(f) [1] Genetic information of a fetus or embryo

Any reference in this chapter to genetic information concerning an individual or family member of an individual shall—

(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.

(Added Pub. L. 104–191, title IV, §401(a), Aug. 21, 1996, 110 Stat. 2078; amended Pub. L. 105–34, title XV, §1532(a), Aug. 5, 1997, 111 Stat. 1085; Pub. L. 110–233, title I, §103(a)–(c), May 21, 2008, 122 Stat. 896, 897.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(3)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part C of title XI of the Act is classified generally to part C (§1320d et seq.) of subchapter XI 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.

Section 264 of the Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (c)(3)(A), is section 264 of Pub. L. 104–191, which is set out as a note under section 1320d–2 of Title 42, The Public Health and Welfare.

AMENDMENTS

2008—Subsec. (b)(2)(A). Pub. L. 110–233, §103(a)(1), inserted ''except as provided in paragraph (3)'' before semicolon.

Subsec. (b)(3). Pub. L. 110–233, §103(a)(2), added par. (3).

Subsecs. (c) to (e). Pub. L. 110–233, §103(b), added subsecs. (c) to (e). Former subsec. (c) redesignated (f) relating to special rules for church plans.

Subsec. (f). Pub. L. 110–233, §103(c), added subsec. (f) relating to genetic information of a fetus or embryo.

Pub. L. 110–233, §103(b), redesignated subsec. (c) as (f) relating to special rules for church plans.

1997—Subsec. (c). Pub. L. 105–34 added subsec. (c).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–233, title I, §103(f)(2), May 21, 2008, 122 Stat. 899, provided that: ''The amendments made by this section [enacting section 9834 of this title and amending this section and section 9832 of this title] shall apply with respect to group health plans for plan years beginning after the date that is 1 year after the date of the enactment of this Act [May 21, 2008].''

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–34, title XV, §1532(b), Aug. 5, 1997, 111 Stat. 1085, provided that: ''The amendments made by subsection (a) [amending this section] shall take effect as if included in the amendments made by section 401(a) of the Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104–191].''

REGULATIONS

Pub. L. 110–233, title I, §103(f)(1), May 21, 2008, 122 Stat. 899, provided that: ''The Secretary of the Treasury shall issue final regulations or other guidance not later than 12 months after the date of the enactment of this Act [May 21, 2008] to carry out the amendments made by this section [enacting section 9834 of this title and amending this section and section 9832 of this title].''

§ 9803. Guaranteed renewability in multiemployer plans and certain multiple employer welfare arrangements

(a) In general

A group health plan which is a multiemployer plan (as defined in section 414(f)) or which is a multiple employer welfare arrangement may not deny an employer continued access to the same or different coverage under such plan, other than—

(1) for nonpayment of contributions;

(2) for fraud or other intentional misrepresentation of material fact by the employer;

(3) for noncompliance with material plan provisions;

(4) because the plan is ceasing to offer any coverage in a geographic area;

(5) in the case of a plan that offers benefits through a network plan, because there is no longer any individual enrolled through the employer who lives, resides, or works in the service area of the network plan and the plan applies this paragraph uniformly without regard to the claims experience of employers or a factor described in section 9802(a)(1) in relation to such individuals or their dependents; or

(6) for failure to meet the terms of an applicable collective bargaining agreement, to renew a collective bargaining or other agreement requiring or authorizing contributions to the plan, or to employ employees covered by such an agreement.

(b) Multiple employer welfare arrangement

For purposes of subsection (a), the term ''multiple employer welfare arrangement'' has the meaning given such term by section 3(40) of the Employee Retirement Income Security Act of 1974, as in effect on the date of the enactment of this section.

(Added Pub. L. 104–191, title IV, §401(a), Aug. 21, 1996, 110 Stat. 2079.)

REFERENCES IN TEXT

Section 3(40) of the Employee Retirement Income Security Act of 1974, referred to in subsec. (b), is classified to section 1002(40) of Title 29, Labor.

The date of the enactment of this section, referred to in subsec. (b), is the date of enactment of Pub. L. 104–191, which was approved Aug. 21, 1996.

[§ 9804. Renumbered § 9831]

[§ 9805. Renumbered § 9832]

[§ 9806. Renumbered § 9833]

Subchapter B—Other Requirements

AMENDMENTS

2008—Pub. L. 110–381, §2(c)(2), Oct. 9, 2008, 122 Stat. 4086, added item 9813.

[1] Editorially supplied. Section 9815 added by Pub. L. 111–148 without corresponding amendment of analysis. No section 9814 has been enacted.

Pub. L. 110–343, div. C, title V, §512(g)(3)(B), Oct. 3, 2008, 122 Stat. 3892, added item 9812 and struck out former item 9812 ''Parity in the application of certain limits to mental health benefits''.

1997—Pub. L. 105–34, title XV, §1531(a)(4), Aug. 5, 1997, 111 Stat. 1081, added subchapter heading and analysis.

§ 9811. Standards relating to benefits for mothers and newborns

(a) Requirements for minimum hospital stay following birth

(1) In general

A group health plan may not—

(A) except as provided in paragraph (2)—

(i) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a normal vaginal delivery, to less than 48 hours, or

(ii) restrict benefits for any hospital length of stay in connection with childbirth for the mother or newborn child, following a caesarean section, to less than 96 hours; or

(B) require that a provider obtain authorization from the plan or the issuer for prescribing any length of stay required under subparagraph (A) (without regard to paragraph (2)).

(2) Exception

Paragraph (1)(A) shall not apply in connection with any group health plan in any case in which the decision to discharge the mother or her newborn child prior to the expiration of the minimum length of stay otherwise required under paragraph (1)(A) is made by an attending provider in consultation with the mother.

(b) Prohibitions

A group health plan may not—

(1) deny to the mother or her newborn child eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

(2) provide monetary payments or rebates to mothers to encourage such mothers to accept less than the minimum protections available under this section;

(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

(c) Rules of construction

(1) Nothing in this section shall be construed to require a mother who is a participant or beneficiary—

(A) to give birth in a hospital; or

(B) to stay in the hospital for a fixed period of time following the birth of her child.

(2) This section shall not apply with respect to any group health plan which does not provide benefits for hospital lengths of stay in connection with childbirth for a mother or her newborn child.

(3) Nothing in this section shall be construed as preventing a group health plan from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with childbirth for a mother or newborn child under the plan, except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

(d) Level and type of reimbursements

Nothing in this section shall be construed to prevent a group health plan from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(e) Preemption; exception for health insurance coverage in certain States

The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (including a decision, rule, regulation, or other State action having the effect of law) for a State that regulates such coverage that is described in any of the following paragraphs:

(1) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a normal vaginal delivery and at least a 96-hour hospital length of stay following a caesarean section.

(2) Such State law requires such coverage to provide for maternity and pediatric care in accordance with guidelines established by the American College of Obstetricians and Gynecologists, the American Academy of Pediatrics, or other established professional medical associations.

(3) Such State law requires, in connection with such coverage for maternity care, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the mother.

(Added Pub. L. 105–34, title XV, §1531(a)(4), Aug. 5, 1997, 111 Stat. 1081; amended Pub. L. 105–206, title VI, §6015(e), July 22, 1998, 112 Stat. 821.)

AMENDMENTS

1998—Subsecs. (e), (f). Pub. L. 105–206 redesignated subsec. (f) as (e).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

EFFECTIVE DATE

Subchapter applicable with respect to group health plans for plan years beginning on or after Jan. 1, 1998,