

For the reasons stated in the preamble, the Department of Labor proposes to amend 29 CFR 2510 as set forth below:

PART 2510—DEFINITIONS OF TERMS USED IN SUBCHAPTERS C, D, E, F, AND G OF THIS CHAPTER

■ 1. The authority citation for part 2510 is revised to read as follows:

Authority: 29 U.S.C. 1002(2), 1002(21), 1002(37), 1002(38), 1002(40), 1031, and 1135; Secretary of Labor's Order No. 1–2011, 77 FR 1088 (Jan. 9, 2012); Sec. 2510.3–101 also issued under sec. 102 of Reorganization Plan No. 4 of 1978, 43 FR 47713 (Oct. 17, 1978), E.O. 12108, 44 FR 1065 (Jan. 3, 1979) and 29 U.S.C. 1135 note. Sec. 2510.3–38 is also issued under sec. 1, Pub. L. 105–72, 111 Stat. 1457 (1997).

■ 2. Section 2510.3–2 is amended by adding paragraph (h) to read as follows:

§ 2510.3–2 Employee pension benefit plans.

* * * * *

(h) Certain State Savings Programs.

(1) For the purpose of Title I of the Act and this chapter, the terms “employee pension benefit plan” and “pension plan” shall not include an individual retirement plan (as defined in 26 U.S.C. 7701(a)(37)) established and maintained pursuant to a State payroll deduction savings program, provided that:

(i) The program is established by a State pursuant to State law;

(ii) The program is administered by the State establishing the program, or by a governmental agency or instrumentality of the State, which is responsible for investing the employee savings or for selecting investment alternatives for employees to choose;

(iii) The State assumes responsibility for the security of payroll deductions and employee savings;

(iv) The State adopts measures to ensure that employees are notified of their rights under the program, and creates a mechanism for enforcement of those rights;

(v) Participation in the program is voluntary for employees;

(vi) The program does not require that an employee or beneficiary retain any portion of contributions or earnings in his or her IRA and does not otherwise impose any restrictions on withdrawals or impose any cost or penalty on transfers or rollovers permitted under the Internal Revenue Code;

(vii) All rights of the employee, former employee, or beneficiary under the program are enforceable only by the employee, former employee, or beneficiary, an authorized representative of such a person, or by the State (or the designated

governmental agency or instrumentality described in paragraph (h)(1)(ii) of this section);

(viii) The involvement of the employer is limited to the following:

(A) Collecting employee contributions through payroll deductions and remitting them to the program;

(B) Providing notice to the employees and maintaining records regarding the employer's collection and remittance of payments under the program;

(C) Providing information to the State (or the designated governmental agency or instrumentality described in paragraph (h)(1)(ii) of this section) necessary to facilitate the operation of the program; and

(D) Distributing program information to employees from the State (or the designated governmental agency or instrumentality described in paragraph (h)(1)(ii) of this section) and permitting the State or such entity to publicize the program to employees;

(ix) The employer contributes no funds to the program and provides no bonus or other monetary incentive to employees to participate in the program;

(x) The employer's participation in the program is required by State law;

(xi) The employer has no discretionary authority, control, or responsibility under the program; and

(xii) The employer receives no direct or indirect consideration in the form of cash or otherwise, other than the reimbursement of the actual costs of the program to the employer of the activities referred to in paragraph (h)(1)(viii) of this section.

(2) A State savings program will not fail to satisfy the provisions of paragraph (h)(1) of this section merely because the program—

(i) Is directed toward those employees who are not already eligible for some other workplace savings arrangement;

(ii) Utilizes one or more service or investment providers to operate and administer the program, provided that the State (or the designated governmental agency or instrumentality described in paragraph (h)(1)(ii) of this section) retains full responsibility for the operation and administration of the program; or

(iii) Treats employees as having automatically elected payroll deductions in an amount or percentage of compensation, including any automatic increases in such amount or percentage, specified under State law until the employee specifically elects not to have such deductions made (or specifically elects to have the deductions made in a different amount or percentage of compensation allowed by the program), provided that the

employee is given adequate notice of the right to make such elections; provided, further, that a program may also satisfy this paragraph (h) without requiring or otherwise providing for the automatic elections described in this paragraph (h)(2)(iii).

(3) For purposes of this section, the term State shall have the same meaning as defined in section 3(10) of ERISA.

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DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2560

RIN 1210–AB39

Claims Procedure for Plans Providing Disability Benefits

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to claims procedure regulations for plans providing disability benefits under the Employee Retirement Income Security Act of 1974 (ERISA). The amendments would revise and strengthen the current rules primarily by adopting certain of the new procedural protections and safeguards made applicable to group health plans by the Affordable Care Act. If adopted as final, the proposed regulation would affect plan administrators and participants and beneficiaries of plans providing disability benefits, and others who assist in the provision of these benefits, such as third-party benefits administrators and other service providers that provide benefits to participants and beneficiaries of these plans.

DATES: Written comments should be received by the Department of Labor on or before January 19, 2016.

ADDRESSES: You may submit written comments, identified by RIN 1210–AB39, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* e-ORI@dol.gov. Include RIN 1210–AB39 in the subject line of the message.
- *Mail:* Office of Regulations and Interpretations, Employee Benefits