

164.308(b) of such title, with such entity and shall be treated as a business associate of the covered entity for purposes of the provisions of this subchapter and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of February 17, 2009.

(Pub. L. 111-5, div. A, title XIII, §13408, Feb. 17, 2009, 123 Stat. 271.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original “this subtitle”, meaning subtitle D (§13400 et seq.) of title XIII of div. A of Pub. L. 111-5, Feb. 17, 2009, 123 Stat. 258, which is classified principally to this subchapter. For complete classification of subtitle D to the Code, see Tables.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 12 months after Feb. 17, 2009, except as otherwise specifically provided, see section 13423 of Pub. L. 111-5, set out as a note under section 17931 of this title.

§ 17939. Improved enforcement

(a) In general

(1) Omitted

(2) Enforcement under Social Security Act

Any violation by a covered entity under thus¹ subchapter is subject to enforcement and penalties under section² 1176 and 1177 of the Social Security Act [42 U.S.C. 1320d-5, 1320d-6].

(b) Effective date; regulations

(1) The amendments made by subsection (a) shall apply to penalties imposed on or after the date that is 24 months after February 17, 2009.

(2) Not later than 18 months after February 17, 2009, the Secretary of Health and Human Services shall promulgate regulations to implement such amendments.

(c) Distribution of certain civil monetary penalties collected

(1) In general

Subject to the regulation promulgated pursuant to paragraph (3), any civil monetary penalty or monetary settlement collected with respect to an offense punishable under this subchapter or section 1176 of the Social Security Act (42 U.S.C. 1320d-5) insofar as such section relates to privacy or security shall be transferred to the Office for Civil Rights of the Department of Health and Human Services to be used for purposes of enforcing the provisions of this subchapter and subparts C and E of part 164 of title 45, Code of Federal Regulations, as such provisions are in effect as of February 17, 2009.

(2) GAO report

Not later than 18 months after February 17, 2009, the Comptroller General shall submit to the Secretary a report including recommenda-

tions for a methodology under which an individual who is harmed by an act that constitutes an offense referred to in paragraph (1) may receive a percentage of any civil monetary penalty or monetary settlement collected with respect to such offense.

(3) Establishment of methodology to distribute percentage of CMPS collected to harmed individuals

Not later than 3 years after February 17, 2009, the Secretary shall establish by regulation and based on the recommendations submitted under paragraph (2), a methodology under which an individual who is harmed by an act that constitutes an offense referred to in paragraph (1) may receive a percentage of any civil monetary penalty or monetary settlement collected with respect to such offense.

(4) Application of methodology

The methodology under paragraph (3) shall be applied with respect to civil monetary penalties or monetary settlements imposed on or after the effective date of the regulation.

(d) Tiered increase in amount of civil monetary penalties

(1) to (3) Omitted

(4) Effective date

The amendments made by this subsection shall apply to violations occurring after February 17, 2009.

(e) Enforcement through State attorneys general

(1), (2) Omitted

(3) Effective date

The amendments made by this subsection shall apply to violations occurring after February 17, 2009.

(Pub. L. 111-5, div. A, title XIII, §13410, Feb. 17, 2009, 123 Stat. 271.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a)(2) and (c)(1), was in the original “this subtitle”, meaning subtitle D (§13400 et seq.) of title XIII of div. A of Pub. L. 111-5, Feb. 17, 2009, 123 Stat. 258, which is classified principally to this subchapter. For complete classification of subtitle D to the Code, see Tables.

For reference to “the amendments made by subsection (a)” in subsec. (b)(1) and “the amendments made by this subsection” in subsecs. (d)(4) and (e)(3), see Codification note below.

CODIFICATION

Section is comprised of section 13410 of Pub. L. 111-5. Subsecs. (a)(1), (d)(1)–(3), (e)(1), (2), and (f) of section 13410 of Pub. L. 111-5 amended section 1320d-5 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective 12 months after Feb. 17, 2009, except as otherwise specifically provided, see section 13423 of Pub. L. 111-5, set out as a note under section 17931 of this title.

§ 17940. Audits

The Secretary shall provide for periodic audits to ensure that covered entities and business as-

¹ So in original. Probably should be “this”.

² So in original. Probably should be “sections”.