

of a written or oral request for such notification, but in no event before the notice has been sent to the applicable federal agency.

(i) *Sunset.* This section does not apply to benefits for services furnished on or after December 31, 2004.

[62 FR 66957, Dec. 22, 1997. Redesignated at 65 FR 82142, Dec. 27, 2000; as amended at 67 FR 60861, Sept. 27, 2002; 68 FR 18049, Apr. 14, 2003; 69 FR 3817, Jan. 26, 2004]

Subpart D—General Provisions

SOURCE: 62 FR 16941, Apr. 8, 1997. Redesignated at 65 FR 82142, Dec. 27, 2000, unless otherwise noted.

§ 2590.731 Preemption; State flexibility; construction.

(a) *Continued applicability of State law with respect to health insurance issuers.* Subject to paragraph (b) of this section and except as provided in paragraph (c) of this section, part 7 of subtitle B of title I of the Act is not to be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirements of this part.

(b) *Continued preemption with respect to group health plans.* Nothing in part 7 of subtitle B of title I of the Act affects or modifies the provisions of section 514 of the Act with respect to group health plans.

(c) *Special rules—(1) In general.* Subject to paragraph (c)(2) of this section, the provisions of part 7 of subtitle B of title I of the Act relating to health insurance coverage offered by a health insurance issuer supersede any provision of State law which establishes, implements, or continues in effect a standard or requirement applicable to imposition of a preexisting condition exclusion specifically governed by section 701 which differs from the standards or requirements specified in such section.

(2) *Exceptions.* Only in relation to health insurance coverage offered by a health insurance issuer, the provisions of this part do not supersede any provi-

sion of State law to the extent that such provision—

(i) Shortens the period of time from the “6-month period” described in section 701(a)(1) of the Act and § 2590.701-3(a)(1)(i) (for purposes of identifying a preexisting condition);

(ii) Shortens the period of time from the “12 months” and “18 months” described in section 701(a)(2) of the Act and § 2590.701-3(a)(1)(ii) (for purposes of applying a preexisting condition exclusion period);

(iii) Provides for a greater number of days than the “63 day period” described in sections 701(c)(2)(A) and (d)(4)(A) of the Act and §§ 2590.701-3(a)(1)(iii) and 2590.701-4 (for purposes of applying the break in coverage rules);

(iv) Provides for a greater number of days than the “30-day period” described in sections 701 (b)(2) and (d)(1) of the Act and § 2590.701-3(b) (for purposes of the enrollment periods and preexisting condition exclusion periods for certain newborns and children that are adopted or placed for adoption);

(v) Prohibits the imposition of any preexisting condition exclusion in cases not described in section 701(d) of the Act or expands the exceptions described therein;

(vi) Requires special enrollment periods in addition to those required under section 701(f) of the Act; or

(vii) Reduces the maximum period permitted in an affiliation period under section 701(g)(1)(B) of the Act.

(d) *Definitions—(1) State law.* For purposes of this section the term *State law* includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia is treated as a State law rather than a law of the United States.

(2) *State.* For purposes of this section the term *State* includes a State, the Northern Mariana Islands, any political subdivisions of a State or such Island, or any agency or instrumentality of either.

[62 FR 16941, Apr. 8, 1997; 62 FR 31670, 31693, June 10, 1997. Redesignated at 65 FR 82142, Dec. 27, 2000]