

Excerpt from the Health Insurance Portability and Accountability Act (HIPAA) concerning Self-Funded NonFederal Governmental Plans

SEC. 2721. EXCLUSION OF CERTAIN PLANS.

(a) EXCEPTION FOR CERTAIN SMALL GROUP HEALTH PLANS.—

The requirements of subparts 1 and 2 shall not apply to any group health plan (and health insurance coverage offered in connection with a group health plan) for any plan year if, on the first day of such plan year, such plan has less than 2 participants who are current employees.

(b) LIMITATION ON APPLICATION OF PROVISIONS RELATING TO GROUP HEALTH PLANS.—

(1) IN GENERAL.—The requirements of subparts 1 through 3 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 NONFEDERAL GOVERNMENTAL PLANS.—

(A) ELECTION TO BE EXCLUDED.—If the plan sponsor of a nonfederal governmental plan which is a group health plan to which the provisions of subparts 1 through 3 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 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).