

**(2) Membership****(A) Appointment**

In accordance with subparagraph (B), not later than 90 days after December 27, 2020, the Secretary, in coordination with the Secretary of Health and Human Services, shall appoint under subparagraph (B)(iii), and the Comptroller General of the United States shall appoint under subparagraph (B)(iv), members who have distinguished themselves in the fields of health services research, health economics, health informatics, data privacy and security, or the governance of State All Payer Claims Databases, or who represent organizations likely to submit data to or use the database, including patients, employers, or employee organizations that sponsor group health plans, health care providers, health insurance issuers, or third-party administrators of group health plans. Such members shall serve 3-year terms on a staggered basis. Vacancies on the Committee shall be filled by appointment consistent with this paragraph not later than 3 months after the vacancy arises.

**(B) Composition**

The Committee shall be comprised of—

(i) the Assistant Secretary of Employee Benefits and Security Administration of the Department of Labor, or a designee of such Assistant Secretary;

(ii) the Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services, or a designee of such Assistant Secretary;

(iii) members appointed by the Secretary, in coordination with the Secretary of Health and Human Services, including—

(I) 1 member to serve as the chair of the Committee;

(II) 1 representative of the Centers for Medicare & Medicaid Services;

(III) 1 representative of the Agency for Healthcare Research and Quality;

(IV) 1 representative of the Office for Civil Rights of the Department of Health and Human Services with expertise in data privacy and security;

(V) 1 representative of the National Center for Health Statistics;

(VI) 1 representative of the Office of the National Coordinator for Health Information Technology; and

(VII) 1 representative of a State All-Payer<sup>2</sup> Claims Database;

(iv) members appointed by the Comptroller General of the United States, including—

(I) 1 representative of an employer that sponsors a group health plan;

(II) 1 representative of an employee organization that sponsors a group health plan;

(III) 1 academic researcher with expertise in health economics or health services research;

(IV) 1 consumer advocate; and

(V) 2 additional members.

**(3) Report**

Not later than 180 days after December 27, 2020, the Committee shall report to the Secretary, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Energy and Commerce and the Committee on Education and Labor of the House of Representatives. Such report shall include recommendations on the establishment of the format and guidance described in subsection (a).

**(c) State All Payer Claims Database**

In this section, the term “State All Payer Claims Database” means, with respect to a State, a database that may include medical claims, pharmacy claims, dental claims, and eligibility and provider files, which are collected from private and public payers.

**(d) Authorization of appropriations**

To carry out this section, there are authorized to be appropriated \$5,000,000 for fiscal year 2021, to remain available until expended or, if sooner, until the date described in subsection (e).

**(e) Sunset**

Beginning on the date on which the report is submitted under subsection (b)(3), subsection (b) shall have no force or effect.

(Pub. L. 93-406, title I, §735, as added Pub. L. 116-260, div. BB, title I, §115(b), Dec. 27, 2020, 134 Stat. 2877.)

**SUBCHAPTER II—JURISDICTION, ADMINISTRATION, ENFORCEMENT; JOINT PENSION TASK FORCE, ETC.**

**SUBTITLE A—JURISDICTION, ADMINISTRATION, AND ENFORCEMENT**

**§ 1201. Procedures in connection with the issuance of certain determination letters by the Secretary of the Treasury covering qualifications under Internal Revenue Code**

**(a) Additional material required of applicants**

Before issuing an advance determination of whether a pension, profit-sharing, or stock bonus plan, a trust which is a part of such a plan, or an annuity or bond purchase plan meets the requirements of part I of subchapter D of chapter 1 of title 26, the Secretary of the Treasury shall require the person applying for the determination to provide, in addition to any material and information necessary for such determination, such other material and information as may reasonably be made available at the time such application is made as the Secretary of Labor may require under subchapter I of this chapter for the administration of that subchapter. The Secretary of the Treasury shall also require that the applicant provide evidence satisfactory to the Secretary that the applicant has notified each employee who qualifies as an interested party (within the meaning of regulations prescribed under section 7476(b)(1) of title 26 (relating to declaratory judgments in connection with the qualification of certain retirement plans)) of the application for a determination.

<sup>2</sup>So in original. Definition in subsec. (c) does not contain hyphen in “All Payer”.

**(b) Opportunity to comment on application**

(1) Whenever an application is made to the Secretary of the Treasury for a determination of whether a pension, profit-sharing, or stock bonus plan, a trust which is a part of such a plan, or an annuity or bond purchase plan meets the requirements of part I of subchapter D of chapter 1 of title 26, the Secretary shall upon request afford an opportunity to comment on the application at any time within 45 days after receipt thereof to—

(A) any employee or class of employee qualifying as an interested party within the meaning of the regulations referred to in subsection (a),<sup>1</sup>

(B) the Secretary of Labor, and

(C) the Pension Benefit Guaranty Corporation.

(2) The Secretary of Labor may not request an opportunity to comment upon such an application unless he has been requested in writing to do so by the Pension Benefit Guaranty Corporation or by the lesser of—

(A) 10 employees, or

(B) 10 percent of the employees

who qualify as interested parties within the meaning of the regulations referred to in subsection (a). Upon receiving such a request, the Secretary of Labor shall furnish a copy of the request to the Secretary of the Treasury within 5 days (excluding Saturdays, Sundays, and legal public holidays (as set forth in section 6103 of title 5)).

(3) Upon receiving such a request from the Secretary of Labor, the Secretary of the Treasury shall furnish to the Secretary of Labor such information held by the Secretary of the Treasury relating to the application as the Secretary of Labor may request.

(4) The Secretary of Labor shall, within 30 days after receiving a request from the Pension Benefit Guaranty Corporation or from the necessary number of employees who qualify as interested parties, notify the Secretary of the Treasury, the Pension Benefit Guaranty Corporation, and such employees with respect to whether he is going to comment on the application to which the request relates and with respect to any matters raised in such request on which he is not going to comment. If the Secretary of Labor indicates in the notice required under the preceding sentence that he is not going to comment on all or part of the matters raised in such request, the Secretary of the Treasury shall afford the corporation, and such employees, an opportunity to comment on the application with respect to any matter on which the Secretary of Labor has declined to comment.

**(c) Intervention by Pension Benefit Guaranty Corporation or Secretary of Labor into declaratory judgment action under section 7476 of title 26, action by Corporation authorized**

The Pension Benefit Guaranty Corporation and, upon petition of a group of employees referred to in subsection (b)(2), the Secretary of Labor, may intervene in any action brought for

declaratory judgment under section 7476 of title 26 in accordance with the provisions of such section. The Pension Benefit Guaranty Corporation is permitted to bring an action under such section 7476 under such rules as may be prescribed by the United States Tax Court.

**(d) Notification and information by Secretary of the Treasury to Secretary of Labor upon issuance by Secretary of the Treasury of a determination letter to applicant**

If the Secretary of the Treasury determines that a plan or trust to which this section applies meets the applicable requirements of part I of subchapter D of chapter 1 of title 26 and issues a determination letter to the applicant, the Secretary shall notify the Secretary of Labor of his determination and furnish such information and material relating to the application and determination held by the Secretary of the Treasury as the Secretary of Labor may request for the proper administration of subchapter I of this chapter. The Secretary of Labor shall accept the determination of the Secretary of the Treasury as prima facie evidence of initial compliance by the plan with the standards of parts 2, 3, and 4 of subtitle B of subchapter I of this chapter. The determination of the Secretary of the Treasury shall not be prima facie evidence on issues relating solely to part 4 of subtitle B of subchapter I. If an application for such a determination is withdrawn, or if the Secretary of the Treasury issues a determination that the plan or trust does not meet the requirements of such part I, the Secretary shall notify the Secretary of Labor of the withdrawal or determination.

**(e) Effective date**

This section does not apply with respect to an application for any plan received by the Secretary of the Treasury before the date on which section 410 of title 26 applies to the plan, or on which such section will apply if the plan is determined by the Secretary to be a qualified plan.

(Pub. L. 93-406, title III, §3001, Sept. 2, 1974, 88 Stat. 995; Pub. L. 100-203, title IX, §9343(b), Dec. 22, 1987, 101 Stat. 1330-372; Pub. L. 101-239, title VII, §7891(a)(1), Dec. 19, 1989, 103 Stat. 2445.)

**Editorial Notes****AMENDMENTS**

1989—Subsecs. (a), (b)(1), (c) to (e). Pub. L. 101-239 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1987—Subsec. (d). Pub. L. 100-203 inserted after second sentence “The determination of the Secretary of the Treasury shall not be prima facie evidence on issues relating solely to part 4 of subtitle B of subchapter I.”

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 1989 AMENDMENT**

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 7891(f) of Pub. L. 101-239, set out as a note under section 1002 of this title.

<sup>1</sup> So in original. The period probably should be a comma.

**§ 1202. Procedures with respect to continued compliance with Internal Revenue requirements relating to participation, vesting, and funding standards**

**(a) Notification by Secretary of the Treasury to Secretary of Labor of issuance of a preliminary notice of intent to disqualify or of commencement of proceedings to determine satisfaction of requirements**

In carrying out the provisions of part I of subchapter D of chapter 1 of title 26 with respect to whether a plan or a trust meets the requirements of section 410(a) or 411 of title 26 (relating to minimum participation standards and minimum vesting standards, respectively), the Secretary of the Treasury shall notify the Secretary of Labor when the Secretary of the Treasury issues a preliminary notice of intent to disqualify related to the plan or trust or, if earlier, at the time of commencing any proceeding to determine whether the plan or trust satisfies such requirements. Unless the Secretary of the Treasury finds that the collection of a tax imposed under title 26 is in jeopardy, the Secretary of the Treasury shall not issue a determination that the plan or trust does not satisfy the requirements of such section until the expiration of a period of 60 days after the date on which he notifies the Secretary of Labor of such review. The Secretary of the Treasury, in his discretion, may extend the 60-day period referred to in the preceding sentence if he determines that such an extension would enable the Secretary of Labor to obtain compliance with such requirements by the plan within the extension period. Except as otherwise provided in this chapter, the Secretary of Labor shall not generally apply part 2 of subtitle B of subchapter I of this chapter to any plan or trust subject to sections 410(a) and 411 of title 26, but shall refer alleged general violations of the vesting or participation standards to the Secretary of the Treasury. (The preceding sentence shall not apply to matters relating to individuals benefits.)

**(b) Notification to Secretary of Labor before Secretary of the Treasury sends notice of deficiency under section 4971 of title 26; waiver of imposition of tax; requests for investigation; consultation**

Unless the Secretary of the Treasury finds that the collection of a tax is in jeopardy, in carrying out the provisions of section 4971 of title 26 (relating to taxes on the failure to meet minimum funding standards), the Secretary of the Treasury shall notify the Secretary of Labor before sending a notice of deficiency with respect to any tax imposed under that section on an employer, and, in accordance with the provisions of subsection (d) of that section, afford the Secretary of Labor an opportunity to comment on the imposition of the tax in the case. The Secretary of the Treasury may waive the imposition of the tax imposed under section 4971(b) of title 26 in appropriate cases. Upon receiving a written request from the Secretary of Labor or from the Pension Benefit Guaranty Corporation, the Secretary of the Treasury shall cause an investigation to be commenced expeditiously with respect to whether the tax imposed under sec-

tion 4971 of title 26 should be applied with respect to any employer to which the request relates. The Secretary of the Treasury and the Secretary of Labor shall consult with each other from time to time with respect to the provisions of section 412 of title 26 (relating to minimum funding standards) and with respect to the funding standards applicable under subchapter I of this chapter in order to coordinate the rules applicable under such standards.

**(c) Extended application of regulations prescribed by Secretary of the Treasury relating to minimum participation standards, minimum vesting standards, and minimum funding standards**

Regulations prescribed by the Secretary of the Treasury under sections 410(a), 411, and 412 of title 26 (relating to minimum participation standards, minimum vesting standards, and minimum funding standards, respectively) shall also apply to the minimum participation, vesting, and funding standards set forth in parts 2 and 3 of subtitle B of subchapter I of this chapter. Except as otherwise expressly provided in this chapter, the Secretary of Labor shall not prescribe other regulations under such parts, or apply the regulations prescribed by the Secretary of the Treasury under sections 410(a), 411, 412 of title 26 and applicable to the minimum participation, vesting, and funding standards under such parts in a manner inconsistent with the way such regulations apply under sections 410(a), 411, and 412 of title 26.

**(d) Opportunity afforded Secretary of the Treasury to intervene in cases involving construction or application of minimum standards; review of briefs filed by Pension Benefit Guaranty Corporation or Secretary of Labor**

The Secretary of Labor and the Pension Benefit Guaranty Corporation, before filing briefs in any case involving the construction or application of minimum participation standards, minimum vesting standards, or minimum funding standards under subchapter I of this chapter shall afford the Secretary of the Treasury a reasonable opportunity to review any such brief. The Secretary of the Treasury shall have the right to intervene in any such case.

**(e) Consultative requirements respecting promulgation of proposed or final regulations**

The Secretary of the Treasury shall consult with the Pension Benefit Guaranty Corporation with respect to any proposed or final regulation authorized by subpart C of part I of subchapter D of chapter 1 of title 26, or by sections 1421 through 1426<sup>1</sup> of this title, before publishing any such proposed or final regulation.

(Pub. L. 93-406, title III, §3002, Sept. 2, 1974, 88 Stat. 996; Pub. L. 96-364, title IV, §402(b)(3), Sept. 26, 1980, 94 Stat. 1299; Pub. L. 101-239, title VII, §7891(a)(1), Dec. 19, 1989, 103 Stat. 2445.)

**Editorial Notes**

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (c), was in the original "this Act", meaning Pub. L. 93-406, known

<sup>1</sup> See References in Text note below.