§ 1320a–6a. Interagency coordination to improve program administration

(a) Coordination agreement

Notwithstanding any other provision of law, including section 407 of this title, the Commissioner of Social Security (referred to in this section as “the Commissioner”) and the Director of the Office of Personnel Management (referred to in this section as “the Director”) shall enter into an agreement under which a system is established to carry out the following procedure:

(1) The Director shall notify the Commissioner when any individual is determined to be entitled to a monthly disability annuity payment pursuant to subchapter V of chapter 94 of subpart G of part III of title 5 and shall certify that such individual has provided the authorization described in subsection (f).

(2) If the Commissioner determines that an individual described in paragraph (1) is also entitled to past-due benefits under section 423 of this title, the Commissioner shall notify the Director of such fact.

(3) Not later than 30 days after receiving a notification described in paragraph (2) with respect to an individual, the Director shall provide the Commissioner with the total amount of any disability annuity overpayments made to such individual, as well as any other information (in such form and manner as the Commissioner shall require) that the Commissioner determines is necessary to carry out this section.

(4) If the Director provides the Commissioner with the information described in paragraph (3) in a timely manner, the Commissioner may withhold past-due benefits under section 423 of this title to which such individual is entitled and may pay the amount described in paragraph (3) to the Office of Personnel Management for any disability annuity overpayments made to such individual.

(b) Limitations

(1) Priority of other reductions

Benefits shall only be withheld under this section after any other reduction applicable under this chapter, including sections 407(b)(1), 423(e), 423(f), and 1320a–6(a) of this title.

(2) Timely notification required

The Commissioner may not withhold benefits under this section if the Director does not provide the notice described in subsection (a)(3) within the time period described in such subsection.

(c) Delayed payment of past-due benefits

If the Commissioner is required to make a notification described in subsection (a)(2) with respect to an individual, the Commissioner shall not make any payment of past-due benefits under section 423 of this title to such individual until after the period described in subsection (a)(3).

(d) Review

Notwithstanding section 407 of this title or any other provision of law, any determination regarding the withholding of past-due benefits under this section shall only be subject to adjudication and review by the Director under section 841 of title 5.

(e) Disability annuity overpayment defined

For purposes of this section, the term “disability annuity overpayment” means the amount of the reduction under section 842(a)(2) of title 5 applicable to a monthly annuity payment made to an individual pursuant to subchapter V of chapter 84 of subpart G of part III of such title due to the individual’s concurrent entitlement to a disability insurance benefit under section 423 of this title during such month.

(f) Authorization to withhold benefits

The authorization described in this subsection, with respect to an individual, is written authorization provided by the individual to the Director which authorizes the Commissioner to withhold past-due benefits under section 423 of this title to which such individual is entitled in order to pay the amount withheld to the Office of Personnel Management for any disability overpayments made to such individual.

(g) Expenses

The Director shall pay to the Social Security Administration an amount equal to the amount estimated by the Commissioner as the total cost incurred by the Social Security Administration in carrying out this section for each calendar quarter.


EFFECTIVE DATE

Pub. L. 114–74, title VIII, §841(b), Nov. 2, 2015, 129 Stat. 617, provided that: “The amendment made by this section [enacting this section] shall apply to past-due disability insurance benefits payable on or after the date that is 1 year after the date of the enactment of this section [Nov. 2, 2015].”

§ 1320a–7. Exclusion of certain individuals and entities from participation in Medicare and State health care programs

(a) Mandatory exclusion

The Secretary shall exclude the following individuals and entities from participation in any Federal health care program (as defined in section 1320a–7b(f) of this title):

(1) Conviction of program-related crimes

Any individual or entity that has been convicted of a criminal offense related to the delivery of an item or service under subchapter XVIII or under any State health care program.

(2) Conviction relating to patient abuse

Any individual or entity that has been convicted, under Federal or State law, of a criminal offense relating to neglect or abuse of patients in connection with the delivery of a health care item or service.

(3) Felony conviction relating to health care fraud

Any individual or entity that has been convicted for an offense which occurred after Au-
August 21, 1996, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a health care program (other than those specifically described in paragraph (1)) operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense consisting of a felony relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.

(4) Felony conviction relating to controlled substance
Any individual or entity that has been convicted for an offense which occurred after August 21, 1996, under Federal or State law, of a criminal offense consisting of a felony relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

(b) Permissive exclusion
The Secretary may exclude the following individuals and entities from participation in any Federal health care program (as defined in section 1320a–7b(f) of this title):

(1) Conviction relating to fraud
Any individual or entity that has been convicted for an offense which occurred after August 21, 1996, under Federal or State law—

(A) of a criminal offense consisting of a misdemeanor relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

(i) in connection with the delivery of a health care item or service, or

(ii) with respect to any act or omission in a health care program (other than those specifically described in subsection (a)(1)) operated by or financed in whole or in part by any Federal, State, or local government agency; or

(B) of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct with respect to any act or omission in a program (other than a health care program) operated by or financed in whole or in part by any Federal, State, or local government agency.

(2) Conviction relating to obstruction of an investigation or audit
Any individual or entity that has been convicted, under Federal or State law, in connection with the interference with or obstruction of any investigation or audit related to—

(i) any offense described in paragraph (1) or in subsection (a); or

(ii) the use of funds received, directly or indirectly, from any Federal health care program (as defined in section 1320a–7b(f) of this title).

(3) Misdemeanor conviction relating to controlled substance
Any individual or entity that has been convicted, under Federal or State law, of a criminal offense consisting of a misdemeanor relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

(4) License revocation or suspension
Any individual or entity—

(A) whose license to provide health care has been revoked or suspended by any State licensing authority, or who otherwise lost such a license or the right to apply for or renew such a license, for reasons bearing on the individual’s or entity’s professional competence, professional performance, or financial integrity, or

(B) who surrendered such a license while a formal disciplinary proceeding was pending before such an authority and the proceeding concerned the individual’s or entity’s professional competence, professional performance, or financial integrity.

(5) Exclusion or suspension under Federal or State health care program
Any individual or entity which has been suspended or excluded from participation, or otherwise sanctioned, under—

(A) any Federal program, including programs of the Department of Defense or the Department of Veterans Affairs, involving the provision of health care, or

(B) a State health care program, for reasons bearing on the individual’s or entity’s professional competence, professional performance, or financial integrity.

(6) Claims for excessive charges or unnecessary services and failure of certain organizations to furnish medically necessary services
Any individual or entity that the Secretary determines—

(A) has submitted or caused to be submitted bills or requests for payment (where such bills or requests are based on charges or cost) under subchapter XVIII or a State health care program containing charges (or, in applicable cases, requests for payment of costs) for items or services furnished substantially in excess of such individual’s or entity’s usual charges (or, in applicable cases, substantially in excess of such individual’s or entity’s costs) for such items or services, unless the Secretary finds there is good cause for such bills or requests containing such charges or costs;

(B) has furnished or caused to be furnished items or services to patients (whether or not eligible for benefits under subchapter XVIII or under a State health care program) substantially in excess of the needs of such patients or of a quality which fails to meet professionally recognized standards of health care;

(C) is—

(i) a health maintenance organization (as defined in section 1396b(m) of this title) providing items and services under a State plan approved under subchapter XIX, or

(ii) an entity furnishing services under a waiver approved under section 1396n(b)(1) of this title,

and has failed substantially to provide medically necessary items and services that are
required (under law or the contract with the State under subchapter XIX) to be provided to individuals covered under that plan or waiver, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) these individuals; or

(D) is an entity providing items and services as an eligible organization under a risk-sharing contract under section 1395mm of this title and has failed substantially to provide medically necessary items and services that are required (under law or such contract) to be provided to individuals covered under the risk-sharing contract, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) these individuals.

(7) Fraud, kickbacks, and other prohibited activities

Any individual or entity that the Secretary determines has committed an act which is described in section 1320a–7a, 1320a–7b, or 1320a–8 of this title.

(8) Entities controlled by a sanctioned individual

Any entity with respect to which the Secretary determines that a person—

(A)(i) who has a direct or indirect ownership or control interest of 5 percent or more in the entity or with an ownership or control interest (as defined in section 1320a–3(a)(3) of this title) in that entity,

(ii) who is an officer, director, agent, or employee (as defined in section 1320a–5(b) of this title) of that entity; or

(iii) who was described in clause (i) but is no longer so described because of a transfer of ownership or control interest, in anticipation of (or following) a conviction, assessment, or exclusion described in subparagraph (B) against the person, to a immediate family member (as defined in subsection (j)(2)) who continues to maintain an interest described in such clause—

is a person—

(B)(i) who has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection;

(ii) against whom a civil monetary penalty has been assessed under section 1320a–7a or 1320a–8 of this title; or

(iii) who has been excluded from participation under a program under subchapter XVIII or under a State health care program.

(9) Failure to disclose required information

Any entity that did not fully and accurately make any disclosure required by section 1320a–3 of this title, section 1320a–3a of this title, or section 1320a–5 of this title.

(10) Failure to supply requested information on subcontractors and suppliers

Any disclosing entity (as defined in section 1320a–3a(2) of this title) that fails to supply (within such period as may be specified by the Secretary in regulations) upon request specifically addressed to the entity by the Secretary or by the State agency administering or supervising the administration of a State health care program—

(A) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom the entity has had, during the previous 12 months, business transactions in an aggregate amount in excess of $25,000, or

(B) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between the entity and any wholly owned supplier or between the entity and any subcontractor.

(11) Failure to supply payment information

Any individual or entity furnishing, ordering, referring for furnishing, or certifying the need for items or services for which payment may be made under subchapter XVIII of a State health care program that fails to provide such information as the Secretary or the appropriate State agency finds necessary to determine whether such payments are or were due and the amounts thereof, or has refused to permit such examination of its records by or on behalf of the Secretary or that agency as may be necessary to verify such information.

(12) Failure to grant immediate access

Any individual or entity that fails to grant immediate access, upon reasonable request (as defined by the Secretary in regulations) to any of the following:

(A) To the Secretary, or to the agency used by the Secretary, for the purpose specified in the first sentence of section 1395aa(a) of this title (relating to compliance with conditions of participation or payment).

(B) To the Secretary or the State agency, to perform the reviews and surveys required under State plans under paragraphs (26), (31), and (33) of section 1396a(a) of this title and under section 1396b(g) of this title.

(C) To the Inspector General of the Department of Health and Human Services, for the purpose of reviewing records, documents, and other data necessary to the performance of the statutory functions of the Inspector General.

(D) To a State medicaid fraud control unit (as defined in section 1396b(q) of this title), for the purpose of conducting activities described in that section.

(13) Failure to take corrective action

Any hospital that fails to comply substantially with a corrective action required under section 1395ww(f)(2)(B) of this title.

(14) Default on health education loan or scholarship obligations

Any individual who the Secretary determines is in default on repayments of scholarship obligations or loans in connection with health professions education made or secured, in whole or in part, by the Secretary and with respect to whom the Secretary has taken all reasonable steps available to the Secretary to secure repayment of such obligations or loans,
except that (A) the Secretary shall not ex-
clude pursuant to this paragraph a physician
who is the sole community physician or sole
source of essential specialized services in a
community if a State requests that the physi-
cian not be excluded, and (B) the Secretary
shall take into account, in determining wheth-
er to exclude any other physician pursuant to
this paragraph, access of beneficiaries to phy-
sician services for which payment may be
made under subchapter XVIII or XIX.

(15) Individuals controlling a sanctioned entity

(A) Any individual—

(1) who has a direct or indirect ownership
or control interest in a sanctioned entity
and who knows or should know (as defined in
section 1320a–7a(i)(6) of this title) the ac-
tion constituting the basis for the convic-
tion or exclusion described in subparagraph
(B) or

(ii) who is an officer or managing em-
ployee (as defined in section 1320a–5(b) of
this title) of such an entity.

(B) For purposes of subparagraph (A), the
term "sanctioned entity" means an entity—

(i) that has been convicted of any offense
described in subsection (a) or in paragraph
(1), (2), or (3) of this subsection; or

(ii) that has been excluded from participa-
tion under a program under subchapter
XVIII or under a State health care program.

(16) Making false statements or misrepresen-
tation of material facts

Any individual or entity that knowingly
makes or causes to be made any false state-
ment, omission, or misrepresentation of a ma-
terial fact in any application, agreement, bid,
or contract to participate or enroll as a pro-
vider of services or supplier under a Federal
health care program (as defined in section
1320a–7b(f) of this title), including Medicare
Advantage organizations under part C of sub-
chapter XVIII, prescription drug plan sponsors
under part D of subchapter XVIII, medicaid
managed care organizations under subchapter
XIX, and entities that apply to participate as
providers of services or suppliers in such man-
aged care organizations and such plans.

(c) Notice, effective date, and period of exclusion

(1) An exclusion under this section or under
section 1320a–7a of this title shall be effective at
such time and upon such reasonable notice to
the public and to the individual or entity ex-
cluded as may be specified in regulations con-
sistent with paragraph (2).

(2)(A) Except as provided in subparagraph (B),
such an exclusion shall be effective with respect
to services furnished to an individual on or after
the effective date of the exclusion.

(B) Unless the Secretary determines that the
health and safety of individuals receiving serv-
ices warrants the exclusion taking effect earlier,
an exclusion shall not apply to payments made
under subchapter XVIII or under a State health
care program for—

(i) inpatient institutional services furnished to
an individual who was admitted to such in-
stitution before the date of the exclusion, or

(ii) home health services and hospice care
furnished to an individual under a plan of care
established before the date of the exclusion,
until the passage of 30 days after the effective
date of the exclusion.

(3)(A) The Secretary shall specify, in the no-
tice of exclusion under paragraph (1) and the
written notice under section 1320a–7a of this
title, the minimum period (or, in the case of an
exclusion of an individual under subsection
(b)(12) or in the case described in subparagraph
(G), the period) of the exclusion.

(B) Subject to subparagraph (3), in the case of an
exclusion under subsection (a), the minimum
period of exclusion shall be not less than five
years, except that, upon the request of the ad-
ministrator of a Federal health care program (as
defined in section 1320a–7b(f) of this title) who
determines that the exclusion would impose a
hardship on beneficiaries (as defined in section
1320a–7a(i)(5) of this title) of that program, the
Secretary may, after consulting with the Inspec-
tor General of the Department of Health and
Human Services, waive the exclusion under sub-
section (b)(12), the period of the exclusion
shall be equal to the sum of—

(i) the length of the period in which the indi-
vidual failed to grant the immediate access
described in that subsection; and

(ii) an additional period, not to exceed 90
days, set by the Secretary.

(D) Subject to subparagraph (G), in the case of an
exclusion of an individual or entity under para-
graph (1), (2), or (3) of subsection (b), the pe-
riod of the exclusion shall be 3 years, unless the
Secretary determines in accordance with pub-
lished regulations that a shorter period is appro-
riate because of mitigating circumstances or
that a longer period is appropriate because of
aggravating circumstances.

(E) In the case of an exclusion of an individual
or entity under subsection (b)(4) or (b)(5), the pe-
riod of the exclusion shall be not less than the
period during which the individual’s or entity’s
license to provide health care is revoked, sus-
pected, or surrendered, or the individual or the
entity is excluded or suspended from a Federal
or State health care program.

(F) In the case of an exclusion of an individual
or entity under subsection (b)(6)(B), the period
of the exclusion shall be not less than 1 year.

(G) In the case of an exclusion of an individual
under subsection (a) based on a conviction oc-
curring on or after August 5, 1997, if the individ-
ual has (before, on, or after August 5, 1997) been
convicted—

(i) on one previous occasion of one or more
offenses for which an exclusion may be ef-
fected under such subsection, the period of the
exclusion shall be not less than 10 years, or

(ii) on 2 or more previous occasions of one or
more offenses for which an exclusion may be
effected under such subsection, the period of the
exclusion shall be permanent.

1 So in original. Probably should be section "1320a–7a(i)(7)".
(d) Notice to State agencies and exclusion under State health care programs

(1) Subject to paragraph (3), the Secretary shall exercise the authority under this section and section 1320a–7a of this title in a manner that results in an individual's or entity's exclusion from all the programs under subchapter XVIII and all the State health care programs in which the individual or entity may otherwise participate.

(2) The Secretary shall promptly notify each appropriate State agency administering or supervising the administration of each State health care program (and, in the case of an exclusion effected pursuant to subsection (a) and to which section 824(a)(5) of title 21 may apply, the Attorney General)—

(A) of the fact and circumstances of each exclusion effected against an individual or entity under this section or section 1320a–7a of this title, and

(B) of the period (described in paragraph (3)) for which the State agency is directed to exclude the individual or entity from participation in the State health care program.

(3)(A) Except as provided in subparagraph (B), the period of the exclusion under a State health care program under paragraph (2) shall be the same as any period of exclusion under subchapter XVIII.

(B)(i) The Secretary may waive an individual's or entity's exclusion under a State health care program under paragraph (2) if the Secretary receives and approves a request for the waiver with respect to the individual or entity from the State agency administering or supervising the administration of the program.

(ii) A State health care program may provide for a period of exclusion which is longer than the period of exclusion under subchapter XVIII.

(e) Notice to State licensing agencies

The Secretary shall—

(1) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of an individual or entity excluded (or directed to be excluded) from participation under this section or section 1320a–7a of this title, of the fact and circumstances of the exclusion,

(2) request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and

(3) request that the State or local agency or authority keep the Secretary and the Inspector General of the Department of Health and Human Services fully and currently informed with respect to any actions taken in response to the request.

(f) Notice, hearing, and judicial review

(1) Subject to paragraph (2), any individual or entity that is excluded (or directed to be excluded) from participation under this section is entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 405(g) of this title, and to judicial review of the Secretary's final decision after such hearing as is provided in section 405(f) of this title, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

(2) Unless the Secretary determines that the health or safety of individuals receiving services warrants the exclusion taking effect earlier, any individual or entity that is the subject of an adverse determination under subsection (b)(7) shall be entitled to a hearing by an administrative law judge (as provided under section 405(b) of this title) on the determination under subsection (b)(7) before any exclusion based upon the determination takes effect.

(3) The provisions of section 405(h) of this title shall apply with respect to this section and sections 1320a–7a, 1320a–8, and 1320c–5 of this title to the same extent as it is applicable with respect to subchapter II, except that, in so applying such section and section 405(l) of this title, any reference therein to the Commissioner of Social Security shall be considered a reference to the Secretary.

(4) The provisions of subsections (d) and (e) of section 405 of this title shall apply with respect to this section to the same extent as they are applicable with respect to subchapter II.

(g) Application for termination of exclusion

(1) An individual or entity excluded (or directed to be excluded) from participation under this section or section 1320a–7a of this title may apply to the Secretary, in the manner specified by the Secretary in regulations and at the end of the minimum period of exclusion provided under subsection (c)(3) and at such other times as the Secretary may provide, for termination of the exclusion made under this section or section 1320a–7a of this title.

(2) The Secretary may terminate the exclusion if the Secretary determines, on the basis of the conduct of the applicant which occurred after the date of the notice of exclusion or which was unknown to the Secretary at the time of the exclusion, that—

(A) there is no basis under subsection (a) or (b) or section 1320a–7a(a) of this title for a continuation of the exclusion, and

(B) there are reasonable assurances that the types of actions which formed the basis for the original exclusion have not recurred and will not recur.

(3) The Secretary shall promptly notify each appropriate State agency administering or supervising the administration of each State health care program (and, in the case of an exclusion effected pursuant to subsection (a) and to which section 824(a)(5) of title 21 may apply, the Attorney General) of the fact and circumstances of each termination of exclusion made under this subsection.

(h) “State health care program” defined

For purposes of this section and sections 1320a–7a and 1320a–7b of this title, the term “State health care program” means—
(1) a State plan approved under subchapter XIX.
(2) any program receiving funds under subchapter V or from an allotment to a State under such subchapter.
(3) any program receiving funds under division A of subchapter XX or from an allotment to a State under such division, or
(4) a State child health plan approved under subchapter XXI.

(i) “Convicted” defined

For purposes of subsections (a) and (b), an individual or entity is considered to have been “convicted” of a criminal offense—
(1) when a judgment of conviction has been entered against the individual or entity by a Federal, State, or local court, regardless of whether there is an appeal pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged;
(2) when there has been a finding of guilt against the individual or entity by a Federal, State, or local court;
(3) when a plea of guilty or nolo contendere by the individual or entity has been accepted by a Federal, State, or local court;
(4) when the individual or entity has entered into participation in a first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld.

(j) Definition of immediate family member and member of household

For purposes of subsection (b)(8)(A)(iii):
(1) The term “immediate family member” means, with respect to a person—
   (A) the husband or wife of the person;
   (B) the natural or adoptive parent, child, or sibling of the person;
   (C) the stepparent, stepchild, stepbrother, or stepsister of the person;
   (D) the father-, mother-, daughter-, son-, or brother-, or sister-in-law of the person;
   (E) the grandparent or grandchild of the person; and
   (F) the spouse of a grandparent or grandchild of the person.

(2) The term “member of the household” means, with respect to any person, any individual sharing a common abode as part of a single family unit with the person, including domestic employees and others who live together as a family unit, but not including a roofer or boarder.


See References in Text note below.

References in Text
Division A of subchapter XX, referred to in subsec. (h)(3), was in the original a reference to title I of title XX, which was translated as if referring to subtitle A of title XXI of the Social Security Act, to reflect the probable intent of Congress. Title XX of the Act, enacting subchapter XXI of this chapter, does not contain a subtitle 1.

Amendments
2010—Subsec. (b)(2). Pub. L. 111–148, § 6400(c), inserted “or audit” after “investigation” in the heading, substituted “investigation or audit related to—” for “investigation into any criminal offense described in paragraph (1) or in subsection (a) of this section—”, and added cls. (i) and (ii).
Subsec. (b)(11). Pub. L. 111–148, §§ 6406(c), inserted “, ordering, referring for furnishing, or certifying the need for” after “furnishing”.
Subsec. (c)(3)(B). Pub. L. 111–148, § 6402(k), substituted “beneficiaries (as defined in section 1320a–7a(i)(6) of this title) of that program” for “individuals entitled to benefits under part A of subchapter XVIII or enrolled under part B of such subchapter, or both”.
Subsec. (h)(3). Pub. L. 111–148, § 6703(d)(3)(A), inserted “division A” of before “subchapter XX” and substituted “such division” for “such subchapter”.
2003—Subsec. (c)(3)(B). Pub. L. 108–173 amended first sentence generally. Prior to amendment, first sentence read as follows: “Subject to subparagraph (G), in the case of an exclusion under subsection (a) of this section, the minimum period of exclusion shall be not less than five years, except that, upon the request of a State, the Secretary may waive the exclusion under subsection (a) of this section (b) or (c) in the case described in subparagraph (G)”. 1997—Subsec. (a). Pub. L. 105–33, § 4331(c)(1), substituted “any Federal health care program (as defined in section 1320a–7a(f) of this title)” for “any program under subchapter XVIII and shall direct that the following individuals and entities be excluded from participation in any State health care program (as defined in subsection (h) of this section) in introductory provisions.”
Subsec. (b). Pub. L. 105–33, § 4331(c)(2), substituted “any Federal health care program (as defined in section 1320a–7b(f) of this title)” for “any program under subchapter XVIII and may direct that the following individuals and entities be excluded from participation in any State health care program” in introductory provisions.
Subsec. (c)(3)(A). Pub. L. 105–33, § 4301(1), inserted “or in the case described in subparagraph (G)” after “subparagraph (b)(12)”.
Subsec. (c)(3)(B). (D), Pub. L. 105–33, § 4301(2), substituted “Subject to subparagraph (G), in the case” for “In the case”. See References in Text note below.


Subsec. (b)(1). Pub. L. 104–191, §211(a)(2), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Any individual or entity that has been convicted, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a program operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.”


Subsec. (c)(3)(D) to (F). Pub. L. 104–191, §212, added subpars. (D) to (F).

1994—Subsec. (b)(7). Pub. L. 103–296, §206(b)(2)(A), substituted “section 1320a–7a of the title” for “first offender or other program”.

Subsec. (b)(16). Pub. L. 103–296, §206(b)(2)(B), inserted “or” after “section 1320a–7a”.

Subsec. (f)(1). Pub. L. 103–296, §108(b)(9)(A), inserted before period at end “, except that, in so applying such section to a contract or section 1050 of this title, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.”


Pub. L. 103–296, §108(b)(9)(A), inserted “before period at end”, except that, in so applying such section to a contract or section 1050 of this title, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

1990—Subsec. (b)(8)(A)(i). Pub. L. 102–54 substituted “subsection (a) or (b)” for “subsection (a)”.


1988—Subsec. (b)(15). Pub. L. 100–360, §411(k)(10)(D), added Pub. L. 100–360, §411(k)(10)(D), which directed amendment of pars. (1) to (4) by substituting “individual or entity” for “physician or other individual” each place it appears, was executed by substituting “individual or entity” for “physician or individual” in pars. (1) to (4), as the probable intent of Congress.

Subsec. (i). Pub. L. 102–203, §4118(e)(5)(C), as added by Pub. L. 101–360, §4118(e)(5)(D), substituted “first offender, deferred adjudication, or other arrangement or program” for “first offender or other program”.


1984—Subsecs. (b) to (e). Pub. L. 99–369 added subsec. (b), redesignated former subsecs. (b) to (d) as (c) to (e), respectively, and in subsec. (e) substituted “Any person or entity” for “Any person” and “(a), (b), or (c)” for “(a) or (b)”.

1981—Subsec. (a)(1). Pub. L. 97–35, §2101(b)(1), struck out “, for such period as he may deem appropriate,” after “subchapter XVIII of this chapter”.

Subsec. (a)(2). Pub. L. 97–35, §2103(b)(1), struck out “, for such period as he may deem appropriate,” after “subchapter XVIII of this chapter”.

Subsec. (a)(3). Pub. L. 97–35, §2106(b)(1), struck out “, for such period as he may deem appropriate,” after “subchapter XVIII of this chapter”.

Effective Date of 2010 Amendment

Pub. L. 111–148, title VI, §4606(d), Mar. 23, 2010, 124 Stat. 792, provided that: “The amendments made by this section [amending this section and sections 1395u and 1395cc of this title] shall apply to orders, certifications, and referrals made on or after January 1, 2010.”

Pub. L. 111–148, title VI, §4608(d), Mar. 23, 2010, 124 Stat. 772, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 1395u and 1395cc of this title] shall apply to acts committed on or after January 1, 2010.

“(2) EXCEPTION.—The amendments made by subsection (b)(1) [amending section 1395w–27 of this title] take effect on the date of enactment of this Act [Mar. 23, 2010].”

Effective Date of 1997 Amendment


Amendments by section 4331(c) of Pub. L. 105–33 effective Aug. 5, 1997, see section 4331(c)(2) of Pub. L. 105–33, set out as a note under section 1320a–7e of this title.

Effective Date of 1996 Amendment


Effective Date of 1994 Amendment

Amendment by section 108(b)(9) of Pub. L. 103–296 effective Mar. 31, 1994, see section 110(a) of Pub. L. 103–296, set out as a note under section 401 of this title.


Effective Date of 1990 Amendment

Amendment by Pub. L. 101–508 applicable with respect to items or services furnished on or after Jan. 1,
1983, in the case of items or services furnished by a provider who, on or before Nov. 5, 1980, has furnished items or services for which payment may be made under part B of chapter XVIII of this title, or Jan. 1, 1982, in the case of items or services furnished by any other provider, see section 4164(b)(4) of Pub. L. 101–508, set out as an Effective Date note under section 1320a–3a of this title.

**Effective Date of 1989 Amendment**

Pub. L. 101–239, title VI, §611(d)(4)(A), Dec. 19, 1989, 103 Stat. 2271, provided that: “The amendments made by paragraphs (1) and (2) amending this section and sections 1395y and 1396b of this title shall take effect on the date of the enactment of this Act [Dec. 19, 1989].”

**Effective Date of 1988 Amendment**

Except as specifically provided in section 411 of Pub. L. 100–360, amendment by Pub. L. 100–360, as it relates to a provision in the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203, effective as if included in the enactment of that provision in Pub. L. 100–203, see section 411(a) of Pub. 100–360 set out as a Reference to OBRA; Effective Date note under section 106 of Title 1, General Provisions.

**Effective Date of 1987 Amendment**


(a) IN GENERAL.—Except as provided in subsections (b), (c), (d), and (e), the amendments made by this Act (enacting sections 1395aa and 1396–2 of this title, amending this section, sections 704, 1320a–3, 1320a–5, 1320a–7a, 1320a–7b, 1305e–5, 1305e–9, 1305v, 1305ccc, 1305ccf, 1305f, 1305fnn, 1305fr, 1305ss, 1305ww, 1306a, 1306b, 1306h, 1306n, 1306n, 1306s, and 1307d of this title, and section 824 of Title 21, Food and Drugs, transferring section 1396d of this title to section 1320a–7b of this title, repealing section 1305sm of this title, enacting provisions set out as a note under section 1320a–7b of this title, and amending provisions set out as a note under section 1396a of this title) shall become effective at the end of the four-year period beginning on the date of the enactment of this Act [Aug. 18, 1987] and shall not apply to administrative proceedings commenced before the end of such period.

(b) MANDATORY MINIMUM EXCLUSIONS APPLY PROSPECTIVELY.—Section 1128(c) (as amended by this Act), which requires an exclusion of not less than five years in the case of certain exclusions, shall not apply to exclusions based on convictions occurring before the date of the enactment of this Act [Aug. 18, 1987].

**Effective Date of 1986 Amendment**


(a) of paragraphs (1), (2), and (3) of section 1128(f) of the Social Security Act (42 U.S.C. 1320a–7a(f)) (as amended by this Act) shall apply to payments under title XIX [42 U.S.C. 1396 et seq.] if payment to the person has been denied under section 1382a(d) of the Social Security Act [42 U.S.C. 1395y(d)], as in effect before the effective date specified in subsection (a).”

**Effective Date of 1984 Amendment**

Pub. L. 98–369, div. B, title III, §2333(c), July 18, 1984, 98 Stat. 1089, provided that: “The amendments made by this section [amending this section] become effective on the date of the enactment of this Act [July 18, 1984] and shall apply to convictions of persons occurring after such date.”

**Effective Date of 1981 Amendment**


§ 1320a–7a. Civil monetary penalties

(a) Improperly filed claims

Any person (including an organization, agency, or other entity, but excluding a beneficiary, as defined in subsection (i)(5)) that—

(1) knowingly or willfully presents or causes to be presented to an officer, employee, or agent of the United States, or of any department or agency thereof, or of any State agency (as defined in subsection (i)(1)), a claim (as defined in subsection (i)(2)) that the Secretary determines—

(A) is for a medical or other item or service that the person knows or should know was not provided as claimed, including any person who engages in a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment to the person than the code the person knows or should know is applicable to the item or service actually provided,