

Secretary shall establish a Medicaid Quality Measurement Program in the same manner as the Secretary establishes the pediatric quality measures program under section 1320b-9a(b) of this title. The aggregate amount awarded by the Secretary for grants and contracts for the development, testing, and validation of emerging and innovative evidence-based measures under such program shall equal the aggregate amount awarded by the Secretary for grants under section 1320b-9a(b)(4)(A) of this title<sup>2</sup>

**(B) Revising, strengthening, and improving initial core measures**

Beginning not later than 24 months after the establishment of the Medicaid Quality Measurement Program, and annually thereafter, the Secretary shall publish recommended changes to the initial core set of adult health quality measures that shall reflect the results of the testing, validation, and consensus process for the development of adult health quality measures.

**(c) Construction**

Nothing in this section shall be construed as supporting the restriction of coverage, under subchapter XIX or XXI or otherwise, to only those services that are evidence-based, or in anyway limiting available services.

**(d) Annual State reports regarding State-specific quality of care measures applied under Medicaid**

**(1) Annual State reports**

Each State with a State plan or waiver approved under subchapter XIX shall annually report (separately or as part of the annual report required under section 1320b-9a(c) of this title), to the Secretary on the—

(A) State-specific adult health quality measures applied by the State under the such<sup>3</sup> plan, including measures described in subsection (a)(5); and

(B) State-specific information on the quality of health care furnished to Medicaid eligible adults under such plan, including information collected through external quality reviews of managed care organizations under section 1396u-2 of this title and benchmark plans under section 1396u-7 of this title.

**(2) Publication**

Not later than September 30, 2014, and annually thereafter, the Secretary shall collect, analyze, and make publicly available the information reported by States under paragraph (1).

**(e) Appropriation**

Out of any funds in the Treasury not otherwise appropriated, there is appropriated for each of fiscal years 2010 through 2014, \$60,000,000 for the purpose of carrying out this section. Funds appropriated under this subsection shall remain available until expended.

(Aug. 14, 1935, ch. 531, title XI, §1139B, as added Pub. L. 111-148, title II, §2701, Mar. 23, 2010, 124 Stat. 317.)

**§ 1320b-10. Prohibitions relating to references to Social Security or Medicare**

**(a) Prohibited acts**

(1) No person may use, in connection with any item constituting an advertisement, solicitation, circular, book, pamphlet, or other communication, or a play, motion picture, broadcast, telecast, or other production, alone or with other words, letters, symbols, or emblems—

(A) the words “Social Security”, “Social Security Account”, “Social Security System”, “Social Security Administration”, “Medicare”, “Centers for Medicare & Medicaid Services”, “Department of Health and Human Services”, “Health and Human Services”, “Supplemental Security Income Program”, “Medicaid”, “Death Benefits Update”, “Federal Benefit Information”, “Funeral Expenses”, or “Final Supplemental Plan”, the letters “SSA”, “CMS”, “DHHS”, “HHS”, or “SSI”, or any other combination or variation of such words or letters, or

(B) a symbol or emblem of the Social Security Administration, Centers for Medicare & Medicaid Services, or Department of Health and Human Services (including the design of, or a reasonable facsimile of the design of, the social security card issued pursuant to section 405(c)(2)(F) of this title or the Medicare card,<sup>1</sup> the check used for payment of benefits under subchapter II of this chapter, or envelopes or other stationery used by the Social Security Administration, Centers for Medicare & Medicaid Services, or Department of Health and Human Services), or any other combination or variation of such symbols or emblems,

in a manner which such person knows or should know would convey, or in a manner which reasonably could be interpreted or construed as conveying, the false impression that such item is approved, endorsed, or authorized by the Social Security Administration, the Centers for Medicare & Medicaid Services, or the Department of Health and Human Services or that such person has some connection with, or authorization from, the Social Security Administration, the Centers for Medicare & Medicaid Services, or the Department of Health and Human Services. The preceding provisions of this subsection shall not apply with respect to the use by any agency or instrumentality of a State or political subdivision of a State of any words or letters which identify an agency or instrumentality of such State or of a political subdivision of such State or the use by any such agency or instrumentality of any symbol or emblem of an agency or instrumentality of such State or a political subdivision of such State.

(2)(A) No person may, for a fee, reproduce, reprint, or distribute any item consisting of a form, application, or other publication of the Social Security Administration unless such person has obtained specific, written authorization for such activity in accordance with regulations which the Commissioner of Social Security shall prescribe.

(B) No person may, for a fee, reproduce, reprint, or distribute any item consisting of a

<sup>2</sup> So in original. Probably should be followed by a period.

<sup>3</sup> So in original.

<sup>1</sup> So in original.

form, application, or other publication of the Department of Health and Human Services unless such person has obtained specific, written authorization for such activity in accordance with regulations which the Secretary shall prescribe.

(3) Any determination of whether the use of one or more words, letters, symbols, or emblems (or any combination or variation thereof) in connection with an item described in paragraph (1) or the reproduction, reprinting, or distribution of an item described in paragraph (2) is a violation of this subsection shall be made without regard to any inclusion in such item (or any so reproduced, reprinted, or distributed copy thereof) of a disclaimer of affiliation with the United States Government or any particular agency or instrumentality thereof.

(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that—

(i) explains that the product or service is available free of charge from the Social Security Administration, and

(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.

(B) Subparagraph (A) shall not apply to any offer—

(i) to serve as a claimant representative in connection with a claim arising under subchapter II of this chapter, subchapter VIII of this chapter, or subchapter XVI of this chapter; or

(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under subchapter XVI of this chapter.

#### (b) Civil penalties

The Commissioner or the Secretary (as applicable) may, pursuant to regulations, impose a civil money penalty not to exceed—

(1) except as provided in paragraph (2), \$5,000, or

(2) in the case of a violation consisting of a broadcast or telecast, \$25,000,

against any person for each violation by such person of subsection (a) of this section. In the case of any items referred to in subsection (a)(1) of this section consisting of pieces of mail, each such piece of mail which contains one or more words, letters, symbols, or emblems in violation of subsection (a) of this section shall represent a separate violation. In the case of any item referred to in subsection (a)(2) of this section, the reproduction, reprinting, or distribution of such item shall be treated as a separate violation with respect to each copy thereof so reproduced, reprinted, or distributed.

#### (c) Application of other law; compromise, recovery, and deposit into Treasury of civil money penalties

(1) The provisions of section 1320a-7a of this title (other than subsections (a), (b), (f), (h), and (i) and the first sentence of subsection (c)) shall

apply to civil money penalties under subsection (b) of this section in the same manner as such provisions apply to a penalty or proceeding under section 1320a-7a(a) of this title.

(2) Penalties imposed against a person under subsection (b) of this section may be compromised by the Commissioner or the Secretary (as applicable) and may be recovered in a civil action in the name of the United States brought in the district court of the United States for the district in which the violation occurred or where the person resides, has its principal office, or may be found, as determined by the Commissioner or the Secretary (as applicable). Amounts recovered under this section shall be paid to the Commissioner or the Secretary (as applicable) and shall be deposited as miscellaneous receipts of the Treasury of the United States, except that (A) to the extent that such amounts are recovered under this section as penalties imposed for misuse of words, letters, symbols, or emblems relating to the Social Security Administration, such amounts shall be deposited into the Federal Old-Age and Survivors Insurance Trust Fund, and (B) to the extent that such amounts are recovered under this section as penalties imposed for misuse of words, letters, symbols, or emblems relating to the Department of Health and Human Services, such amounts shall be deposited into the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund, as appropriate. The amount of such penalty when finally determined, or the amount agreed upon in compromise, may be deducted from any sum then or later owing by the United States to the person against whom the penalty has been imposed.

#### (d) Enforcement

The preceding provisions of this section may be enforced through the Office of the Inspector General of the Social Security Administration or the Office of the Inspector General of the Department of Health and Human Services (as appropriate).

(Aug. 14, 1935, ch. 531, title XI, § 1140, as added Pub. L. 100-360, title IV, § 428(a), July 1, 1988, 102 Stat. 815; amended Pub. L. 100-485, title VI, § 608(d)(30)(A), Oct. 13, 1988, 102 Stat. 2424; Pub. L. 103-296, title I, § 108(b)(12), title III, §§ 304(b), 312(a)-(j), Aug. 15, 1994, 108 Stat. 1484, 1520, 1526, 1527; Pub. L. 108-173, title IX, § 900(e)(1)(B), Dec. 8, 2003, 117 Stat. 2371; Pub. L. 108-203, title II, §§ 204(a), 207(a), Mar. 2, 2004, 118 Stat. 511, 512.)

#### AMENDMENTS

2004—Pub. L. 108-203, § 204(a)(2), substituted “Prohibitions relating to references” for “Prohibition of misuse of symbols, emblems, or names in reference” in section catchline.

Subsec. (a)(1). Pub. L. 108-203, § 207(a)(3), which directed the substitution of “the Centers for Medicare & Medicaid Services,” for “the Health Care Financing Administration,” wherever appearing in concluding provisions, could not be executed because “the Health Care Financing Administration,” did not appear subsequent to amendment by Pub. L. 108-173, § 900(e)(1)(B)(i). See 2003 Amendment note below.

Subsec. (a)(1)(A). Pub. L. 108-203, § 207(a)(1), which directed the insertion of “Centers for Medicare & Medicaid Services,” after “Health Care Financing Administration,” and “CMS,” after “HCFA,” could not be

executed because of the prior amendment by Pub. L. 108-173, §900(e)(1)(B)(ii). See 2003 Amendment note below.

Pub. L. 108-203, §207(a)(1), substituted “‘Medicaid’, ‘Death Benefits Update’, ‘Federal Benefit Information’, ‘Funeral Expenses’, or ‘Final Supplemental Plan’,” for “or ‘Medicaid’,”.

Subsec. (a)(1)(B). Pub. L. 108-203, §207(a)(2), which directed the insertion of “Centers for Medicare & Medicaid Services,” after “Health Care Financing Administration,” wherever appearing, could not be executed because “Health Care Financing Administration,” did not appear subsequent to amendment by Pub. L. 108-173, §900(e)(1)(B)(iii). See 2003 Amendment note below.

Subsec. (a)(4). Pub. L. 108-203, §204(a)(1), added par. (4).

2003—Subsec. (a)(1). Pub. L. 108-173, §900(e)(1)(B)(i), substituted “Centers for Medicare & Medicaid Services” for “Health Care Financing Administration” in two places in concluding provisions.

Subsec. (a)(1)(A). Pub. L. 108-173, §900(e)(1)(B)(ii), substituted “Centers for Medicare & Medicaid Services” for “Health Care Financing Administration” and “CMS” for “HCFA”.

Subsec. (a)(1)(B). Pub. L. 108-173, §900(e)(1)(B)(iii), substituted “Centers for Medicare & Medicaid Services” for “Health Care Financing Administration” in two places.

1994—Subsec. (a). Pub. L. 103-296, §312(a), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Subsec. (a)(1). Pub. L. 103-296, §312(c), (d), in closing provisions substituted “convey, or in a manner which reasonably could be interpreted or construed as conveying,” for “convey” and inserted at end “The preceding provisions of this subsection shall not apply with respect to the use by any agency or instrumentality of a State or political subdivision of a State of any words or letters which identify an agency or instrumentality of such State or of a political subdivision of such State or the use by any such agency or instrumentality of any symbol or emblem of an agency or instrumentality of such State or a political subdivision of such State.”

Subsec. (a)(1)(A). Pub. L. 103-296, §312(b)(1), substituted “Administration”, ‘Department of Health and Human Services’, ‘Health and Human Services’, ‘Supplemental Security Income Program’, or ‘Medicaid’, the letters ‘SSA’, ‘HCFA’, ‘DHHS’, ‘HHS’, or ‘SSI,’ for “Administration”, the letters ‘SSA’ or ‘HCFA’,”.

Subsec. (a)(1)(B). Pub. L. 103-296, §312(b)(2), substituted “Social Security Administration, Health Care Financing Administration, or Department of Health and Human Services” for “Social Security Administration” in two places, struck out “or of the Health Care Financing Administration” before “, or any other”, and inserted “or the Medicare card,” after “section 405(c)(2)(F) of this title”.

Subsec. (a)(2). Pub. L. 103-296, §304(b), substituted “405(c)(2)(F)” for “405(c)(2)(E)”.

Subsec. (a)(2)(A), (B). Pub. L. 103-296, §108(b)(12)(A), in par. (2) as added by Pub. L. 103-296, §312(a), designated existing provisions as subpar. (A), struck out “or of the Department of Health and Human Services” after “Social Security Administration”, substituted “Commissioner of Social Security” for “Secretary”, and added subpar. (B).

Subsec. (a)(3). Pub. L. 103-296, §312(e), added par. (3).

Subsec. (b). Pub. L. 103-296, §312(g), substituted “The” for “(1) Subject to paragraph (2), the”, redesignated subpars. (A) and (B) as pars. (1) and (2), respectively, and in par. (1) substituted “paragraph (2)” for “subparagraph (B)”, and struck out former par. (2) which read as follows: “The total amount of penalties which may be imposed under paragraph (1) with respect to multiple violations in any one year period consisting of substantially identical communications or productions shall not exceed \$100,000.”

Subsec. (b)(1). Pub. L. 103-296, §312(f) inserted at end “In the case of any items referred to in subsection

(a)(1) of this section consisting of pieces of mail, each such piece of mail which contains one or more words, letters, symbols, or emblems in violation of subsection (a) of this section shall represent a separate violation. In the case of any item referred to in subsection (a)(2) of this section, the reproduction, reprinting, or distribution of such item shall be treated as a separate violation with respect to each copy thereof so reproduced, reprinted, or distributed.”

Pub. L. 103-296, §108(b)(12)(B), substituted “the Commissioner or the Secretary (as applicable)” for “the Secretary” in introductory provisions.

Subsec. (c)(1). Pub. L. 103-296, §312(h), inserted “and the first sentence of subsection (c)” after “and (i)”.

Subsec. (c)(2). Pub. L. 103-296, §312(i), at end of second sentence substituted comma for period and inserted “except that (A) to the extent that such amounts are recovered under this section as penalties imposed for misuse of words, letters, symbols, or emblems relating to the Social Security Administration, such amounts shall be deposited into the Federal Old-Age and Survivors Insurance Trust Fund, and (B) to the extent that such amounts are recovered under this section as penalties imposed for misuse of words, letters, symbols, or emblems relating to the Department of Health and Human Services, such amounts shall be deposited into the Federal Hospital Insurance Trust Fund or the Federal Supplementary Medical Insurance Trust Fund, as appropriate.”

Pub. L. 103-296, §108(b)(12)(C), substituted “the Commissioner or the Secretary (as applicable)” for “the Secretary” wherever appearing.

Subsec. (d). Pub. L. 103-296, §312(j), added subsec. (d).

Pub. L. 103-296, §108(b)(12)(D), which in subsec. (d) as added by Pub. L. 103-296, §312(j), directed the substitution of “the Office of the Inspector General of the Social Security Administration or the Office of the Inspector General of the Department of Health and Human Services (as appropriate)” for “the Office of Inspector General of the Department of Health and Human Services”, was executed by making the substitution for “the Office of the Inspector General of the Department of Health and Human Services” to reflect the probable intent of Congress.

1988—Subsec. (c)(1). Pub. L. 100-485 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Subsections (c), (d), (e), (g), (j), and (k) of section 1320a-7a of this title shall apply with respect to violations under subsection (a) of this section and penalties imposed under subsection (b) of this section in the same manner and to the same extent as such subsections apply with respect to claims in violation of section 1320a-7a of this title and penalties imposed under section 1320a-7a(a) of this title.”

#### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-203, title II, §204(b), Mar. 2, 2004, 118 Stat. 511, provided that: “The amendments made by this section [amending this section] shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act [Mar. 2, 2004].”

Pub. L. 108-203, title II, §207(b), Mar. 2, 2004, 118 Stat. 513, provided that: “The amendments made by this section [amending this section] shall apply to items sent after 180 days after the date of the enactment of this Act [Mar. 2, 2004].”

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 108(b)(12) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

Amendment by section 312(a)-(j) of Pub. L. 103-296 applicable with respect to violations occurring after Mar. 31, 1995, see section 312(m)(1) of Pub. L. 103-296, set out

as an Effective Date note under section 333 of Title 31, Money and Finance.

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.

EFFECTIVE DATE

Section 428(c) of Pub. L. 100-360 provided that: "The amendments made by this section [enacting this section and amending section 1395ss of this title] shall take effect on the date of the enactment of this Act [July 1, 1988] and shall apply only with respect to violations occurring on or after such date."

REPORTS ON OPERATION OF THIS SECTION

Section 312(k) of Pub. L. 103-296 provided that:

"(1) IN GENERAL.—The Secretary of Health and Human Services and the Commissioner of Social Security shall each submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate 3 reports on the operation of section 1140 of the Social Security Act [this section] with respect to the Social Security Administration or the Department of Health and Human Services during the period covered by the report, which shall specify—

"(A) the number of complaints of violations of such section received by the Social Security Administration or the Department of Health and Human Services during the period,

"(B) the number of cases in which the Social Security Administration or the Department, during the period, sent a notice of violation of such section requesting that an individual cease activities in violation of such section,

"(C) the number of cases in which the Social Security Administration or the Department formally proposed a civil money penalty in a demand letter during the period,

"(D) the total amount of civil money penalties assessed by the Social Security Administration or the Department under this section during the period,

"(E) the number of requests for hearings filed during the period by the Social Security Administration or the Department pursuant to sections 1140(c)(1) [subsec. (c)(1) of this section] and 1128A(c)(2) [section 1320a-7a(c)(2) of this title] of the Social Security Act,

"(F) the disposition during the period of hearings filed pursuant to sections 1140(c)(1) and 1128A(c)(2) of the Social Security Act, and

"(G) the total amount of civil money penalties collected under this section and deposited into the Federal Old-Age and Survivors Insurance Trust Fund or the Health Insurance and Supplementary Medical Insurance Trust Funds, as applicable, during the period.

"(2) WHEN DUE.—The reports required by paragraph (1) shall be submitted not later than December 1, 1995, not later than December 1, 1997, and not later than December 1, 1999, respectively."

CONSULTATION BY UNITED STATES POSTAL SERVICE REGARDING PREVENTION OF DECEPTIVE MAILINGS

United States Postal Service to consult and coordinate functions of Secretary of Department of Health and Human Services in administration of this section, see section 4 of Pub. L. 101-524, set out as a Coordination of Functions With Department of Health and Human Services note under section 3001 of Title 39, Postal Service.

§ 1320b-11. Blood donor locator service

(a) In general

The Commissioner of Social Security shall establish and conduct a Blood Donor Locator

Service, which shall be used to obtain and transmit to any authorized person (as defined in subsection (h)(1) of this section) the most recent mailing address of any blood donor who, as indicated by the donated blood or products derived therefrom or by the history of the subsequent use of such blood or blood products, has or may have the virus for acquired immune deficiency syndrome, in order to inform such donor of the possible need for medical care and treatment.

(b) Provision of address information

Whenever the Commissioner of Social Security receives a request, filed by an authorized person (as defined in subsection (h)(1) of this section), for the mailing address of a donor described in subsection (a) of this section and the Commissioner of Social Security is reasonably satisfied that the requirements of this section have been met with respect to such request, the Commissioner of Social Security shall promptly undertake to provide the requested address information from—

(1) the files and records maintained by the Social Security Administration, and

(2) such files and records obtained pursuant to section 6103(m)(6) of the Internal Revenue Code of 1986 as the Commissioner of Social Security considers necessary to comply with such request.

(c) Manner and form of requests

A request for address information under this section shall be filed in such manner and form as the Commissioner of Social Security shall by regulation prescribe, shall include the blood donor's social security account number, and shall be accompanied or supported by such documents as the Commissioner of Social Security may determine to be necessary.

(d) Procedures and safeguards

Any authorized person shall, as a condition for receiving address information from the Blood Donor Locator Service—

(1) establish and maintain, to the satisfaction of the Commissioner of Social Security, a system for standardizing records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of address information made by or to it,

(2) establish and maintain, to the satisfaction of the Commissioner of Social Security, a secure area or place in which such address information and all related blood donor records shall be stored,

(3) restrict, to the satisfaction of the Commissioner of Social Security, access to the address information and related blood donor records only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this section,

(4) provide such other safeguards which the Commissioner of Social Security determines (and which the Commissioner of Social Security prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the address information and related blood donor records,

(5) furnish a report to the Commissioner of Social Security, at such time and containing