

(1) prohibit (or authorize the Secretary of Health and Human Services to promulgate regulations that prohibit) a group health plan or health insurance issuer from carrying out utilization management techniques that are commonly used as of March 23, 2010; or

(2) restrict the application of the amendments made by this subtitle.

(Pub. L. 111-148, title I, §1563(d), formerly §1562(d), title X, §10107(b)(1), Mar. 23, 2010, 124 Stat. 269, 911.)

Editorial Notes

REFERENCES IN TEXT

The Patient Protection and Affordable Care Act, referred to in text, is Pub. L. 111-148, Mar. 23, 2010, 124 Stat. 119. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

The amendments made by this subtitle, referred to in par. (2), mean the amendments made by subtitle G (§§1551-1563) of title I of Pub. L. 111-148, which enacted section 300jj-51 of this title, sections 4980H, 5000A, 6055, 6056, and 9815 of Title 26, Internal Revenue Code, and sections 218a to 218c and 1185d of Title 29, Labor, amended sections 300gg-1 to 300gg-3, 300gg-9, 300gg-11, 300gg-12, 300gg-21 to 300gg-23, 300gg-25 to 300gg-28, 300gg-62, and 300gg-91 of this title, sections 125 and 6724 of Title 26, and sections 921 and 932 of Title 30, Mineral Lands and Mining.

CODIFICATION

Another section 1563 of Pub. L. 111-148 is classified to section 18119 of this title.

§ 18121. Implementation funding

(a) In general

There is hereby established a Health Insurance Reform Implementation Fund (referred to in this section as the “Fund”) within the Department of Health and Human Services to carry out the Patient Protection and Affordable Care Act and this Act (and the amendments made by such Acts).

(b) Funding

There is appropriated to the Fund, out of any funds in the Treasury not otherwise appropriated, \$1,000,000,000 for Federal administrative expenses to carry out such Act¹ (and the amendments made by such Acts).

(Pub. L. 111-152, title I, §1005, Mar. 30, 2010, 124 Stat. 1036.)

Editorial Notes

REFERENCES IN TEXT

The Patient Protection and Affordable Care Act, referred to in subsec. (a), is Pub. L. 111-148, Mar. 23, 2010, 124 Stat. 119. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

This Act, referred to in subsec. (a), is Pub. L. 111-152, Mar. 30, 2010, 124 Stat. 1029, known as the Health Care and Education Reconciliation Act of 2010. For complete classification of this Act to the Code, see Short Title of 2010 Amendment note under section 1305 of this title and Tables.

CODIFICATION

Section was enacted as part of the Health Care and Education Reconciliation Act of 2010, and not as part of

the Patient Protection and Affordable Care Act which comprises this chapter.

§ 18122. Rule of construction regarding health care providers

(1) In general

Subject to paragraph (3), the development, recognition, or implementation of any guideline or other standard under any Federal health care provision shall not be construed to establish the standard of care or duty of care owed by a health care provider to a patient in any medical malpractice or medical product liability action or claim.

(2) Definitions

For purposes of this section:

(A) Federal health care provision

The term “Federal health care provision” means any provision of the Patient Protection and Affordable Care Act (Public Law 111-148), title I or subtitle B of title II of the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), or title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq., 42 U.S.C. 1396 et seq.).

(B) Health care provider

The term “health care provider” means any individual, group practice, corporation of health care professionals, or hospital—

(i) licensed, registered, or certified under Federal or State laws or regulations to provide health care services; or

(ii) required to be so licensed, registered, or certified but that is exempted by other statute or regulation.

(C) Medical malpractice or medical product liability action or claim

The term “medical malpractice or medical product liability action or claim” means a medical malpractice action or claim (as defined in section 11151(7) of this title) and includes a liability action or claim relating to a health care provider’s prescription or provision of a drug, device, or biological product (as such terms are defined in section 321 of title 21 or section 262 of this title).

(D) State

The term “State” includes the District of Columbia, Puerto Rico, and any other commonwealth, possession, or territory of the United States.

(3) No preemption

Nothing in paragraph (1) or any provision of the Patient Protection and Affordable Care Act (Public Law 111-148), title I or subtitle B of title II of the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), or title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 et seq., 42 U.S.C. 1396 et seq.) shall be construed to preempt any State or common law governing medical professional or medical product liability actions or claims.

(Pub. L. 114-10, title I, §106(d), Apr. 16, 2015, 129 Stat. 142.)

¹ So in original. Probably should be “Acts”.