

Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99-272, see section 1895(e) of Pub. L. 99-514, set out as a note under section 162 of Title 26, Internal Revenue Code.

CONSTRUCTION OF 2002 AMENDMENT

Nothing in amendment by Pub. L. 107-210, other than provisions relating to COBRA continuation coverage and reporting requirements, to be construed as creating new mandate on any party regarding health insurance coverage, see section 203(f) of Pub. L. 107-210, set out as a Construction note under section 35 of Title 26, Internal Revenue Code.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

§ 1166. Notice requirements

(a) In general

In accordance with regulations prescribed by the Secretary—

(1) the group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection,

(2) the employer of an employee under a plan must notify the administrator of a qualifying event described in paragraph (1), (2), (4), or (6) of section 1163 of this title within 30 days (or, in the case of a group health plan which is a multiemployer plan, such longer period of time as may be provided in the terms of the plan) of the date of the qualifying event,

(3) each covered employee or qualified beneficiary is responsible for notifying the administrator of the occurrence of any qualifying event described in paragraph (3) or (5) of section 1163 of this title within 60 days after the date of the qualifying event and each qualified beneficiary who is determined, under title II or XVI of the Social Security Act [42 U.S.C. 401 et seq., 1381 et seq.], to have been disabled at any time during the first 60 days of continuation coverage under this part is responsible for notifying the plan administrator of such determination within 60 days after the date of the determination and for notifying the plan administrator within 30 days after the date of any final determination under such title or titles that the qualified beneficiary is no longer disabled, and

(4) the administrator shall notify—

(A) in the case of a qualifying event described in paragraph (1), (2), (4), or (6) of section 1163 of this title, any qualified beneficiary with respect to such event, and

(B) in the case of a qualifying event described in paragraph (3) or (5) of section 1163 of this title where the covered employee notifies the administrator under paragraph (3), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.

(b) Alternative means of compliance with requirements for notification of multiemployer plans by employers

The requirements of subsection (a)(2) of this section shall be considered satisfied in the case of a multiemployer plan in connection with a qualifying event described in paragraph (2) of section 1163 of this title if the plan provides that the determination of the occurrence of such qualifying event will be made by the plan administrator.

(c) Rules relating to notification of qualified beneficiaries by plan administrator

For purposes of subsection (a)(4) of this section, any notification shall be made within 14 days (or, in the case of a group health plan which is a multiemployer plan, such longer period of time as may be provided in the terms of the plan) of the date on which the administrator is notified under paragraph (2) or (3), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

(Pub. L. 93-406, title I, § 606, as added Pub. L. 99-272, title X, § 10002(a), Apr. 7, 1986, 100 Stat. 230; amended Pub. L. 99-509, title IX, § 9501(d)(2), Oct. 21, 1986, 100 Stat. 2077; Pub. L. 99-514, title XVIII, § 1895(d)(6)(B), Oct. 22, 1986, 100 Stat. 2939; Pub. L. 101-239, title VI, § 6703(c), title VII, § 7891(d)(1)(A), Dec. 19, 1989, 103 Stat. 2296, 2445; Pub. L. 104-191, title IV, § 421(b)(2), Aug. 21, 1996, 110 Stat. 2088.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles II and XVI of the Social Security Act are classified generally to subchapters II (§ 401 et seq.) and XVI (§ 1381 et seq.), respectively, 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.

AMENDMENTS

1996—Subsec. (a)(3). Pub. L. 104-191 substituted “at any time during the first 60 days of continuation coverage under this part” for “at the time of a qualifying event described in section 1163(2) of this title”.

1989—Pub. L. 101-239, § 7891(d)(1)(A)(ii), designated first sentence as subsec. (a), added subsec. (b), designated second sentence as subsec. (c), and substituted “For purposes of subsection (a)(4) of this section” for “For purposes of paragraph (4)”.

Pub. L. 101-239, § 7891(d)(1)(A)(i)(II), inserted in last sentence “(or, in the case of a group health plan which is a multiemployer plan, such longer period of time as may be provided in the terms of the plan)” after “14 days”.

Pub. L. 101-239, § 7891(d)(1)(A)(i)(I), inserted “(or, in the case of a group health plan which is a multiemployer plan, such longer period of time as may be provided in the terms of the plan)” after “30 days” in par. (2).

Pub. L. 101-239, § 6703(c), inserted “and each qualified beneficiary who is determined, under title II or XVI of the Social Security Act, to have been disabled at the time of a qualifying event described in section 1163(2) of this title is responsible for notifying the plan administrator of such determination within 60 days after the date of the determination and for notifying the plan ad-

ministrator within 30 days after the date of any final determination under such title or titles that the qualified beneficiary is no longer disabled” before comma in par. (3).

1986—Par. (2). Pub. L. 99-509 substituted “(4), or (6)” for “or (4)”.

Par. (3). Pub. L. 99-514 inserted “within 60 days after the date of the qualifying event”.

Par. (4)(A). Pub. L. 99-509 substituted “(4), or (6)” for “or (4)”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-191 effective Jan. 1, 1997, regardless of whether qualifying event occurred before, on, or after such date, see section 421(d) of Pub. L. 104-191 set out as a note under section 4980B of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 6703(c) of Pub. L. 101-239 applicable to plan years beginning on or after Dec. 19, 1989, regardless of whether the qualifying event occurred before, on, or after such date, see section 6703(d) of Pub. L. 101-239, set out as a note under section 1162 of this title.

Amendment by section 7891(d)(1)(A) of Pub. L. 101-239 applicable with respect to plan years beginning on or after Jan. 1, 1990, see section 7891(d)(1)(C) of Pub. L. 101-239, set out as a note under section 4980B of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-514 applicable only with respect to qualifying events occurring after Oct. 22, 1986, see section 1895(d)(6)(D) of Pub. L. 99-514, set out as a note under section 162 of Title 26, Internal Revenue Code.

Amendment by Pub. L. 99-509 effective, except as otherwise provided, as if included in title X of the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99-272, see section 9501(e) of Pub. L. 99-509, set out as a note under section 162 of Title 26.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of Title 26, Internal Revenue Code.

NOTIFICATION TO COVERED EMPLOYEES

Pub. L. 99-272, title X, § 10002(e), Apr. 7, 1986, 100 Stat. 232, provided that: “At the time that the amendments made by this section [enacting this part and amending section 1132 of this title] apply to a group health plan (within the meaning of section 607(1) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1167(1)]), the plan shall notify each covered employee, and spouse of the employee (if any), who is covered under the plan at that time of the continuation coverage required under part 6 of subtitle B of title I of such Act [this part]. The notice furnished under this subsection is in lieu of notice that may otherwise be required under section 606(1) of such Act [29 U.S.C. 1166(1)] with respect to such individuals.”

§ 1167. Definitions and special rules

For purposes of this part—

(1) Group health plan

The term “group health plan” means an employee welfare benefit plan providing medical care (as defined in section 213(d) of title 26) to

participants or beneficiaries directly or through insurance, reimbursement, or otherwise. Such term shall not include any plan substantially all of the coverage under which is for qualified long-term care services (as defined in section 7702B(c) of title 26).

(2) Covered employee

The term “covered employee” means an individual who is (or was) provided coverage under a group health plan by virtue of the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1) of title 26).

(3) Qualified beneficiary

(A) In general

The term “qualified beneficiary” means, with respect to a covered employee under a group health plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan—

- (i) as the spouse of the covered employee, or
- (ii) as the dependent child of the employee.

Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continuation coverage under this part.

(B) Special rule for terminations and reduced employment

In the case of a qualifying event described in section 1163(2) of this title, the term “qualified beneficiary” includes the covered employee.

(C) Special rule for retirees and widows

In the case of a qualifying event described in section 1163(6) of this title, the term “qualified beneficiary” includes a covered employee who had retired on or before the date of substantial elimination of coverage and any other individual who, on the day before such qualifying event, is a beneficiary under the plan—

- (i) as the spouse of the covered employee,
- (ii) as the dependent child of the employee, or
- (iii) as the surviving spouse of the covered employee.

(4) Employer

Subsection (n) (relating to leased employees) and subsection (t) (relating to application of controlled group rules to certain employee benefits) of section 414 of title 26 shall apply for purposes of this part in the same manner and to the same extent as such subsections apply for purposes of section 106 of title 26. Any regulations prescribed by the Secretary pursuant to the preceding sentence shall be consistent and coextensive with any regulations prescribed for similar purposes by the Secretary of the Treasury (or such Secretary’s delegate) under such subsections.

(5) Optional extension of required periods

A group health plan shall not be treated as failing to meet the requirements of this part solely because the plan provides both—