter before the first day of the first contract period, including reasonable implementation costs.

(2)(A) There is established in the Employees Health Benefits Fund a Dental Benefits Administrative Account, which shall be available to the Office, without fiscal year limitation, to defray reasonable expenses incurred by the Office in administering this chapter after the start of the first contract year.

(B) A contract under this chapter shall include appropriate provisions under which the qualified company involved shall, during each year, make such periodic contributions to the Dental Benefits Administrative Account as necessary to ensure that the reasonable anticipated expenses of the Office in administering this chapter during such year are defrayed.

(Added Pub. L. 108-496, § 2, Dec. 23, 2004, 118 Stat. 4004.)

#### **§ 8959. Preemption**

The terms of any contract that relate to the nature, provision, or extent of coverage or benefits (including payments with respect to benefits) shall supersede and preempt any State or local law, or any regulation issued thereunder, which relates to dental benefits, insurance, plans, or contracts.

(Added Pub. L. 108-496, § 2, Dec. 23, 2004, 118 Stat. 4005.)

#### **§ 8960. Studies, reports, and audits**

(a) Each contract shall contain provisions requiring the qualified company to—

(1) furnish such reasonable reports as the Office determines to be necessary to enable it to carry out its functions under this chapter; and

(2) permit the Office and representatives of the Government Accountability Office to examine such records of the qualified company as may be necessary to carry out the purposes of this chapter.

(b) Each Federal agency shall keep such records, make such certifications, and furnish the Office, the qualified company, or both, with such information and reports as the Office may require.

(c) The Office shall conduct periodic reviews of plans under this chapter, including a comparison of the dental benefits available under chapter 89, to ensure the competitiveness of plans under this chapter. The Office shall cooperate with the Government Accountability Office to provide periodic evaluations of the program.

(Added Pub. L. 108-496, § 2, Dec. 23, 2004, 118 Stat. 4005.)

#### **§ 8961. Jurisdiction of courts**

The district courts of the United States have original jurisdiction, concurrent with the United States Court of Federal Claims, of a civil action or claim against the United States under this chapter after such administrative remedies as required under section 8953(d) have been exhausted, but only to the extent judicial review is not precluded by any dispute resolution or other remedy under this chapter.

(Added Pub. L. 108-496, § 2, Dec. 23, 2004, 118 Stat. 4005.)