

to the Secretary that the alleged conduct of a multiple employer welfare arrangement described in section 1002(40) of this title, other than a plan or arrangement described in subsection (g), is fraudulent, or creates an immediate danger to the public safety or welfare, or is causing or can be reasonably expected to cause significant, imminent, and irreparable public injury.

(b) Hearing

A person that is adversely affected by the issuance of a cease and desist order under subsection (a) may request a hearing by the Secretary regarding such order. The Secretary may require that a proceeding under this section, including all related information and evidence, be conducted in a confidential manner.

(c) Burden of proof

The burden of proof in any hearing conducted under subsection (b) shall be on the party requesting the hearing to show cause why the cease and desist order should be set aside.

(d) Determination

Based upon the evidence presented at a hearing under subsection (b), the cease and desist order involved may be affirmed, modified, or set aside by the Secretary in whole or in part.

(e) Seizure

The Secretary may issue a summary seizure order under this subchapter if it appears that a multiple employer welfare arrangement is in a financially hazardous condition.

(f) Regulations

The Secretary may promulgate such regulations or other guidance as may be necessary or appropriate to carry out this section.

(g) Exception

This section shall not apply to any plan or arrangement that does not fall within the meaning of the term “multiple employer welfare arrangement” under section 1002(40)(A) of this title.

(Pub. L. 93-406, title I, §521, as added Pub. L. 111-148, title VI, §6605(a), Mar. 23, 2010, 124 Stat. 780.)

PART 6—CONTINUATION COVERAGE AND ADDITIONAL STANDARDS FOR GROUP HEALTH PLANS

§ 1161. Plans must provide continuation coverage to certain individuals

(a) In general

The plan sponsor of each group health plan shall provide, in accordance with this part, that each qualified beneficiary who would lose coverage under the plan as a result of a qualifying event is entitled, under the plan, to elect, within the election period, continuation coverage under the plan.

(b) Exception for certain plans

Subsection (a) of this section shall not apply to any group health plan for any calendar year if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year.

(Pub. L. 93-406, title I, §601, as added Pub. L. 99-272, title X, §10002(a), Apr. 7, 1986, 100 Stat. 227; amended Pub. L. 101-239, title VII, §§7862(c)(1)(B), 7891(a)(1), Dec. 19, 1989, 103 Stat. 2432, 2445.)

AMENDMENTS

1989—Subsec. (b). Pub. L. 101-239 struck out at end “Under regulations, rules similar to the rules of subsections (a) and (b) of section 52 of title 26 (relating to employers under common control) shall apply for purposes of this subsection.”

Pub. L. 101-239, §7891(a)(1), substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7862(c)(1)(B) of Pub. L. 101-239 applicable to years beginning after Dec. 31, 1986, see section 7862(c)(1)(C) of Pub. L. 101-239, set out as a note under section 106 of Title 26, Internal Revenue Code.

Amendment by section 7891(a)(1) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 7891(f) of Pub. L. 101-239, set out as a note under section 1002 of this title.

EFFECTIVE DATE

Pub. L. 99-272, title X, §10002(d), Apr. 7, 1986, 100 Stat. 231, provided that:

“(1) GENERAL RULE.—The amendments made by this section [enacting this part and amending section 1132 of this title] shall apply to plan years beginning on or after July 1, 1986.

“(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act [Apr. 7, 1986], the amendments made by this section shall not apply to plan years beginning before the later of—

“(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

“(B) January 1, 1987.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.”

§ 1162. Continuation coverage

For purposes of section 1161 of this title, the term “continuation coverage” means coverage under the plan which meets the following requirements:

(1) Type of benefit coverage

The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred. If coverage is modified under the plan for any 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.