

Code of 1986, or title VI<sup>1</sup> of the Employee Retirement Income Security Act of 1974.

(2) The term “cost-effective” has the meaning given that term in section 1397ee(c)(3)(A) of this title.

(Aug. 14, 1935, ch. 531, title XIX, §1906, as added Pub. L. 101-508, title IV, §4402(a)(2), Nov. 5, 1990, 104 Stat. 1388-161; amended Pub. L. 105-33, title IV, §4741(b), Aug. 5, 1997, 111 Stat. 523; Pub. L. 111-148, title X, §10203(b)(1), Mar. 23, 2010, 124 Stat. 927.)

#### REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (e)(1), is classified generally to Title 26, Internal Revenue Code.

The Public Health Service Act, referred to in subsec. (e)(1), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title XXII of the Act is classified generally to subchapter XX (§300bb-1 et seq.) of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

The Employee Retirement Income Security Act of 1974, referred to in subsec. (e)(1), is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 829, as amended. Title VI of the Act probably means part 6 of subtitle B of title I of the Act which is classified generally to part 6 (§1161 et seq.) of subtitle B of subchapter I of chapter 18 of Title 29, Labor, because the Act has no title VI. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

#### PRIOR PROVISIONS

A prior section 1396e, act Aug. 14, 1935, ch. 531, title XIX, §1906, as added Jan. 2, 1968, Pub. L. 90-248, title II, §226, 81 Stat. 903, created Advisory Council on Medical Assistance, set forth composition of Council, term of membership of members, and purposes of Council, and provided for compensation of members, prior to repeal by Pub. L. 92-603, title II, §287, Oct. 30, 1972, 86 Stat. 1457, effective on the first day of the third calendar month following Oct. 30, 1972.

#### AMENDMENTS

2010—Subsec. (e)(2). Pub. L. 111-148 substituted “has the meaning given that term in section 1397ee(c)(3)(A) of this title.” for “means, as established by the Secretary, that the reduction in expenditures under this subchapter with respect to an individual who is enrolled in a group health plan is likely to be greater than the additional expenditures for premiums and cost-sharing required under this section with respect to such enrollment.”

1997—Subsec. (a). Pub. L. 105-33, §4741(b)(1), in introductory provisions, substituted “Each” for “For purposes of section 1396a(a)(25)(G) of this title and subject to subsection (d) of this section, each” and, in pars. (1) and (2), substituted “may” for “shall”.

Subsec. (d). Pub. L. 105-33, §4741(b)(2), struck out subsec. (d) which read as follows:

“(1) In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1315 of this title, the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this subchapter.

“(2) This section, and section 1396a(a)(25)(G) of this title, shall only apply to a State that is one of the 50 States or the District of Columbia.”

#### EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-148, title X, §10203(b), Mar. 23, 2010, 124 Stat. 927, provided that the amendment made by sec-

tion 10203(b)(1) of Pub. L. 111-148 is effective as if included in the enactment of the Children’s Health Insurance Program Reauthorization Act of 2009 (Pub. L. 111-3).

#### EFFECTIVE DATE

Section applicable, except as otherwise provided, to payments under this subchapter for calendar quarters beginning on or after Jan. 1, 1991, without regard to whether or not final regulations to carry out the amendments by section 4402 of Pub. L. 101-508 have been promulgated by such date, see section 4402(e) of Pub. L. 101-508, set out as an Effective Date of 1990 Amendment note under section 1396a of this title.

### § 1396e-1. Premium assistance

#### (a) In general

A State may elect to offer a premium assistance subsidy (as defined in subsection (c)) for qualified employer-sponsored coverage (as defined in subsection (b)) to all individuals who are entitled to medical assistance under this subchapter (and, in the case of an individual under age 19, to the parent of such an individual) who have access to such coverage if the State meets the requirements of this section and the offering of such a subsidy is cost-effective, as defined for purposes of section 1397ee(c)(3)(A) of this title.

#### (b) Qualified employer-sponsored coverage

##### (1) In general

Subject to paragraph (2),<sup>1</sup> in this paragraph, the term “qualified employer-sponsored coverage” means a group health plan or health insurance coverage offered through an employer—

(A) that qualifies as creditable coverage as a group health plan under section 2701(c)(1) of the Public Health Service Act;<sup>2</sup>

(B) for which the employer contribution toward any premium for such coverage is at least 40 percent; and

(C) that is offered to all individuals in a manner that would be considered a non-discriminatory eligibility classification for purposes of paragraph (3)(A)(ii) of section 105(h) of the Internal Revenue Code of 1986 (but determined without regard to clause (i) of subparagraph (B) of such paragraph).

##### (2) Exception

Such term does not include coverage consisting of—

(A) benefits provided under a health flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986); or

(B) a high deductible health plan (as defined in section 223(c)(2) of such Code), without regard to whether the plan is purchased in conjunction with a health savings account (as defined under section 223(d) of such Code).

##### (3) Treatment as third party liability

The State shall treat the coverage provided under qualified employer-sponsored coverage as a third party liability under section 1396a(a)(25) of this title.

<sup>1</sup>So in original. The second closing parenthesis probably should not appear.

<sup>2</sup>See References in Text note below.

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

**(c) Premium assistance subsidy**

In this section, the term “premium assistance subsidy” means the amount of the employee contribution for enrollment in the qualified employer-sponsored coverage by the individual or by the individual’s family. Premium assistance subsidies under this section shall be considered, for purposes of section 1396b(a) of this title, to be a payment for medical assistance.

**(d) Voluntary participation****(1) Employers**

Participation by an employer in a premium assistance subsidy offered by a State under this section shall be voluntary. An employer may notify a State that it elects to opt-out of being directly paid a premium assistance subsidy on behalf of an employee.

**(2) Beneficiaries**

No subsidy shall be provided to an individual under this section unless the individual (or the individual’s parent) voluntarily elects to receive such a subsidy. A State may not require such an election as a condition of receipt of medical assistance. A State may not require, as a condition of an individual (or the individual’s parent) being or remaining eligible for medical assistance under this subchapter, that the individual (or the individual’s parent) apply for enrollment in qualified employer-sponsored coverage under this section.

**(3) Opt-out permitted for any month**

A State shall establish a process for permitting an individual (or the parent of an individual) receiving a premium assistance subsidy to disenroll the individual from the qualified employer-sponsored coverage.

**(e) Requirement to pay premiums and cost-sharing and provide supplemental coverage**

In the case of the participation of an individual (or the individual’s parent) in a premium assistance subsidy under this section for qualified employer-sponsored coverage, the State shall provide for payment of all enrollee premiums for enrollment in such coverage and all deductibles, coinsurance, and other cost-sharing obligations for items and services otherwise covered under the State plan under this subchapter (exceeding the amount otherwise permitted under section 1396o of this title or, if applicable, section 1396o-1 of this title). The fact that an individual (or a parent) elects to enroll in qualified employer-sponsored coverage under this section shall not change the individual’s (or parent’s) eligibility for medical assistance under the State plan, except insofar as section 1396a(a)(25) of this title provides that payments for such assistance shall first be made under such coverage.

(Aug. 14, 1935, ch. 531, title XIX, § 1906A, as added Pub. L. 111-3, title III, § 301(b), Feb. 4, 2009, 123 Stat. 61; amended Pub. L. 111-148, title II, § 2003(a), (b), title X, § 10203(b)(2), Mar. 23, 2010, 124 Stat. 282, 283, 927.)

## REFERENCES IN TEXT

Section 2701 of the Public Health Service Act, referred to in subsec. (b)(1)(A), is section 2701 of act July

1, 1944, 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 Internal Revenue Code of 1986, referred to in subsec. (b)(1)(C), (2), is classified generally to Title 26, Internal Revenue Code.

## AMENDMENTS

2010—Pub. L. 111-148, § 2003(b), struck out “option for children” after “assistance” in section catchline.

Subsec. (a). Pub. L. 111-148, § 10203(b)(2)(A), inserted “and the offering of such a subsidy is cost-effective, as defined for purposes of section 1397ee(c)(3)(A) of this title” before period at end.

Pub. L. 111-148, § 2003(a)(1)(B), (C), struck out “under age 19” after “all individuals” and inserted “, in the case of an individual under age 19,” after “(and”.

Pub. L. 111-148, § 2003(a)(1)(A), which directed substitution of “shall” for “may elect to”, was not executed because of Pub. L. 111-148, § 10203(b)(2)(B), set out as a note under this section.

Subsec. (c). Pub. L. 111-148, § 2003(a)(2), struck out “under age 19” after “by the individual”.

Subsec. (d)(2). Pub. L. 111-148, § 2003(a)(3)(A), struck out “under age 19” after “to an individual” and substituted “A State may not require, as a condition of an individual (or the individual’s parent) being or remaining eligible for medical assistance under this subchapter, that the individual (or the individual’s parent) apply for enrollment in qualified employer-sponsored coverage under this section.” for “State may not require, as a condition of an individual under age 19 (or the individual’s parent) being or remaining eligible for medical assistance under this subchapter, apply for enrollment in qualified employer-sponsored coverage under this section.”

Subsec. (d)(3). Pub. L. 111-148, § 2003(a)(3)(B), substituted “an individual (or the parent of an individual)” for “the parent of an individual under age 19”.

Subsec. (e). Pub. L. 111-148, § 2003(a)(4), struck out “under age 19” after “an individual” in two places.

## EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-148, title II, § 2003(c), Mar. 23, 2010, 124 Stat. 283, provided that: “The amendments made by this section [amending this section] take effect on January 1, 2014.”

Pub. L. 111-148, title X, § 10203(b), Mar. 23, 2010, 124 Stat. 927, provided that the amendment made by section 10203(b)(2)(A) of Pub. L. 111-148 is effective as if included in the enactment of the Children’s Health Insurance Program Reauthorization Act of 2009 (Pub. L. 111-3).

## EFFECTIVE DATE

Section effective Apr. 1, 2009, and applicable to child health assistance and medical assistance provided on or after that date, with certain exceptions, see section 3 of Pub. L. 111-3, set out as a note under section 1396 of this title.

## EFFECT OF CERTAIN AMENDMENT BY PUB. L. 111-148

Pub. L. 111-148, title X, § 10203(b)(2)(B), Mar. 23, 2010, 124 Stat. 927, provided that: “This Act shall be applied without regard to subparagraph (A) of section 2003(a)(1) of this Act [amending this section] and that subparagraph and the amendment made by that subparagraph are hereby deemed null, void, and of no effect.”

**§ 1396f. Observance of religious beliefs**

Nothing in this subchapter shall be construed to require any State which has a plan approved under this subchapter to compel any person to undergo any medical screening, examination, diagnosis, or treatment or to accept any other health care or services provided under such plan for any purpose (other than for the purpose of discovering and preventing the spread of infection or contagious disease or for the purpose of protecting environmental health), if such person objects (or, in case such person is a child, his parent or guardian objects) thereto on religious grounds.

(Aug. 14, 1935, ch. 531, title XIX, §1907, as added Pub. L. 90-248, title II, §232, Jan. 2, 1968, 81 Stat. 905.)

**§ 1396g. State programs for licensing of administrators of nursing homes****(a) Nature of State program**

For purposes of section 1396a(a)(29) of this title, a "State program for the licensing of administrators of nursing homes" is a program which provides that no nursing home within the State may operate except under the supervision of an administrator licensed in the manner provided in this section.

**(b) Licensing by State agency or board representative of concerned professions and institutions**

Licensing of nursing home administrators shall be carried out by the agency of the State responsible for licensing under the healing arts licensing act of the State, or, in the absence of such act or such an agency, a board representative of the professions and institutions concerned with care of chronically ill and infirm aged patients and established to carry out the purposes of this section.

**(c) Functions and duties of State agency or board**

It shall be the function and duty of such agency or board to—

(1) develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;

(2) develop and apply appropriate techniques, including examinations and investigations, for determining whether an individual meets such standards;

(3) issue licenses to individuals determined, after the application of such techniques, to meet such standards, and revoke or suspend licenses previously issued by the board in any case where the individual holding any such license is determined substantially to have failed to conform to the requirements of such standards;

(4) establish and carry out procedures designed to insure that individuals licensed as

nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards;

(5) receive, investigate, and take appropriate action with respect to, any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards; and

(6) conduct a continuing study and investigation of nursing homes and administrators of nursing homes within the State with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such.

**(d) Waiver of standards other than good character or suitability standards**

No State shall be considered to have failed to comply with the provisions of section 1396a(a)(29) of this title because the agency or board of such State (established pursuant to subsection (b)) shall have granted any waiver, with respect to any individual who, during all of the three calendar years immediately preceding the calendar year in which the requirements prescribed in section 1396a(a)(29) of this title are first met by the State, has served as a nursing home administrator, of any of the standards developed, imposed, and enforced by such agency or board pursuant to subsection (c).

**(e) "Nursing home" and "nursing home administrator" defined**

As used in this section, the term—

(1) "nursing home" means any institution or facility defined as such for licensing purposes under State law, or, if State law does not employ the term nursing home, the equivalent term or terms as determined by the Secretary, but does not include a religious nonmedical health care institution (as defined in section 1395x(ss)(1) of this title).<sup>1</sup>

(2) "nursing home administrator" means any individual who is charged with the general administration of a nursing home whether or not such individual has an ownership interest in such home and whether or not his functions and duties are shared with one or more other individuals.

(Aug. 14, 1935, ch. 531, title XIX, §1908, as added Pub. L. 90-248, title II, §236(b), Jan. 2, 1968, 81 Stat. 908; amended Pub. L. 92-603, title II, §§268(b), 269, 274(b), Oct. 30, 1972, 86 Stat. 1451, 1452; Pub. L. 93-233, §18(y)(3), Dec. 31, 1973, 87 Stat. 973; Pub. L. 104-193, title IX, §913, Aug. 22, 1996, 110 Stat. 2354; Pub. L. 105-33, title IV, §4454(b)(2), Aug. 5, 1997, 111 Stat. 431.)

**REPEAL OF SECTION**

*Pub. L. 101-508, title IV, §4801(e)(11), Nov. 5, 1990, 104 Stat. 1338-217, provided that, effective on the date on which the Secretary promulgates standards regarding the qualifications of nursing facility administrators under section 1396r(f)(4) of this title, this section is repealed.*

<sup>1</sup> So in original. The period probably should be "; and".