

§ 300gg-5. Non-discrimination in health care**(a) Providers**

A group health plan and a health insurance issuer offering group or individual health insurance coverage shall not discriminate with respect to participation under the plan or coverage against any health care provider who is acting within the scope of that provider's license or certification under applicable State law. This section shall not require that a group health plan or health insurance issuer contract with any health care provider willing to abide by the terms and conditions for participation established by the plan or issuer. Nothing in this section shall be construed as preventing a group health plan, a health insurance issuer, or the Secretary from establishing varying reimbursement rates based on quality or performance measures.

(b) Individuals

The provisions of section 218c¹ of title 29 (relating to non-discrimination) shall apply with respect to a group health plan or health insurance issuer offering group or individual health insurance coverage.

(July 1, 1944, ch. 373, title XXVII, §2706, as added Pub. L. 111-148, title I, §1201(4), Mar. 23, 2010, 124 Stat. 160.)

Editorial Notes

REFERENCES IN TEXT

Section 218c of title 29, referred to in subsec. (b), was in the original "section 1558 of the Patient Protection and Affordable Care Act", meaning section 1558 of Pub. L. 111-148, and was translated as meaning section 18C of act June 25, 1938, ch. 676, which was added by section 1558 of Pub. L. 111-148, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 300gg-5, act July 1, 1944, ch. 373, title XXVII, §2705, as added Pub. L. 104-204, title VII, §703(a), Sept. 26, 1996, 110 Stat. 2947, and amended, which related to parity in mental health and substance use disorder benefits, was renumbered section 2726 of act July 1, 1944, and transferred to section 300gg-26 of this title.

A prior section 2706 of act July 1, 1944, was renumbered section 2727 and is classified to section 300gg-27 of this title.

Another prior section 2706 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238e of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective for plan years beginning on or after Jan. 1, 2014, see section 1255 of Pub. L. 111-148, set out as a note under section 300gg of this title.

IMPLEMENTING PROTECTIONS AGAINST PROVIDER DISCRIMINATION

Pub. L. 116-260, div. BB, title I, §108, Dec. 27, 2020, 134 Stat. 2859, provided that: "Not later than January 1, 2022, the Secretary of Health and Human Services, the Secretary of Labor, and the Secretary of the Treasury shall issue a proposed rule implementing the protections of section 2706(a) of the Public Health Service Act (42 U.S.C. 300gg-5(a)). The Secretaries shall accept and

consider public comments on any proposed rule issued pursuant to this subsection for a period of 60 days after the date of such issuance. Not later than 6 months after the date of the conclusion of the comment period, the Secretaries shall issue a final rule implementing the protections of section 2706(a) of the Public Health Service Act (42 U.S.C. 300gg-5(a))."

§ 300gg-6. Comprehensive health insurance coverage**(a) Coverage for essential health benefits package**

A health insurance issuer that offers health insurance coverage in the individual or small group market shall ensure that such coverage includes the essential health benefits package required under section 18022(a) of this title.

(b) Cost-sharing under group health plans

A group health plan shall ensure that any annual cost-sharing imposed under the plan does not exceed the limitations provided for under paragraph (1) of section 18022(c)¹ of this title.

(c) Child-only plans

If a health insurance issuer offers health insurance coverage in any level of coverage specified under section 18022(d) of this title, the issuer shall also offer such coverage in that level as a plan in which the only enrollees are individuals who, as of the beginning of a plan year, have not attained the age of 21.

(d) Dental only

This section shall not apply to a plan described in section 18031(d)(2)(B)(ii)¹ of this title.

(July 1, 1944, ch. 373, title XXVII, §2707, as added Pub. L. 111-148, title I, §1201(4), Mar. 23, 2010, 124 Stat. 161; amended Pub. L. 113-93, title II, §213(b), Apr. 1, 2014, 128 Stat. 1047.)

Editorial Notes

REFERENCES IN TEXT

Section 18022(c) of this title, referred to in subsec. (b), was in the original "section 1302(c)", and was translated as meaning section 1302(c) of Pub. L. 111-148, par. (1) of which relates to annual limitation on cost-sharing, to reflect the probable intent of Congress.

Section 18031(d)(2)(B)(ii) of this title, referred to in subsec. (d), was in the original "section 1302(d)(2)(B)(ii)(I)", and was translated as meaning section 1311(d)(2)(B)(ii) of Pub. L. 111-148, which relates to offering of stand-alone dental benefits, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 300gg-6, act July 1, 1944, ch. 373, title XXVII, §2706, as added Pub. L. 105-277, div. A, §101(f) [title IX, §903(a)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-438, which related to required coverage for reconstructive surgery following mastectomies, was renumbered section 2727 of act July 1, 1944, and transferred to section 300gg-27 of this title.

A prior section 2707 of act July 1, 1944, was renumbered section 2728 and is classified to section 300gg-28 of this title.

Another prior section 2707 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238f of this title.

AMENDMENTS

2014—Subsec. (b). Pub. L. 113-93 substituted "paragraph (1)" for "paragraphs (1) and (2)".

¹ See References in Text note below.

¹ See References in Text note below.