

§ 1103. Contracts for medical and dental care: State and local preemption

(a) Occurrence of Preemption.—A law or regulation of a State or local government relating to health insurance, prepaid health plans, or other health care delivery or financing methods shall not apply to any contract entered into pursuant to this chapter by the Secretary of Defense or the administering Secretaries to the extent that the Secretary of Defense or the administering Secretaries determine that—

(1) the State or local law or regulation is inconsistent with a specific provision of the contract or a regulation promulgated by the Secretary of Defense or the administering Secretaries pursuant to this chapter; or

(2) the preemption of the State or local law or regulation is necessary to implement or administer the provisions of the contract or to achieve any other important Federal interest.

(b) Effect of Preemption.—In the case of the preemption under subsection (a) of a State or local law or regulation regarding financial solvency, the Secretary of Defense or the administering Secretaries shall require an independent audit of the prime contractor of each contract that is entered into pursuant to this chapter and covered by the preemption. The audit shall be performed by the Defense Contract Audit Agency.

(c) State Defined.—In this section, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and each possession of the United States.

NOTES

Source

(Added Pub. L. 100-180, div. A, title VII, Sec. 725(a)(1), Dec. 4, 1987, 101 Stat. 1116; amended Pub. L. 103-160, div. A, title VII, Sec. 715(a), Nov. 30, 1993, 107 Stat. 1690; Pub. L. 109-163, div. A, title X, Sec. 1057(a)(2), Jan. 6, 2006, 119 Stat. 3440.)

Amendments

2006—Subsec. (c). Pub. L. 109-163 struck out “Territory and” before “possession”.

1993—Pub. L. 103-160 amended section generally. Prior to amendment, section read as follows:

“(a) The provisions of any contract under this chapter which relate to the nature and extent of coverage of benefits (including payments with respect to benefits) shall preempt any law of a State or local government, or any regulation issued under such a law, which relates to health insurance or plans to the extent that such law or regulation is inconsistent with such contractual provisions.

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“(b) In this section, the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and each territory and possession of the United States.”

Effective Date Of 1993 Amendment

Pub. L. 103-160, *div. A, title VII, Sec. 715(b), Nov. 30, 1993, 107 Stat. 1691*, provided that: “Section 1103 of title 10, United States Code, as amended by subsection (a), shall apply with respect to any contract entered into under chapter 55 of such title before, on, or after the date of the enactment of this Act [Nov. 30, 1993].”

Effective Date

Pub. L. 100-180, *div. A, title VII, Sec. 725(b), Dec. 4, 1987, 101 Stat. 1117*, provided that: “Section 1103 of such title, as added by subsection (a), shall apply with respect to any contract entered into after October 1, 1987.”

Applicability Of Preemption Provisions To Certain Contracts

Pub. L. 102-396, title IX, Sec. 9032, Oct. 6, 1992, 106 Stat. 1908, as amended by Pub. L. 103-50, ch. III, Sec. 301, July 2, 1993, 107 Stat. 250, provided in part “That the preemption provisions of section 1103(a) of title 10, United States Code, shall not be limited to contractual provisions relating to coverage of benefits, but shall apply to all contracts entered into pursuant to this general provision, the California and Hawaii recompetition contract, and Solicitation Number MDA 906-92-R-0004 and shall preempt any and all State and local laws and regulations which relate to health insurance or health care plans”.

Applicability To Contracts Entered Into Pursuant To Solicitation Number MDA-903-87-R-0047

Pub. L. 100-463, title VIII, Sec. 8078(b), Oct. 1, 1988, 102 Stat. 2270-30, provided that preemption provisions of 10 U.S.C. 1103 shall apply to contracts entered into pursuant to Solicitation Number MDA-903-87-R-0047 and shall preempt State and local laws or regulations which relate to health insurance or prepaid health care plans. Similar provisions were contained in the following prior appropriation act:

Pub. L. 100-202, Sec. 101(b) [title VIII, Sec. 8104(b)], Dec. 22, 1987, 101 Stat. 1329-43, 1329-81.

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