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# 42 U.S. Code § 300gg-21

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## Exclusion of certain plans

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### **(a) Limitation on application of provisions relating to group health plans**

#### **(1) In general**

The requirements of subparts 1 and 2 <sup>[1]</sup> and part D shall apply with respect to group health plans only—

- (A) subject to paragraph (2), in the case of a plan that is a nonfederal governmental plan, and
- (B) with respect to health insurance coverage offered in connection with a group health plan (including such a plan that is a church plan or a governmental plan).

#### **(2) Treatment of non-Federal governmental plans**

##### **(A) Election to be excluded**

Except as provided in subparagraph (D) or (E), if the plan sponsor of a nonfederal governmental plan which is a group health plan to which the provisions of subparts 1 and 2 <sup>1</sup> otherwise apply makes an election under this subparagraph (in such form and manner as the Secretary may by regulations prescribe), then the requirements of such subparts insofar as they apply directly to group health plans (and not merely to group health insurance coverage) shall not apply to such governmental plans for such period except as provided in this paragraph.

##### **(B) Period of election**

An election under subparagraph (A) shall apply—

- (i) for a single specified plan year, or
- (ii) in the case of a plan provided pursuant to a collective bargaining agreement, for the term of such agreement.

An election under clause (i) may be extended through subsequent elections under this paragraph.

##### **(C) Notice to enrollees**

Under such an election, the plan shall provide for—

- (i) notice to enrollees (on an annual basis and at the time of enrollment under the plan) of the fact and consequences of such election, and
- (ii) certification and disclosure of creditable coverage under the plan with respect to enrollees in accordance with section 2701(e).<sup>1</sup>

##### **(D) Election not applicable to requirements concerning genetic information**

The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (a)(1)(F), (b)(3), (c), and (d) of section 2702 <sup>1</sup> and the provisions of sections 2701 <sup>1</sup> and 2702(b) <sup>1</sup> to the extent that such provisions apply to genetic information.

##### **(E) Election not applicable**

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The election described in subparagraph (A) shall not be available with respect to the provisions of subparts I and II.

**(F) Sunset of election option**

**(i) In general**

Notwithstanding the preceding provisions of this paragraph—

(I) no election described in subparagraph (A) with respect to section 300gg–26 of this title may be made on or after December 29, 2022; and

(II) except as provided in clause (ii), no such election with respect to section 300gg–26 of this title expiring on or after the date that is 180 days after December 29, 2022, may be renewed.

**(ii) Exception for certain collectively bargained plans**

Notwithstanding clause (i)(II), a plan described in subparagraph (B)(ii) that is subject to multiple agreements described in such subparagraph of varying lengths and that has an election described in subparagraph (A) with respect to section 300gg–26 of this title in effect as of December 29, 2022, that expires on or after the date that is 180 days after December 29, 2022, may extend such election until the date on which the term of the last such agreement expires.

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