

which was classified to section 300gg-12 of this title, was renumbered section 2732 and amended and transferred to subsecs. (b) to (e) of section 300gg-2 of this title by Pub. L. 111-148, title I, §§1001(3), 1563(c)(9), formerly §1562(c)(9), title X, §10107(b)(1), Mar. 23, 2010, 124 Stat. 130, 267, 911. A new section 2712 of act July 1, 1944, related to prohibition on rescissions, was added by Pub. L. 111-148, title I, §1001(5), Mar. 23, 2010, 124 Stat. 131, effective for plan years beginning on or after the date that is 6 months after Mar. 23, 2010, and is classified to section 300gg-12 of this title.

EFFECTIVE DATE

Pub. L. 104-191, title I, §111(b), Aug. 21, 1996, 110 Stat. 1987, provided that:

“(1) IN GENERAL.—Except as provided in this subsection, part B of title XXVII of the Public Health Service Act [42 U.S.C. 300gg-41 et seq.] (as inserted by subsection (a)) shall apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after June 30, 1997, regardless of when a period of creditable coverage occurs.

“(2) APPLICATION OF CERTIFICATION RULES.—The provisions of section 102(d)(2) [102(c)(2)] of this Act [42 U.S.C. 300gg note] shall apply to section 2743 of the Public Health Service Act [42 U.S.C. 300gg-43] in the same manner as it applies to section 2701(e) [now 2704(e)] of such Act [42 U.S.C. 300gg-3(e)].”

§ 300gg-42. Guaranteed renewability of individual health insurance coverage

(a) In general

Except as provided in this section, a health insurance issuer that provides individual health insurance coverage to an individual shall renew or continue in force such coverage at the option of the individual.

(b) General exceptions

A health insurance issuer may nonrenew or discontinue health insurance coverage of an individual in the individual market based only on one or more of the following:

(1) Nonpayment of premiums

The individual has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments.

(2) Fraud

The individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage.

(3) Termination of plan

The issuer is ceasing to offer coverage in the individual market in accordance with subsection (c) and applicable State law.

(4) Movement outside service area

In the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, the individual no longer resides, lives, or works in the service area (or in an area for which the issuer is authorized to do business) but only if such coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(5) Association membership ceases

In the case of health insurance coverage that is made available in the individual mar-

ket only through one or more bona fide associations, the membership of the individual in the association (on the basis of which the coverage is provided) ceases but only if such coverage is terminated under this paragraph uniformly without regard to any health status-related factor of covered individuals.

(c) Requirements for uniform termination of coverage

(1) Particular type of coverage not offered

In any case in which an issuer decides to discontinue offering a particular type of health insurance coverage offered in the individual market, coverage of such type may be discontinued by the issuer only if—

(A) the issuer provides notice to each covered individual provided coverage of this type in such market of such discontinuation at least 90 days prior to the date of the discontinuation of such coverage;

(B) the issuer offers to each individual in the individual market provided coverage of this type, the option to purchase any other individual health insurance coverage currently being offered by the issuer for individuals in such market; and

(C) in exercising the option to discontinue coverage of this type and in offering the option of coverage under subparagraph (B), the issuer acts uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for such coverage.

(2) Discontinuance of all coverage

(A) In general

Subject to subparagraph (C), in any case in which a health insurance issuer elects to discontinue offering all health insurance coverage in the individual market in a State, health insurance coverage may be discontinued by the issuer only if—

(i) the issuer provides notice to the applicable State authority and to each individual of such discontinuation at least 180 days prior to the date of the expiration of such coverage, and

(ii) all health insurance issued or delivered for issuance in the State in such market are discontinued and coverage under such health insurance coverage in such market is not renewed.

(B) Prohibition on market reentry

In the case of a discontinuation under subparagraph (A) in the individual market, the issuer may not provide for the issuance of any health insurance coverage in the market and State involved during the 5-year period beginning on the date of the discontinuation of the last health insurance coverage not so renewed.

(d) Exception for uniform modification of coverage

At the time of coverage renewal, a health insurance issuer may modify the health insurance coverage for a policy form offered to individuals in the individual market so long as such modification is consistent with State law and effective on a uniform basis among all individuals with that policy form.

(e) Application to coverage offered only through associations

In applying this section in the case of health insurance coverage that is made available by a health insurance issuer in the individual market to individuals only through one or more associations, a reference to an “individual” is deemed to include a reference to such an association (of which the individual is a member).

(July 1, 1944, ch. 373, title XXVII, §2742, as added Pub. L. 104-191, title I, §111(a), Aug. 21, 1996, 110 Stat. 1982.)

EFFECTIVE DATE

Section applicable with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after June 30, 1997, regardless of when a period of creditable coverage occurs, see section 111(b) of Pub. L. 104-191, set out as a note under section 300gg-41 of this title.

§ 300gg-43. Certification of coverage

The provisions of section 2701(e)¹ shall apply to health insurance coverage offered by a health insurance issuer in the individual market in the same manner as it applies 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, §2743, as added Pub. L. 104-191, title I, §111(a), Aug. 21, 1996, 110 Stat. 1983.)

REFERENCES IN TEXT

Section 2701 of this Act, referred to in text, 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.

EFFECTIVE DATE

Section applicable with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market after June 30, 1997, regardless of when a period of creditable coverage occurs, and provisions of section 102(c)(2) of Pub. L. 104-191, set out as a note under section 300gg of this title, applicable to this section in the same manner as it applies to section 300gg(e) of this title, see section 111(b) of Pub. L. 104-191, set out as a note under section 300gg-41 of this title.

§ 300gg-44. State flexibility in individual market reforms

(a) Waiver of requirements where implementation of acceptable alternative mechanism

(1) In general

The requirements of section 300gg-41 of this title shall not apply with respect to health insurance coverage offered in the individual market in the State so long as a State is found

to be implementing, in accordance with this section and consistent with section 300gg-62(b) of this title, an alternative mechanism (in this section referred to as an “acceptable alternative mechanism”)—

(A) under which all eligible individuals are provided a choice of health insurance coverage;

(B) under which such coverage does not impose any preexisting condition exclusion with respect to such coverage;

(C) under which such choice of coverage includes at least one policy form of coverage that is comparable to comprehensive health insurance coverage offered in the individual market in such State or that is comparable to a standard option of coverage available under the group or individual health insurance laws of such State; and

(D) in a State which is implementing—

(i) a model act described in subsection (c)(1),

(ii) a qualified high risk pool described in subsection (c)(2), or

(iii) a mechanism described in subsection (c)(3).

(2) Permissible forms of mechanisms

A private or public individual health insurance mechanism (such as a health insurance coverage pool or programs, mandatory group conversion policies, guaranteed issue of one or more plans of individual health insurance coverage, or open enrollment by one or more health insurance issuers), or combination of such mechanisms, that is designed to provide access to health benefits for individuals in the individual market in the State in accordance with this section may constitute an acceptable alternative mechanism.

(b) Application of acceptable alternative mechanisms

(1) Presumption

(A) In general

Subject to the succeeding provisions of this subsection, a State is presumed to be implementing an acceptable alternative mechanism in accordance with this section as of July 1, 1997, if, by not later than April 1, 1997, the chief executive officer of a State—

(i) notifies the Secretary that the State has enacted or intends to enact (by not later than January 1, 1998, or July 1, 1998, in the case of a State described in subparagraph (B)(ii)) any necessary legislation to provide for the implementation of a mechanism reasonably designed to be an acceptable alternative mechanism as of January 1, 1998,¹ (or, in the case of a State described in subparagraph (B)(ii), July 1, 1998); and

(ii) provides the Secretary with such information as the Secretary may require to review the mechanism and its implementation (or proposed implementation) under this subsection.

¹ See References in Text note below.

¹ So in original. The comma probably should not appear.