

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 [this subchapter] 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 [this subchapter] 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) of this section).

(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’s<sup>1</sup> 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

<sup>1</sup> So in original. Probably should be “individual’s”.

(2) owed by an individual to the United States by reason of a loan covered by Federal loan insurance under subpart I<sup>2</sup> 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 physicians<sup>3</sup> 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 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.<sup>3</sup>

**(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.)

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, as amended. 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)(D), 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), substituted “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”.

<sup>2</sup> See References in Text note below.

<sup>3</sup> So in original. Probably should be “individuals”.

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.

#### EFFECTIVE DATE OF 1988 AMENDMENTS

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.

Section 411(f)(10)(C)(iii) of Pub. L. 100-360 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

Section 4052(c) of Pub. L. 100-203 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) of this section.

#### (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) of this section 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) of this section, 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,