

each day of noncompliance” for “for each day of non-compliance”.

1987—Subsecs. (c), (d). Pub. L. 100-203, § 4022(a), added subsecs. (c) and (d).

Subsecs. (e), (f). Pub. L. 100-203, § 4023(a), as amended by Pub. L. 100-360, § 411(d)(3)(A), added subsecs. (e) and (f).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to cost reporting periods beginning on or after Oct. 1, 1997, see section 4604(c) of Pub. L. 105-33, set out as a note under section 1395x of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 4206(d)(2) of Pub. L. 101-508 applicable with respect to services furnished on or after the first day of the first month beginning more than 1 year after Nov. 5, 1990, see section 4206(e)(1) of Pub. L. 101-508, set out as a note under section 1395i-3 of this title.

Pub. L. 101-508, title IV, § 4207(i)(1), formerly § 4027(i)(1), Nov. 5, 1990, 104 Stat. 1388-123, as renumbered by Pub. L. 103-432, title I, § 160(d)(4), Oct. 31, 1994, 108 Stat. 4444, provided that the amendment made by that section is effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203.

Pub. L. 101-508, title IV, § 4207(i)(2), formerly § 4027(i)(2), Nov. 5, 1990, 104 Stat. 1388-124, as renumbered and amended by Pub. L. 103-432, title I, § 160(d)(4), (11), Oct. 31, 1994, 108 Stat. 4444, provided that: “The amendments made by paragraph (1) [amending this section] shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987 [Pub. L. 100-203], except that the Secretary may not permit approval of a training and competency evaluation program or a competency evaluation program offered by or in a home health agency which, pursuant to any Federal or State law within the 2-year period beginning on October 1, 1988—

“(i) had its participation terminated under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.];

“(ii) was assessed a civil money penalty not less than \$5,000 for deficiencies in applicable quality standards for home health agencies;

“(iii) was subject to suspension by the Secretary of all or part of the payments to which it would otherwise be entitled under such title;

“(iv) operated under a temporary management appointed to oversee the operation of the agency and to ensure the health and safety of the agency’s patients; or

“(v) pursuant to State action, was closed or had its patients transferred.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-485 effective as if included in the enactment of the Medicare Catastrophic Coverage Act of 1988, Pub. L. 100-360, see section 608(g)(1) of Pub. L. 100-485, set out as a note under section 704 of this title.

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. L. 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

Pub. L. 100-203, title IV, § 4022(b), Dec. 22, 1987, 101 Stat. 1330-71, provided that: “Except as otherwise specifically provided in section 1891(d) of the Social Security Act [42 U.S.C. 1395bbb(d)] (as added by subsection

(a)), the amendment made by subsection (a) [amending this section] shall become effective on the first day of the 18th calendar month to begin after the date of the enactment of this Act [Dec. 22, 1987].”

Pub. L. 100-203, title IV, § 4023(b), Dec. 22, 1987, 101 Stat. 1330-73, as amended by Pub. L. 100-360, title IV, § 411(d)(3)(C), July 1, 1988, 102 Stat. 774, provided that: “Except as otherwise specifically provided in subsections (e) and (f) of section 1891 of the Social Security Act [42 U.S.C. 1395bbb(e), (f)] (as added by subsection (a)), the amendment made by subsection (a) [amending this section] shall become effective on the first day of the 18th calendar month to begin after the date of the enactment of this Act [Dec. 22, 1987], and no intermediate sanction described in section 1891(f)(2)(A) of such Act [42 U.S.C. 1395bbb(f)(2)(A)] shall be imposed for violations occurring before such effective date.”

EFFECTIVE DATE

Section applicable to home health agencies as of the first day of the 18th calendar month that begins after Dec. 22, 1987, except as otherwise provided, see section 4021(c) of Pub. L. 100-203, set out as an Effective Date of 1987 Amendment note under section 1395x of this title.

TREATMENT OF BRANCH OFFICES; GAO STUDY ON SUPERVISION OF HOME HEALTH CARE PROVIDED IN ISOLATED RURAL AREAS

Pub. L. 106-554, § 1(a)(6) [title V, § 506], Dec. 21, 2000, 114 Stat. 2763, 2763A-531, provided that:

“(a) TREATMENT OF BRANCH OFFICES.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, in determining for purposes of title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] whether an office of a home health agency constitutes a branch office or a separate home health agency, neither the time nor distance between a parent office of the home health agency and a branch office shall be the sole determinant of a home health agency’s branch office status.

“(2) CONSIDERATION OF FORMS OF TECHNOLOGY IN DEFINITION OF SUPERVISION.—The Secretary of Health and Human Services may include forms of technology in determining what constitutes ‘supervision’ for purposes of determining a home health [sic] agency’s branch office status under paragraph (1).

“(b) GAO STUDY.—

“(1) STUDY.—The Comptroller General of the United States shall conduct a study of the provision of adequate supervision to maintain quality of home health services delivered under the medicare program under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] in isolated rural areas. The study shall evaluate the methods that home health agency branches and subunits use to maintain adequate supervision in the delivery of services to clients residing in those areas, how these methods of supervision compare to requirements that subunits independently meet medicare conditions of participation, and the resources utilized by subunits to meet such conditions.

“(2) REPORT.—Not later than January 1, 2002, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1). The report shall include recommendations on whether exceptions are needed for subunits and branches of home health agencies under the medicare program to maintain access to the home health benefit or whether alternative policies should be developed to assure adequate supervision and access and recommendations on whether a national standard for supervision is appropriate.”

§ 1395ccc. Offset of payments to individuals to collect past-due obligations arising from breach of scholarship and loan contract

(a) In general

(1)(A) Subject to subparagraph (B), the Secretary shall enter into an agreement under this

section with any individual who, by reason of a breach of a contract entered into by such individual pursuant to the National Health Service Corps Scholarship Program, the Physician Shortage Area Scholarship Program, or the Health Education Assistance Loan Program, owes a past-due obligation to the United States (as defined in subsection (b)).

(B) The Secretary shall not enter into an agreement with an individual under this section to the extent—

(i)(I) the individual has entered into a contract with the Secretary pursuant to section 204(a)(1) of the Public Health Service Amendments of 1987, and

(II) the individual has fulfilled or (as determined by the Secretary) is fulfilling the terms of such contract; or

(ii) the liability of the individual under such section 204(a)(1) has otherwise been relieved under such section; or

(iii) the individual is performing such physician's¹ service obligation under a forbearance agreement entered into with the Secretary under subpart II of part D of title III of the Public Health Service Act [42 U.S.C. 254d et seq.].

(2) The agreement under this section shall provide that—

(A) deductions shall be made from the amounts otherwise payable to the individual under this subchapter, in accordance with a formula and schedule agreed to by the Secretary and the individual, until such past-due obligation (and accrued interest) have been repaid;

(B) payment under this subchapter for services provided by such individual shall be made only on an assignment-related basis;

(C) if the individual does not provide services, for which payment would otherwise be made under this subchapter, of a sufficient quantity to maintain the offset collection according to the agreed upon formula and schedule—

(i) the Secretary shall immediately inform the Attorney General, and the Attorney General shall immediately commence an action to recover the full amount of the past-due obligation, and

(ii) subject to paragraph (4), the Secretary shall immediately exclude the individual from the program under this subchapter, until such time as the entire past-due obligation has been repaid.

(3) If the individual refuses to enter into an agreement or breaches any provision of the agreement—

(A) the Secretary shall immediately inform the Attorney General, and the Attorney General shall immediately commence an action to recover the full amount of the past-due obligation, and

(B) subject to paragraph (4), the Secretary shall immediately exclude the individual from the program under this subchapter, until such time as the entire past-due obligation has been repaid.

(4) The Secretary shall not exclude an individual pursuant to paragraph (2)(C)(ii) or paragraph (3)(B) if such individual is a sole community practitioner or sole source of essential specialized services in a community if a State requests that the individual not be excluded.

(b) Past-due obligation

For purposes of this section, a past-due obligation is any amount—

(1) owed by an individual to the United States by reason of a breach of a scholarship contract under section 338E of the Public Health Service Act [42 U.S.C. 254o] or under subpart III of part F of title VII of such Act (as in effect before October 1, 1976) and which has not been paid by the deadline established by the Secretary pursuant to such respective section, and has not been canceled, waived, or suspended by the Secretary pursuant to such section; or

(2) owed by an individual to the United States by reason of a loan covered by Federal loan insurance under subpart I² of part C of title VII of the Public Health Service Act and payment for which has not been cancelled, waived, or suspended by the Secretary under such subpart.

(c) Collection under this section shall not be exclusive

This section shall not preclude the United States from applying other provisions of law otherwise applicable to the collection of obligations owed to the United States, including (but not limited to) the use of tax refund offsets pursuant to section 3720A of title 31 and the application of other procedures provided under chapter 37 of title 31.

(d) Collection from providers and health maintenance organizations

(1) In the case of an individual who owes a past-due obligation, and who is an employee of, or affiliated by a medical services agreement with, a provider having an agreement under section 1395cc of this title or a health maintenance organization or competitive medical plan having a contract under section 1395l of this title or section 1395mm of this title, the Secretary shall deduct the amounts of such past-due obligation from amounts otherwise payable under this subchapter to such provider, organization, or plan.

(2) Deductions shall be in accordance with a formula and schedule agreed to by the Secretary, the individual and the provider, organization, or plan. The deductions shall be made from the amounts otherwise payable to the individual under this subchapter as long as the individual continues to be employed or affiliated by a medical services agreement.

(3) Such deduction shall not be made until 6 months after the Secretary notifies the provider, organization, or plan of the amount to be deducted and the particular physicians³ to whom the deductions are attributable.

(4) A deduction made under this subsection shall relieve the individual of the obligation (to the extent of the amount collected) to the

¹ So in original. Probably should be "individual's".

² See References in Text note below.

³ So in original. Probably should be "individuals".

United States, but the provider, organization, or plan shall have a right of action to collect from such individual the amount deducted pursuant to this subsection (including accumulated interest).

(5) No deduction shall be made under this subsection if, within the 6-month period after notice is given to the provider, organization, or plan, the individual pays the past-due obligation, or ceases to be employed by the provider, organization, or plan.

(6) The Secretary shall also apply the provisions of this subsection in the case of an individual who is a member of a group practice, if such group practice submits bills under this program as a group, rather than by individual physicians.³

(e) Transfer from trust funds

Amounts equal to the amounts deducted pursuant to this section shall be transferred from the Trust Fund from which the payment to the individual, provider, or other entity would otherwise have been made, to the general fund in the Treasury, and shall be credited as payment of the past-due obligation of the individual from whom (or with respect to whom) the deduction was made.

(Aug. 14, 1935, ch. 531, title XVIII, § 1892, as added Pub. L. 100-203, title IV, § 4052(a), Dec. 22, 1987, 101 Stat. 1330-95; amended Pub. L. 100-360, title IV, § 411(f)(10)(A), (C)(i), July 1, 1988, 102 Stat. 780; Pub. L. 100-485, title VI, § 608(d)(21)(E)-(H), Oct. 13, 1988, 102 Stat. 2420.)

Editorial Notes

REFERENCES IN TEXT

Section 204(a)(1) of the Public Health Service Amendments of 1987, referred to in subsec. (a)(1)(B), is section 204(a)(1) of Pub. L. 100-177, title II, Dec. 1, 1987, 101 Stat. 1000, which is set out as a note under section 254o of this title.

The Public Health Service Act, referred to in subsecs. (a)(1)(B)(iii) and (b), is act July 1, 1944, ch. 373, 58 Stat. 682. Subpart II of part D of title III of the Act is classified generally to subpart II (§254d et seq.) of part D of subchapter II of chapter 6A of this title. Subpart I of part C of title VII of the Act was classified generally to subpart I (§294 et seq.) of part C of subchapter V of chapter 6A of this title and was omitted in the general revision of subchapter V by Pub. L. 102-408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994. See subpart I (§292 et seq.) of part A of subchapter V of chapter 6A of this title. Subpart III of part F of title VII of the Public Health Service Act (as in effect before October 1, 1976) was classified to subpart III (§295g-21 et seq.) of part F of subchapter V of chapter 6A of this title, prior to repeal by Pub. L. 94-484, title IV, § 409(a), Oct. 12, 1976, 90 Stat. 2290. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

AMENDMENTS

1988—Pub. L. 100-360, § 411(f)(10)(C)(i)(I), substituted “individuals” for “physicians” and inserted “and loan” in section catchline.

Subsec. (a)(1)(A). Pub. L. 100-360, § 411(f)(10)(C)(i)(IV), as amended by Pub. L. 100-485, § 608(d)(21)(H), inserted “, the Physician Shortage Area Scholarship Program, or the Health Education Assistance Loan Program”.

Pub. L. 100-360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100-485, § 608(d)(21)(G), substituted “individual” for “physician” in two places.

Subsec. (a)(1)(B). Pub. L. 100-360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100-485, § 608(d)(21)(G), sub-

stituted “an individual” for “a physician” in introductory provisions and “individual” for “physician” in cls. (i)(I) and (II), (ii), and (iii).

Subsec. (a)(2)(A) to (C). Pub. L. 100-360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100-485, § 608(d)(21)(G), substituted “individual” for “physician” wherever appearing.

Subsec. (a)(2)(C)(ii). Pub. L. 100-360, § 411(f)(10)(A)(i), substituted “paragraph (4)” for “paragraph (3)”.

Subsec. (a)(3). Pub. L. 100-360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100-485, § 608(d)(21)(G), substituted “individual” for “physician” in introductory provisions.

Subsec. (a)(3)(B). Pub. L. 100-360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100-485, § 608(d)(21)(G), substituted “individual” for “physician”.

Pub. L. 100-360, § 411(f)(10)(A)(i), substituted “paragraph (4)” for “paragraph (3)”.

Subsec. (a)(4). Pub. L. 100-360, § 411(f)(10)(C)(i)(III), substituted “community practitioner” for “community physician”.

Pub. L. 100-360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100-485, § 608(d)(21)(G), substituted “an individual” for “a physician” and “such individual” for “such physician”.

Pub. L. 100-360, § 411(f)(10)(A)(iii), as amended by Pub. L. 100-360, § 608(d)(21)(E), inserted before period at end “if a State requests that the individual not be excluded”.

Pub. L. 100-360, § 411(f)(10)(A)(ii), substituted “exclude” for “bar”.

Subsec. (b). Pub. L. 100-360, § 411(f)(10)(C)(i)(V), as amended by Pub. L. 100-485, § 608(d)(21)(F)(i), substituted “or under subpart III of part F of title VII of such Act (as in effect before October 1, 1976) and which has not been paid by the deadline established by the Secretary pursuant to such respective section” for “, and (2) which has not been paid by the deadline established by the Secretary pursuant to section 338E of the Public Health Service Act”.

Subsec. (b)(1). Pub. L. 100-360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100-485, § 608(d)(21)(G), substituted “an individual” for “a physician”.

Subsec. (b)(2). Pub. L. 100-360, § 411(f)(10)(C)(i)(VI), as amended by Pub. L. 100-485, § 608(d)(21)(F)(i), added par. (2).

Subsec. (d)(1). Pub. L. 100-360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100-485, § 608(d)(21)(G), substituted “an individual” for “a physician”.

Subsec. (d)(2). Pub. L. 100-360, § 411(f)(10)(C)(i)(VII), as added by Pub. L. 100-485, § 608(d)(21)(F), substituted “continues” for “continued”.

Pub. L. 100-360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100-485, § 608(d)(21)(G), substituted “individual” for “physician” in three places.

Subsec. (d)(4) to (6). Pub. L. 100-360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100-485, § 608(d)(21)(G), substituted “individual” for “physician” wherever appearing.

Subsec. (e). Pub. L. 100-360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100-485, § 608(d)(21)(G), substituted “individual” for “physician” in two places.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-485 effective as if included in the enactment of the Medicare Catastrophic Coverage Act of 1988, Pub. L. 100-360, see section 608(g)(1) of Pub. L. 100-485, set out as a note under section 704 of this title.

Except as specifically provided in section 411 of Pub. L. 100-360, amendment by section 411(f)(10)(A) of 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. L. 100-360, set out as a Reference to OBRA; Effective Date note under section 106 of Title 1, General Provisions.

Pub. L. 100-360, title IV, §411(f)(10)(C)(iii), July 1, 1988, 102 Stat. 781, provided that: "The Amendments made by this subparagraph [amending this section and former section 294f of this title] shall be effective 30 days after the date of the enactment of this Act [July 1, 1988]."

EFFECTIVE DATE

Pub. L. 100-203, title IV, §4052(c), Dec. 22, 1987, 101 Stat. 1330-97, provided that: "The amendments made by this section [enacting this section and amending section 254o of this title] shall be effective on the date of the enactment of this Act [Dec. 22, 1987]."

§ 1395ddd. Medicare Integrity Program

(a) Establishment of Program

There is hereby established the Medicare Integrity Program (in this section referred to as the "Program") under which the Secretary shall promote the integrity of the medicare program by entering into contracts in accordance with this section with eligible entities, or otherwise, to carry out the activities described in subsection (b).

(b) Activities described

The activities described in this subsection are as follows:

- (1) Review of activities of providers of services or other individuals and entities furnishing items and services for which payment may be made under this subchapter (including skilled nursing facilities and home health agencies), including medical and utilization review and fraud review (employing similar standards, processes, and technologies used by private health plans, including equipment and software technologies which surpass the capability of the equipment and technologies used in the review of claims under this subchapter as of August 21, 1996).
- (2) Audit of cost reports.
- (3) Determinations as to whether payment should not be, or should not have been, made under this subchapter by reason of section 1395y(b) of this title, and recovery of payments that should not have been made.
- (4) Education of providers of services, beneficiaries, and other persons with respect to payment integrity and benefit quality assurance issues.
- (5) Developing (and periodically updating) a list of items of durable medical equipment in accordance with section 1395m(a)(15) of this title which are subject to prior authorization under such section.
- (6) The Medicare-Medicaid Data Match Program in accordance with subsection (g).

(c) Eligibility of entities

An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if—

- (1) the entity has demonstrated capability to carry out such activities;
- (2) in carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this subchapter and in other cases arising out of such activities;

(3) the entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement;

(4) the entity agrees to provide the Secretary and the Inspector General of the Department of Health and Human Services with such performance statistics (including the number and amount of overpayments recovered, the number of fraud referrals, and the return on investment of such activities by the entity) as the Secretary or the Inspector General may request; and

(5) the entity meets such other requirements as the Secretary may impose.

In the case of the activity described in subsection (b)(5), an entity shall be deemed to be eligible to enter into a contract under the Program to carry out the activity if the entity is a carrier with a contract in effect under section 1395u of this title.

(d) Process for entering into contracts

The Secretary shall enter into contracts under the Program in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following:

- (1) Procedures for identifying, evaluating, and resolving organizational conflicts of interest that are generally applicable to Federal acquisition and procurement.
- (2) Competitive procedures to be used—
 - (A) when entering into new contracts under this section;
 - (B) when entering into contracts that may result in the elimination of responsibilities of an individual fiscal intermediary or carrier under section 202(b) of the Health Insurance Portability and Accountability Act of 1996; and
 - (C) at any other time considered appropriate by the Secretary,

except that the Secretary may continue to contract with entities that are carrying out the activities described in this section pursuant to agreements under section 1395h of this title or contracts under section 1395u of this title in effect on August 21, 1996.

(3) Procedures under which a contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.

The Secretary may enter into such contracts without regard to final rules having been promulgated.

(e) Limitation on contractor liability

The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1320c-6 of this title.