

defined under section 1928(h)(6) of the Social Security Act [42 U.S.C. 1396s(h)(6)] below the coverage it provided as of May 1, 1993.

“(2) ENFORCEMENT.—For purposes of section 2207 of the Public Health Service Act [42 U.S.C. 300bb-7], the requirement of paragraph (1) is deemed a requirement of title XXII of such Act [42 U.S.C. 300bb-1 et seq.]”

### § 300bb-8. Definitions

For purposes of this subchapter—

#### (1) Group health plan

The term “group health plan” has the meaning given such term in 5000(b)<sup>1</sup> of title 26. 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). Such term shall not include any qualified small employer health reimbursement arrangement (as defined in section 9831(d)(2) 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 subchapter.

##### (B) Special rule for terminations and reduced employment

In the case of a qualifying event described in section 300bb-3(2) of this title, the term “qualified beneficiary” includes the covered employee.

#### (4) Plan administrator

The term “plan administrator” has the meaning given the term “administrator” by section 1002(16)(A) of title 29.

(July 1, 1944, ch. 373, title XXII, §2208, as added Pub. L. 99-272, title X, §10003(a), Apr. 7, 1986, 100 Stat. 236; amended Pub. L. 100-647, title III, §3011(b)(7), Nov. 10, 1988, 102 Stat. 3625; Pub. L. 101-239, title VI, §6801(c)(1), Dec. 19, 1989, 103 Stat. 2297; Pub. L. 104-191, title I, §102(d), title III, §321(d)(3), title IV, §421(a)(3), Aug. 21, 1996, 110 Stat. 1978, 2059, 2088; Pub. L. 114-255, div. C, title XVIII, §18001(c)(2), Dec. 13, 2016, 130 Stat. 1344.)

#### AMENDMENTS

2016—Par. (1). Pub. L. 114-255 inserted at end “Such term shall not include any qualified small employer

health reimbursement arrangement (as defined in section 9831(d)(2) of title 26).”

1996—Par. (1). Pub. L. 104-191, §321(d)(3), inserted at end “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).”

Pub. L. 104-191, §102(d), substituted “5000(b)” for “section 162(i)(2)”.

Par. (3)(A). Pub. L. 104-191, §421(a)(3), inserted at end “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 subchapter.”

1989—Par. (2). Pub. L. 101-239 substituted “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)” for “the individual’s employment or previous employment with an employer”.

1988—Par. (1). Pub. L. 100-647 substituted “section 162(i)(2) of the Internal Revenue Code of 1986” for “section 162(i)(3) of the Internal Revenue Code of 1954”, which for purposes of codification was translated as “section 162(i)(2) of title 26”.

#### EFFECTIVE DATE OF 2016 AMENDMENT

Pub. L. 114-255, div. C, title XVIII, §18001(c)(3), Dec. 13, 2016, 130 Stat. 1344, provided that: “The amendments made by this subsection [amending this section and section 300gg-91 of this title] shall apply to plan years beginning after December 31, 2016.”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 321(d)(3) of Pub. L. 104-191 applicable to contracts issued after Dec. 31, 1996, see section 321(f) of Pub. L. 104-191, set out as an Effective Date note under section 7702B of Title 26, Internal Revenue Code.

Amendment by section 421(a)(3) of Pub. L. 104-191 effective Jan. 1, 1997, regardless of whether the 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.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VI, §6801(c)(2), Dec. 19, 1989, 103 Stat. 2298, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to plan years beginning after December 31, 1989.”

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to taxable years beginning after Dec. 31, 1988, but not applicable to any plan for any plan year to which section 162(k) of Title 26, Internal Revenue Code (as in effect on the day before Nov. 10, 1988), did not apply by reason of section 10001(e)(2) of Pub. L. 99-272, see section 3011(d) of Pub. L. 100-647, set out as a note under section 162 of Title 26.

## SUBCHAPTER XXI—RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

#### PRIOR PROVISIONS

A prior subchapter XXI (§300cc et seq.), comprised of title XXIII of the Public Health Service Act, act July 1, 1944, ch. 373, 2301-2316, was renumbered title XXV, §§2501-2514, of the Public Health Service Act, and transferred to subchapter XXV (§300aaa et seq.) of this chapter, renumbered title XXVI, §§2601-2614, of the Public Health Service Act, renumbered title XXVII, §§2701-2714, of the Public Health Service Act, and renumbered title II, part B, §§231-244, of the Public Health Service Act, and transferred to part B (§238 et seq.) of subchapter I of this chapter.

<sup>1</sup> So in original. Probably should be preceded by “section”.