

gical services, as defined under the terms of the plan, but does not include mental health or substance use disorder benefits.

(4) Mental health benefits

The term “mental health benefits” means benefits with respect to services for mental health conditions, as defined under the terms of the plan and in accordance with applicable Federal and State law.

(5) Substance use disorder benefits

The term “substance use disorder benefits” means benefits with respect to services for substance use disorders, as defined under the terms of the plan and in accordance with applicable Federal and State law.

(Added Pub. L. 105-34, title XV, § 1531(a)(4), Aug. 5, 1997, 111 Stat. 1083; amended Pub. L. 107-116, title VII, § 701(c), Jan. 10, 2002, 115 Stat. 2228; Pub. L. 107-147, title VI, § 610(a), Mar. 9, 2002, 116 Stat. 60; Pub. L. 108-311, title III, § 302(a), Oct. 4, 2004, 118 Stat. 1178; Pub. L. 109-151, § 1(c), Dec. 30, 2005, 119 Stat. 2886; Pub. L. 109-432, div. A, title I, § 115(a), Dec. 20, 2006, 120 Stat. 2941; Pub. L. 110-245, title IV, § 401(a), June 17, 2008, 122 Stat. 1649; Pub. L. 110-343, div. C, title V, § 512(c), (g)(3)(A), Oct. 3, 2008, 122 Stat. 3888, 3892.)

AMENDMENTS

2008—Pub. L. 110-343, § 512(g)(3)(A), substituted “Parity in mental health and substance use disorder benefits” for “Parity in the application of certain limits to mental health benefits” in section catchline.

Subsec. (a)(1), (2). Pub. L. 110-343, § 512(c)(7), substituted “mental health or substance use disorder benefits” for “mental health benefits” wherever appearing in pars. (1)(introductory provisions), (A), and (B)(ii) and (2)(introductory provisions), (A), and (B)(ii).

Pub. L. 110-343, § 512(c)(6), substituted “mental health and substance use disorder benefits” for “mental health benefits” wherever appearing in pars. (1)(B)(i) and (C) and (2)(B)(i) and (C).

Subsec. (a)(3) to (5). Pub. L. 110-343, § 512(c)(1), added pars. (3) to (5).

Subsec. (b)(1). Pub. L. 110-343, § 512(c)(7), substituted “mental health or substance use disorder benefits” for “mental health benefits”.

Subsec. (b)(2). Pub. L. 110-343, § 512(c)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “in the case of a group health plan that provides mental health benefits, as affecting the terms and conditions (including cost sharing, limits on numbers of visits or days of coverage, and requirements relating to medical necessity) relating to the amount, duration, or scope of mental health benefits under the plan, except as specifically provided in subsection (a) (in regard to parity in the imposition of aggregate lifetime limits and annual limits for mental health benefits).”

Subsec. (c)(1). Pub. L. 110-343, § 512(c)(3)(A), amended par. (1) generally. Prior to amendment, text read as follows: “This section shall not apply to any group health plan for any plan year of a small employer (as defined in section 4980D(d)(2)).”

Subsec. (c)(2). Pub. L. 110-343, § 512(c)(3)(B), added par. (2) and struck out former par. (2). Prior to amendment, text read as follows: “This section shall not apply with respect to a group health plan if the application of this section to such plan results in an increase in the cost under the plan of at least 1 percent.”

Subsec. (e)(3). Pub. L. 110-343, § 512(c)(7), substituted “mental health or substance use disorder benefits” for “mental health benefits”.

Subsec. (e)(4). Pub. L. 110-343, § 512(c)(7), which directed substitution of “mental health or substance use disorder benefits” for “mental health benefits” wher-

ever appearing in this section (other than in any provision amended by section 512(c)(6) of Pub. L. 110-343), was not executed to par. (4) as added by Pub. L. 110-343, § 512(c)(4), to reflect the probable intent of Congress. See below.

Subsec. (e)(4). Pub. L. 110-343, § 512(c)(4), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: “The term ‘mental health benefits’ means benefits with respect to mental health services, as defined under the terms of the plan, but does not include benefits with respect to treatment of substance abuse or chemical dependency.”

Subsec. (e)(5). Pub. L. 110-343, § 512(c)(4), added par. (5).

Subsec. (f). Pub. L. 110-343, § 512(c)(5), struck out subsec. (f). Text read as follows: “This section shall not apply to benefits for services furnished—

“(1) on or after September 30, 2001, and before January 10, 2002,

“(2) on or after January 1, 2004, and before the date of the enactment of the Working Families Tax Relief Act of 2004,

“(3) on or after January 1, 2008, and before the date of the enactment of the Heroes Earnings Assistance and Relief Tax Act of 2008, and

“(4) after December 31, 2008.”

Subsec. (f)(3), (4). Pub. L. 110-245 added pars. (3) and (4) and struck out former par. (3) which read as follows: “after December 31, 2007.”

2006—Subsec. (f)(3). Pub. L. 109-432 substituted “December 31, 2007” for “December 31, 2006”.

2005—Subsec. (f)(3). Pub. L. 109-151 substituted “December 31, 2006” for “December 31, 2005”.

2004—Subsec. (f)(2), (3). Pub. L. 108-311 added pars. (2) and (3) and struck out former par. (2) which read as follows: “after December 31, 2003.”

2002—Subsec. (f). Pub. L. 107-147 amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: “This section shall not apply to benefits for services furnished on or after December 31, 2002.”

Subsec. (f). Pub. L. 107-116 substituted “December 31, 2002” for “September 30, 2001”.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-343 applicable with respect to group health plans for plan years beginning after the date that is 1 year after Oct. 3, 2008, except that amendment by section 512(c)(5) of Pub. L. 110-343 effective Jan. 1, 2009, with special rule for collective bargaining agreements, see section 512(e) of Pub. L. 110-343, set out as a note under section 300gg-26 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-311, title III, § 302(d), Oct. 4, 2004, 118 Stat. 1179, provided that: “The amendments made by this section [amending this section, section 1185a of Title 29, Labor, and section 300gg-5 of Title 42, The Public Health and Welfare] shall take effect on the date of the enactment of this Act [Oct. 4, 2004].”

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-147, title VI, § 610(b), Mar. 9, 2002, 116 Stat. 60, provided that: “The amendment made by subsection (a) [amending this section] shall apply to plan years beginning after December 31, 2000.”

§ 9813. Coverage of dependent students on medically necessary leave of absence

(a) Medically necessary leave of absence

In this section, the term “medically necessary leave of absence” means, with respect to a dependent child described in subsection (b)(2) in connection with a group health plan, a leave of absence of such child from a postsecondary educational institution (including an institution of

higher education as defined in section 102 of the Higher Education Act of 1965), or any other change in enrollment of such child at such an institution, that—

- (1) commences while such child is suffering from a serious illness or injury;
- (2) is medically necessary; and
- (3) causes such child to lose student status for purposes of coverage under the terms of the plan or coverage.

(b) Requirement to continue coverage

(1) In general

In the case of a dependent child described in paragraph (2), a group health plan shall not terminate coverage of such child under such plan due to a medically necessary leave of absence before the date that is the earlier of—

- (A) the date that is 1 year after the first day of the medically necessary leave of absence; or
- (B) the date on which such coverage would otherwise terminate under the terms of the plan.

(2) Dependent child described

A dependent child described in this paragraph is, with respect to a group health plan, a beneficiary under the plan who—

- (A) is a dependent child, under the terms of the plan, of a participant or beneficiary under the plan; and
- (B) was enrolled in the plan, on the basis of being a student at a postsecondary educational institution (as described in subsection (a)), immediately before the first day of the medically necessary leave of absence involved.

(3) Certification by physician

Paragraph (1) shall apply to a group health plan only if the plan, or the issuer of health insurance coverage offered in connection with the plan, has received written certification by a treating physician of the dependent child which states that the child is suffering from a serious illness or injury and that the leave of absence (or other change of enrollment) described in subsection (a) is medically necessary.

(c) Notice

A group health plan shall include, with any notice regarding a requirement for certification of student status for coverage under the plan, a description of the terms of this section for continued coverage during medically necessary leaves of absence. Such description shall be in language which is understandable to the typical plan participant.

(d) No change in benefits

A dependent child whose benefits are continued under this section shall be entitled to the same benefits as if (during the medically necessary leave of absence) the child continued to be a covered student at the institution of higher education and was not on a medically necessary leave of absence.

(e) Continued application in case of changed coverage

If—

(1) a dependent child of a participant or beneficiary is in a period of coverage under a group health plan, pursuant to a medically necessary leave of absence of the child described in subsection (b);

(2) the manner in which the participant or beneficiary is covered under the plan changes, whether through a change in health insurance coverage or health insurance issuer, a change between health insurance coverage and self-insured coverage, or otherwise; and

(3) the coverage as so changed continues to provide coverage of beneficiaries as dependent children,

this section shall apply to coverage of the child under the changed coverage for the remainder of the period of the medically necessary leave of absence of the dependent child under the plan in the same manner as it would have applied if the changed coverage had been the previous coverage.

(Added Pub. L. 110-381, §2(c)(1), Oct. 9, 2008, 122 Stat. 4084.)

REFERENCES IN TEXT

Section 102 of the Higher Education Act of 1965, referred to in subsec. (a), is classified to section 1002 of Title 20, Education.

EFFECTIVE DATE

Pub. L. 110-381, §2(d), Oct. 9, 2008, 122 Stat. 4086, provided that: “The amendments made by this Act [enacting this section, section 1185c of Title 29, Labor, and sections 300gg-7 and 300gg-54 of Title 42, The Public Health and Welfare] shall apply with respect to plan years beginning on or after the date that is one year after the date of the enactment of this Act [Oct. 9, 2008] and to medically necessary leaves of absence beginning during such plan years.”

§ 9815.¹ Additional market reforms

(a) General rule

Except as provided in subsection (b)—

(1) the provisions of part A of title XXVII of the Public Health Service Act (as amended by the Patient Protection and Affordable Care Act) shall apply to group health plans, and health insurance issuers providing health insurance coverage in connection with group health plans, as if included in this subchapter; and

(2) to the extent that any provision of this subchapter conflicts with a provision of such part A with respect to group health plans, or health insurance issuers providing health insurance coverage in connection with group health plans, the provisions of such part A shall apply.

(b) Exception

Notwithstanding subsection (a), the provisions of sections 2716 and 2718 of title XXVII of the Public Health Service Act (as amended by the Patient Protection and Affordable Care Act) shall not apply with respect to self-insured group health plans, and the provisions of this subchapter shall continue to apply to such plans as if such sections of the Public Health Service Act (as so amended) had not been enacted.

¹ So in original. No section 9814 has been enacted.