

(e) UNDERWRITING STANDARDS.—

(1) DISQUALIFYING CONDITION.—Nothing in this chapter shall be considered to require that long-term care insurance coverage be made available in the case of any individual who would be eligible for benefits immediately.

(2) SPOUSAL PARITY.—For the purpose of underwriting standards, a spouse of an individual described in paragraph (1), (2), (3), or (4) of section 9001 shall, as nearly as practicable, be treated like that individual.

(3) GUARANTEED ISSUE.—Nothing in this chapter shall be considered to require that long-term care insurance coverage be guaranteed to an eligible individual.

(4) REQUIREMENT THAT CONTRACT BE FULLY INSURED.—In addition to the requirements otherwise applicable under section 9001(9), in order to be considered a qualified long-term care insurance contract for purposes of this chapter, a contract must be fully insured, whether through reinsurance with other companies or otherwise.

(5) HIGHER STANDARDS ALLOWABLE.—Nothing in this chapter shall, in the case of an individual applying for long-term care insurance coverage under this chapter after the expiration of such individual's first opportunity to enroll, preclude the application of underwriting standards more stringent than those that would have applied if that opportunity had not yet expired.

(f) GUARANTEED RENEWABILITY.—The benefits and coverage made available to eligible individuals under any insurance contract under this chapter shall be guaranteed renewable (as defined by section 7A(2) of the model regulations described in section 7702B(g)(2) of the Internal Revenue Code of 1986), including the right to have insurance remain in effect so long as premiums continue to be timely made. However, the authority to revise premiums under this chapter shall be available only on a class basis and only to the extent otherwise allowable under section 9003(b).

(Added Pub. L. 106-265, title I, §1002(a), Sept. 19, 2000, 114 Stat. 764; amended Pub. L. 107-314, div. A, title XI, §1101(b), Dec. 2, 2002, 116 Stat. 2660.)

Editorial Notes

REFERENCES IN TEXT

Section 7702B(g)(2) of the Internal Revenue Code of 1986, referred to in subsec. (f), is classified to section 7702B(g)(2) of Title 26, Internal Revenue Code.

AMENDMENTS

2002—Subsecs. (b) to (f). Pub. L. 107-314 added subsec. (b) and redesignated former subsecs. (b) to (e) as (c) to (f), respectively.

§ 9003. Contracting authority

(a) IN GENERAL.—The Office of Personnel Management shall, without regard to section 6101(b) to (d) of title 41 or any other statute requiring competitive bidding, contract with one or more qualified carriers for a policy or policies of long-term care insurance. The Office shall ensure that each resulting contract (hereafter in this

chapter referred to as a “master contract”) is awarded on the basis of contractor qualifications, price, and reasonable competition.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Each master contract under this chapter shall contain—

(A) a detailed statement of the benefits offered (including any maximums, limitations, exclusions, and other definitions of benefits);

(B) the premiums charged (including any limitations or other conditions on their subsequent adjustment);

(C) the terms of the enrollment period; and

(D) such other terms and conditions as may be mutually agreed to by the Office and the carrier involved, consistent with the requirements of this chapter.

(2) PREMIUMS.—Premiums charged under each master contract entered into under this section shall reasonably and equitably reflect the cost of the benefits provided, as determined by the Office. The premiums shall not be adjusted during the term of the contract unless mutually agreed to by the Office and the carrier.

(3) NONRENEWABILITY.—Master contracts under this chapter may not be made automatically renewable.

(c) PAYMENT OF REQUIRED BENEFITS; DISPUTE RESOLUTION.—

(1) IN GENERAL.—Each master contract under this chapter shall require the carrier to agree—

(A) to provide payments or benefits to an eligible individual if such individual is entitled thereto under the terms of the contract; and

(B) with respect to disputes regarding claims for payments or benefits under the terms of the contract—

(i) to establish internal procedures designed to expeditiously resolve such disputes; and

(ii) to establish, for disputes not resolved through procedures under clause (i), procedures for one or more alternative means of dispute resolution involving independent third-party review under appropriate circumstances by entities mutually acceptable to the Office and the carrier.

(2) ELIGIBILITY.—A carrier's determination as to whether or not a particular individual is eligible to obtain long-term care insurance coverage under this chapter shall be subject to review only to the extent and in the manner provided in the applicable master contract.

(3) OTHER CLAIMS.—For purposes of applying chapter 71 of title 41 to disputes arising under this chapter between a carrier and the Office—

(A) the agency board having jurisdiction to decide an appeal relative to such a dispute shall be such board of contract appeals as the Director of the Office of Personnel Management shall specify in writing; and

(B) the district courts of the United States shall have original jurisdiction, concurrent with the United States Court of Federal Claims, of any action described in section 7104(b)(1) of title 41 relative to such a dispute.

(4) **RULE OF CONSTRUCTION.**—Nothing in this chapter shall be considered to grant authority for the Office or a third-party reviewer to change the terms of any contract under this chapter.

(d) **DURATION.**—

(1) **IN GENERAL.**—Each master contract under this chapter shall be for a term of 7 years, unless terminated earlier by the Office in accordance with the terms of such contract. However, the rights and responsibilities of the enrolled individual, the insurer, and the Office (or duly designated third-party administrator) under such contract shall continue with respect to such individual until the termination of coverage of the enrolled individual or the effective date of a successor contract thereto.

(2) **EXCEPTION.**—

(A) **SHORTER DURATION.**—In the case of a master contract entered into before the end of the period described in subparagraph (B), paragraph (1) shall be applied by substituting “ending on the last day of the 7-year period described in paragraph (2)(B)” for “of 7 years”.

(B) **DEFINITION.**—The period described in this subparagraph is the 7-year period beginning on the earliest date as of which any long-term care insurance coverage under this chapter becomes effective.

(3) **CONGRESSIONAL NOTIFICATION.**—No later than 180 days after receiving the second report required under section 9006(c), the President (or his designee) shall submit to the Committees on Government Reform and on Armed Services of the House of Representatives and the Committees on Governmental Affairs and on Armed Services of the Senate, a written recommendation as to whether the program under this chapter should be continued without modification, terminated, or restructured. During the 180-day period following the date on which the President (or his designee) submits the recommendation required under the preceding sentence, the Office of Personnel Management may not take any steps to rebid or otherwise contract for any coverage to be available at any time following the expiration of the 7-year period described in paragraph (2)(B).

(4) **FULL PORTABILITY.**—Each master contract under this chapter shall include such provisions as may be necessary to ensure that, once an individual becomes duly enrolled, long-term care insurance coverage obtained by such individual pursuant to that enrollment shall not be terminated due to any change in status (such as separation from Government service or the uniformed services) or ceasing to meet the requirements for being considered a qualified relative (whether as a result of dissolution of marriage or otherwise).

(e) **EFFECT OF GOVERNMENT SHUTDOWN.**—Coverage under a master contract under this chapter for long-term care insurance for an employee or member of the uniformed services enrolled under such contract and who, due to a lapse in appropriations, is furloughed or excepted from furlough and working without pay shall continue during such lapse and may not be can-

celled as a result of nonpayment of premiums or other periodic charges due to such lapse.

(Added Pub. L. 106-265, title I, §1002(a), Sept. 19, 2000, 114 Stat. 764; amended Pub. L. 111-350, §5(a)(18), Jan. 4, 2011, 124 Stat. 3842; Pub. L. 116-92, div. A, title XI, §1111(a)(3), Dec. 20, 2019, 133 Stat. 1601.)

Editorial Notes

AMENDMENTS

2019—Subsec. (e). Pub. L. 116-92 added subsec. (e).

2011—Subsec. (a). Pub. L. 111-350, §5(a)(18)(A), substituted “section 6101(b) to (d) of title 41” for “section 5 of title 41”.

Subsec. (c)(3). Pub. L. 111-350, §5(a)(18)(B), substituted “chapter 71 of title 41” for “the Contract Disputes Act of 1978” in introductory provisions.

Subsec. (c)(3)(A). Pub. L. 111-350, §5(a)(18)(C), struck out “(after appropriate arrangements, as described in section 8(c) of such Act)” after “specify in writing”.

Subsec. (c)(3)(B). Pub. L. 111-350, §5(a)(18)(D), substituted “section 7104(b)(1) of title 41” for “section 10(a)(1) of such Act”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Government Reform of House of Representatives changed to Committee on Oversight and Government Reform of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007. Committee on Oversight and Government Reform of House of Representatives changed to Committee on Oversight and Reform of House of Representatives by House Resolution No. 6, One Hundred Sixteenth Congress, Jan. 9, 2019.

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

EFFECTIVE DATE OF 2019 AMENDMENT

Amendment by Pub. L. 116-92 applicable to any contract for long-term care insurance under this chapter entered into before, on, or after Dec. 20, 2019, see section 1111(c) of Pub. L. 116-92, set out as a note under section 8956 of this title.

REGULATIONS

For provisions requiring promulgation of regulations related to payment of unpaid premiums during furlough resulting from a lapse in appropriations, including provision for direct payment to carrier for certain individuals, see section 1111(b) of Pub. L. 116-92, set out as a note under section 8956 of this title.

§ 9004. Financing

(a) **IN GENERAL.**—Each eligible individual obtaining long-term care insurance coverage under this chapter shall be responsible for 100 percent of the premiums for such coverage.

(b) **WITHHOLDINGS.**—

(1) **IN GENERAL.**—The amount necessary to pay the premiums for enrollment may—

(A) in the case of an employee, be withheld from the pay of such employee;

(B) in the case of an annuitant, be withheld from the annuity of such annuitant;

(C) in the case of a member of the uniformed services described in section 9001(3), be withheld from the pay of such member; and