

ity in the imposition of aggregate lifetime limits and annual limits for mental health benefits.”

Subsec. (c)(1). Pub. L. 110-343, §512(b)(3)(A), inserted “(as defined in section 300gg-91(e)(4) of this title, except that for purposes of this paragraph such term shall include employers with 1 employee in the case of an employer residing in a State that permits small groups to include a single individual)” before period at end.

Subsec. (c)(2). Pub. L. 110-343, §512(b)(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 (or health insurance coverage offered in connection with a group health plan) if the application of this section to such plan (or to such coverage) results in an increase in the cost under the plan (or for such coverage) of at least 1 percent.”

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

Subsec. (e)(4). Pub. L. 110-343, §512(b)(7), which directed substitution of “mental health or substance use disorder benefits” for “mental health benefits” wherever appearing in this section (other than in any provision amended by section 512(b)(6) of Pub. L. 110-343), was not executed to par. (4) as added by Pub. L. 110-343, §512(b)(4), to reflect the probable intent of Congress. See below.

Pub. L. 110-343, §512(b)(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 or coverage (as the case may be), but does not include benefits with respect to treatment of substance abuse or chemical dependency.”

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

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

“(1) on or after January 1, 2008, and before June 17, 2008, and

“(2) after December 31, 2008..”

Pub. L. 110-245 substituted “services furnished—” for “services furnished after December 31, 2007” and added pars. (1) and (2).

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

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

2004—Subsec. (f). Pub. L. 108-311 substituted “after December 31, 2005” for “on or after December 31, 2004”.

2003—Subsec. (f). Pub. L. 108-197 substituted “December 31, 2004” for “December 31, 2003”.

2002—Subsec. (f). Pub. L. 107-313 substituted “December 31, 2003” for “December 31, 2002”.

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

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. C, title V, §512(e), Oct. 3, 2008, 122 Stat. 3891, as amended by Pub. L. 110-460, §1, Dec. 23, 2008, 122 Stat. 5123, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section, section 9812 of Title 26, Internal Revenue Code, and section 1185a of Title 29, Labor] shall apply with respect to group health plans for plan years beginning after the date that is 1 year after the date of enactment of this Act [Oct. 3, 2008], regardless of whether regulations have been issued to carry out such amendments by such effective date, except that the amendments made by subsections (a)(5), (b)(5), and (c)(5) [amending this section, section 9812 of Title 26, and section 1185a of Title 29], relating to striking of certain sunset provisions, shall take effect on January 1, 2009.

“(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 enact-

ment of this Act [Oct. 3, 2008], 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, 2010.

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.”

#### EFFECTIVE DATE

Pub. L. 104-204, title VII, §703(b), Sept. 26, 1996, 110 Stat. 2950, provided that: “The amendments made by this section [enacting this section] shall apply with respect to group health plans for plan years beginning on or after January 1, 1998.”

#### REGULATIONS

Pub. L. 110-343, div. C, title V, §512(d), Oct. 3, 2008, 122 Stat. 3891, provided that: “Not later than 1 year after the date of enactment of this Act [Oct. 3, 2008], the Secretaries of Labor, Health and Human Services, and the Treasury shall issue regulations to carry out the amendments made by subsections (a), (b), and (c) [amending this section, section 9812 of Title 26, Internal Revenue Code, and section 1185a of Title 29, Labor], respectively.”

#### ASSURING COORDINATION

Pub. L. 110-343, div. C, title V, §512(f), Oct. 3, 2008, 122 Stat. 3892, provided that: “The Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury may ensure, through the execution or revision of an interagency memorandum of understanding among such Secretaries, that—

“(1) regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which two or more such Secretaries have responsibility under this section [amending this section, section 9812 of Title 26, Internal Revenue Code, and section 1185a of Title 29, Labor, and enacting provisions set out as notes under this section] (and the amendments made by this section) are administered so as to have the same effect at all times; and

“(2) coordination of policies relating to enforcing the same requirements through such Secretaries in order to have a coordinated enforcement strategy that avoids duplication of enforcement efforts and assigns priorities in enforcement.”

#### § 300gg-27. Required coverage for reconstructive surgery following mastectomies

The provisions of section 1185b of title 29 shall apply to group health plans, and and<sup>1</sup> health insurance issuers offering group or individual health insurance coverage, as if included in this subpart.

(July 1, 1944, ch. 373, title XXVII, §2727, formerly §2706, as added Pub. L. 105-277, div. A, §101(f) [title IX, §903(a)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-438; renumbered §2727 and amended Pub. L. 111-148, title I, §§1001(2), 1563(c)(5), formerly §1562(c)(5), title X, §10107(b)(1), Mar. 23, 2010, 124 Stat. 130, 266, 911.)

#### CODIFICATION

Section was formerly classified to section 300gg-6 of this title prior to renumbering by Pub. L. 111-148.

<sup>1</sup> So in original.

## AMENDMENTS

2010—Pub. L. 111-148, §1563(c)(5), formerly §1562(c)(5), as renumbered by Pub. L. 111-148, §10107(b)(1), substituted “and health insurance issuers offering group or individual health insurance coverage” for “health insurance issuers providing health insurance coverage in connection with group health plans”.

## EFFECTIVE DATE

Pub. L. 105-277, div. A, §101(f) [title IX, §903(c)(1)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-438, provided that: “(A) IN GENERAL.—The amendment made by subsection (a) [enacting this section] shall apply to group health plans for plan years beginning on or after the date of enactment of this Act [Oct. 21, 1998].

“(B) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, 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 the amendment made by subsection (a) shall not be treated as a termination of such collective bargaining agreement.”

**§ 300gg-28. 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 or individual health insurance coverage, a leave of absence of such child from a postsecondary educational institution (including an institution of higher education as defined in section 1002 of title 20), 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, or a health insurance issuer that offers group or individual health insurance coverage, shall not terminate coverage of such child under such plan or health insurance coverage 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 or health insurance coverage.

**(2) Dependent child described**

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

- (A) is a dependent child, under the terms of the plan or coverage, of a participant or beneficiary under the plan or coverage; and
- (B) was enrolled in the plan or coverage, on the basis of being a student at a post-

secondary 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 or individual health insurance coverage only if the plan or issuer of the coverage 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, and a health insurance issuer that offers group or individual health insurance coverage, shall include, with any notice regarding a requirement for certification of student status for coverage under the plan or coverage, 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 or individual health insurance coverage, 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.

(July 1, 1944, ch. 373, title XXVII, §2728, formerly §2707, as added Pub. L. 110-381, §2(b)(1), Oct. 9, 2008, 122 Stat. 4083; renumbered §2728 and amended Pub. L. 111-148, title I, §§1001(2), 1563(c)(6), formerly §1562(c)(6), title X, §10107(b)(1), Mar. 23, 2010, 124 Stat. 130, 266, 911.)

## CODIFICATION

Section was formerly classified to section 300gg-7 of this title prior to renumbering by Pub. L. 111-148.