

propriate, the Secretary shall investigate alleged such¹ violations and seek appropriate injunctive relief.

(July 1, 1944, ch. 373, title XXVI, §2695H, as added Pub. L. 111-87, §13, Oct. 30, 2009, 123 Stat. 2902.)

§ 300ff-140. Applicability of part

This part shall not apply in a State if the chief executive officer of the State certifies to the Secretary that the law of the State is substantially consistent with this part.

(July 1, 1944, ch. 373, title XXVI, §2695I, as added Pub. L. 111-87, §13, Oct. 30, 2009, 123 Stat. 2903.)

SUBCHAPTER XXV—REQUIREMENTS RELATING TO HEALTH INSURANCE COVERAGE

PRIOR PROVISIONS

A prior subchapter XXV (§300aaa et seq.), comprised of title XXVII of the Public Health Service Act, act July 1, 1944, ch. 373, §§2701 to 2714, was renumbered title II, part B, §§231 to 244, of the Public Health Service Act, and transferred to part B (§238 et seq.) of subchapter I of this chapter.

AMENDMENTS

1996—Pub. L. 104-204, title VI, §604(a)(1), Sept. 26, 1996, 110 Stat. 2938, substituted “REQUIREMENTS RELATING TO HEALTH INSURANCE COVERAGE” for “ASSURING PORTABILITY, AVAILABILITY, AND RENEWABILITY OF HEALTH INSURANCE COVERAGE” as subchapter heading.

PART A—INDIVIDUAL AND GROUP MARKET REFORMS

AMENDMENTS

2010—Pub. L. 111-148, title I, §1001(1), Mar. 23, 2010, 124 Stat. 130, substituted “Individual and Group Market Reforms” for “Group Market Reforms” in part heading.

SUBPART 1—GENERAL REFORM

AMENDMENTS

2010—Pub. L. 111-148, title I, §§1201(1), 1255, formerly §1253, title X, §10103(e), (f)(1), Mar. 23, 2010, 124 Stat. 154, 162, 895, substituted “general reform” for “portability, access, and renewability requirements” in subpart heading, effective for plan years beginning on or after Jan. 1, 2014.

§ 300gg. Fair health insurance premiums

(a)¹ Prohibiting discriminatory premium rates

(1) In general

With respect to the premium rate charged by a health insurance issuer for health insurance coverage offered in the individual or small group market—

(A) such rate shall vary with respect to the particular plan or coverage involved only by—

(i) whether such plan or coverage covers an individual or family;

(ii) rating area, as established in accordance with paragraph (2);

(iii) age, except that such rate shall not vary by more than 3 to 1 for adults (consistent with section 300gg-6(c) of this title); and

(iv) tobacco use, except that such rate shall not vary by more than 1.5 to 1; and

(B) such rate shall not vary with respect to the particular plan or coverage involved by any other factor not described in subparagraph (A).

(2) Rating area

(A) In general

Each State shall establish 1 or more rating areas within that State for purposes of applying the requirements of this subchapter.

(B) Secretarial review

The Secretary shall review the rating areas established by each State under subparagraph (A) to ensure the adequacy of such areas for purposes of carrying out the requirements of this subchapter. If the Secretary determines a State’s rating areas are not adequate, or that a State does not establish such areas, the Secretary may establish rating areas for that State.

(3) Permissible age bands

The Secretary, in consultation with the National Association of Insurance Commissioners, shall define the permissible age bands for rating purposes under paragraph (1)(A)(iii).

(4) Application of variations based on age or tobacco use

With respect to family coverage under a group health plan or health insurance coverage, the rating variations permitted under clauses (iii) and (iv) of paragraph (1)(A) shall be applied based on the portion of the premium that is attributable to each family member covered under the plan or coverage.

(5) Special rule for large group market

If a State permits health insurance issuers that offer coverage in the large group market in the State to offer such coverage through the State Exchange (as provided for under section 18032(f)(2)(B) of this title), the provisions of this subsection shall apply to all coverage offered in such market (other than self-insured group health plans offered in such market) in the State.

(July 1, 1944, ch. 373, title XXVII, §2701, as added and amended Pub. L. 111-148, title I, §1201(4), title X, §10103(a), Mar. 23, 2010, 124 Stat. 155, 892.)

PRIOR PROVISIONS

A prior section 300gg, act July 1, 1944, ch. 373, title XXVII, §2701, as added Pub. L. 104-191, title I, §102(a), Aug. 21, 1996, 110 Stat. 1955; amended Pub. L. 111-3, title III, §311(b)(2), Feb. 4, 2009, 123 Stat. 70; Pub. L. 111-5, div. B, title I, §1899D(c), Feb. 17, 2009, 123 Stat. 426; Pub. L. 111-344, title I, §114(c), Dec. 29, 2010, 124 Stat. 3615; Pub. L. 112-40, title II, §242(a)(3), Oct. 21, 2011, 125 Stat. 419, which related to increased portability through limitation on preexisting condition exclusions, was renumbered section 2704 of act July 1, 1944, effective for plan years beginning on or after Jan. 1, 2014, with certain exceptions, and amended, by Pub. L. 111-148, title I, §§1201(2), 1563(c)(1), formerly §1562(c)(1), title X, §10107(b)(1), Mar. 23, 2010, 124 Stat. 154, 264, 911, and was transferred to section 300gg-3 of this title.

Another prior section 2701 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238 of this title.

¹ So in original.

¹ So in original. No subsec. (b) has been enacted.