

Health Insurance Portability and Accountability Act (HIPAA)

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Public Law 104-191 (H.R. 31030); August 21, 1996

SEC. 2741. GUARANTEED AVAILABILITY OF INDIVIDUAL HEALTH INSURANCE COVERAGE TO CERTAIN INDIVIDUALS WITH PRIOR GROUP COVERAGE

(a) GUARANTEED AVAILABILITY —

(1) IN GENERAL — Subject to the succeeding subsections of this section and section 2744, each health insurance issuer that offers health insurance coverage (as defined in section 2791(b)(1) in the individual market in a State may not, with respect to an eligible individual (as defined in subsection (b)) desiring to enroll in individual health insurance coverage —

- (A) decline to offer such coverage to, or deny enrollment of, such individual; or
- (B) impose any preexisting condition exclusion (as defined in section 2701(b)(a)(A)) with respect to such coverage.

(2) SUBSTITUTION BY STATE OF ACCEPTABLE ALTERNATIVE MECHANISM — The requirement of paragraph (1) shall not apply to health insurance coverage offered in the individual market in a State in which the State is implementing an acceptable alternative mechanism under section 2744.

(b) ELIGIBLE INDIVIDUALS DEFINED — In this part, the term “eligible individual” means an individual —

- (1) (A) for whom, as of the date on which the individual seeks coverage under this section, the aggregate of the periods of creditable coverage (as defined in section 2701(c)) is 18 or more months and
- (B) whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan (or health insurance coverage offered in connection with any such plan);
- (2) who is not eligible for coverage under (A) a group health plan, (B) part A or part B of title XVIII of the Social Security Act, or (C) a State plan under title XIX of such Act (or any successor program), and does not have other health insurance coverage;
- (3) with respect to whom the most recent coverage within the coverage period described in paragraph (1)(A) was not terminated based on a factor described in paragraph (1) or (2) of section 2712(b) (relating to nonpayment of premiums or fraud);
- (4) if the individual had been offered the option of continuation of coverage under COBRA continuation provision or under a similar State program, who elected such coverage; and
- (5) who, if the individual selected such continuation coverage, has exhausted such continuation coverage under such provision or program.

NOTE: Employees who have questions about this law should direct their questions to Employee Benefits Office in Human Resources, 436-1593.