

(2) Prohibition on collection of genetic information prior to enrollment

A health insurance issuer offering health insurance coverage in the individual market shall not request, require, or purchase genetic information with respect to any individual prior to such individual's enrollment under the plan in connection with such enrollment.

(3) Incidental collection

If a health insurance issuer offering health insurance coverage in the individual market obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning any individual, such request, requirement, or purchase shall not be considered a violation of paragraph (2) if such request, requirement, or purchase is not in violation of paragraph (1).

(f) Genetic information of a fetus or embryo

Any reference in this part to genetic information concerning an individual or family member of an individual shall—

(1) with respect to such an individual or family member of an individual who is a pregnant woman, include genetic information of any fetus carried by such pregnant woman; and

(2) with respect to an individual or family member utilizing an assisted reproductive technology, include genetic information of any embryo legally held by the individual or family member.

(July 1, 1944, ch. 373, title XXVII, §2753, as added Pub. L. 110-233, title I, §102(b)(1)(B), May 21, 2008, 122 Stat. 893.)

REFERENCES IN TEXT

Section 2701, referred to in subsec. (c)(1), is a reference to section 2701 of act July 1, 1944. Section 2701, which was classified to section 300gg of this title, was renumbered section 2704, 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. A new section 2701 of act July 1, 1944, related to fair health insurance premiums, was added, effective for plan years beginning on or after Jan. 1, 2014, and amended, by Pub. L. 111-148, title I, §1201(4), title X, §10103(a), Mar. 23, 2010, 124 Stat. 155, 892, and is classified to section 300gg of this title.

The Social Security Act, referred to in subsec. (d)(3)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part C of title XI of the Act is classified generally to part C (§1320d et seq.) of subchapter XI of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Section 264 of the Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (d)(3)(A), is section 264 of Pub. L. 104-191, which is set out as a note under section 1320d-2 of this title.

CODIFICATION

Another section 2753 of act July 1, 1944, is classified to section 300gg-54 of this title.

EFFECTIVE DATE

Section applicable, with respect to group health plans and health insurance coverage offered in connection with group health plans, for plan years beginning after the date that is one year after May 21, 2008, and, with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual

market, after the date that is one year after May 21, 2008, see section 102(d)(2) of Pub. L. 110-233, set out as an Effective Date of 2008 Amendment note under section 300gg-21 of this title.

§300gg-54. Coverage of dependent students on medically necessary leave of absence

The provisions of section 2707¹ shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as they apply to health insurance coverage offered by a health insurance issuer in connection with a group health plan in the small or large group market.

(July 1, 1944, ch. 373, title XXVII, §2753, as added Pub. L. 110-381, §2(b)(2), Oct. 9, 2008, 122 Stat. 4084.)

REFERENCES IN TEXT

Section 2707, referred to in text, is a reference to section 2707 of act July 1, 1944. Section 2707, which was classified to section 300gg-7 of this title, was renumbered section 2728 and amended by 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, and was transferred to section 300gg-28 of this title. A new section 2707 of act July 1, 1944, related to comprehensive health insurance coverage, was added, effective for plan years beginning on or after Jan. 1, 2014, by Pub. L. 111-148, title I, §1201(4), Mar. 23, 2010, 124 Stat. 161, and is classified to section 300gg-6 of this title.

CODIFICATION

Section 2(b)(2) of Pub. L. 110-381, which directed amendment of subpart 3 of part B of title XXVII of act July 1, 1944, by adding this section at the end, was executed in this subpart, which is subpart 2 of part B of title XXVII of act July 1, 1944, to reflect the probable intent of Congress and the redesignation of subpart 3 as subpart 2 by Pub. L. 110-233, title I, §102(b)(1)(A), May 21, 2008, 122 Stat. 893.

Another section 2753 of act July 1, 1944, is classified to section 300gg-53 of this title.

EFFECTIVE DATE

Section applicable with respect to plan years beginning on or after the date that is one year after Oct. 9, 2008, and to medically necessary leaves of absence beginning during such plan years, see section 2(d) of Pub. L. 110-381, set out as a note under section 9813 of Title 26, Internal Revenue Code.

SUBPART 3—GENERAL PROVISIONS

CODIFICATION

Another subpart 3 of part B of title XXVII of act July 1, 1944, was redesignated subpart 2 by Pub. L. 110-233, title I, §102(b)(1)(A), May 21, 2008, 122 Stat. 892, and is classified to subpart 2 (§300gg-51 et seq.) of this part.

§300gg-61. Enforcement

(a) State enforcement

(1) State authority

Subject to section 300gg-62 of this title, each State may require that health insurance issuers that issue, sell, renew, or offer health insurance coverage in the State in the individual market meet the requirements established under this part with respect to such issuers.

(2) Failure to implement requirements

In the case of a State that fails to substantially enforce the requirements set forth in

¹ See References in Text note below.