

ers employees of at least one employer that normally employed at least 100 employees on a typical business day during the previous calendar year. For purposes of the preceding sentence—

(A) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer,

(B) all employees of the members of an affiliated service group (as defined in section 414(m)) shall be treated as employed by a single employer, and

(C) leased employees (as defined in section 414(n)(2)) shall be treated as employees of the person for whom they perform services to the extent they are so treated under section 414(n).

**(c) Nonconforming group health plan**

For purposes of this section, the term “nonconforming group health plan” means a group health plan or large group health plan that at any time during a calendar year does not comply with the requirements of subparagraphs (A) and (C) or subparagraph (B), respectively, of paragraph (1), or with the requirements of paragraph (2), of section 1862(b) of the Social Security Act.

**(d) Government entities**

For purposes of this section, the term “employer” does not include a Federal or other governmental entity.

(Added Pub. L. 99-509, title IX, §9319(d)(1), Oct. 21, 1986, 100 Stat. 2012; amended Pub. L. 101-239, title VI, §6202(b)(2), Dec. 19, 1989, 103 Stat. 2233; Pub. L. 103-66, title XIII, §13561(d)(2), (e)(2)(A), Aug. 10, 1993, 107 Stat. 594, 595.)

REFERENCES IN TEXT

Section 1862(b) of the Social Security Act, referred to in subsec. (c), is classified to section 1395y(b) of Title 42, The Public Health and Welfare.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103-66, §13561(e)(2)(A)(i), which directed insertion of “(including a self-employed person)” after “employer”, was executed by making the insertion after “employer” the first time it appeared, to reflect the probable intent of Congress.

Subsec. (b)(1). Pub. L. 103-66, §13561(e)(2)(A)(ii), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: “The term ‘group health plan’ means any plan of, or contributed to by, an employer (including a self-insured plan) to provide health care (directly or otherwise) to the employer’s employees, former employees, or the families of such employees or former employees.”

Subsec. (b)(2). Pub. L. 103-66, §13561(d)(2), inserted at end “For purposes of the preceding sentence—” and added subpars. (A) to (C).

Subsec. (c). Pub. L. 103-66, §13561(e)(2)(A)(iii), substituted “of paragraph (1), or with the requirements of paragraph (2), of section 1862(b)” for “of section 1862(b)(1)”.

1989—Pub. L. 101-239, §6202(b)(2)(A), struck out “large” after “Certain” in section catchline.

Subsec. (a). Pub. L. 101-239, §6202(b)(2)(B), substituted “group health plan” for “large group health plan” in two places.

Subsec. (b). Pub. L. 101-239, §6202(b)(2)(C), substituted “Group health plan and large” for “Large” in heading and amended text generally. Prior to amendment, text read as follows: “For purposes of this section, the term ‘large group health plan’ means a plan of, or contrib-

uted to by, an employer or employee organization (including a self-insured plan) to provide health care (directly or otherwise) to the employees, former employees, the employer, others associated or formerly associated with the employer in a business relationship, or their families, that covers employees of at least one employer that normally employed at least 100 employees on a typical business day during the previous calendar year.”

Subsec. (c). Pub. L. 101-239, §6202(b)(2)(C), substituted “group” for “large group” in heading and amended text generally. Prior to amendment, text read as follows: “For purposes of this section, the term ‘nonconforming large group health plan’ means a large group health plan that at any time during a calendar year does not comply with the requirements of section 1862(b)(4)(A)(i) of the Social Security Act.”

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-66, title XIII, §13561(d)(3), Aug. 10, 1993, 107 Stat. 594, provided that: “The amendments made by this subsection [amending this section and section 1395y of Title 42, The Public Health and Welfare] shall take effect 90 days after the date of the enactment of this Act [Aug. 10, 1993].”

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to items and services furnished after Dec. 19, 1989, see section 6202(b)(5) of Pub. L. 101-239, set out as a note under section 162 of this title.

EFFECTIVE DATE

Section applicable to items and services furnished on or after Jan. 1, 1987, see section 9319(f) of Pub. L. 99-509, set out as an Effective Date of 1986 Amendment note under section 1395y of Title 42, The Public Health and Welfare.

**CHAPTER 48—MAINTENANCE OF MINIMUM ESSENTIAL COVERAGE**

Sec.

5000A. Requirement to maintain minimum essential coverage.

**§ 5000A. Requirement to maintain minimum essential coverage**

**(a) Requirement to maintain minimum essential coverage**

An applicable individual shall for each month beginning after 2013 ensure that the individual, and any dependent of the individual who is an applicable individual, is covered under minimum essential coverage for such month.

**(b) Shared responsibility payment**

**(1) In general**

If a taxpayer who is an applicable individual, or an applicable individual for whom the taxpayer is liable under paragraph (3), fails to meet the requirement of subsection (a) for 1 or more months, then, except as provided in subsection (e), there is hereby imposed on the taxpayer a penalty with respect to such failures in the amount determined under subsection (c).

**(2) Inclusion with return**

Any penalty imposed by this section with respect to any month shall be included with a taxpayer’s return under chapter 1 for the taxable year which includes such month.

**(3) Payment of penalty**

If an individual with respect to whom a penalty is imposed by this section for any month—