

tion 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.)

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.

**§ 17940. Audits**

The Secretary shall provide for periodic audits to ensure that covered entities and business associates that are subject to the requirements 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, comply with such requirements.

(Pub. L. 111-5, div. A, title XIII, §13411, Feb. 17, 2009, 123 Stat. 276.)

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.

PART B—RELATIONSHIP TO OTHER LAWS; REGULATORY REFERENCES; EFFECTIVE DATE; REPORTS

**§ 17951. Relationship to other laws**

**(a) Application of HIPAA State preemption**

Section 1178 of the Social Security Act (42 U.S.C. 1320d-7) shall apply to a provision or requirement under this subchapter in the same manner that such section applies to a provision or requirement under part C of title XI of such Act [42 U.S.C. 1320d et seq.] or a standard or implementation specification adopted or established under sections 1172 through 1174 of such Act [42 U.S.C. 1320d-1 to 1320d-3].

**(b) Health Insurance Portability and Accountability Act of 1996**

The standards governing the privacy and security of individually identifiable health information promulgated by the Secretary under sections 262(a) and 264 of the Health Insurance Portability and Accountability Act of 1996 shall remain in effect to the extent that they are consistent with this subchapter. The Secretary shall by rule amend such Federal regulations as required to make such regulations consistent with this subchapter.

**(c) Construction**

Nothing in this subchapter shall constitute a waiver of any privilege otherwise applicable to an individual with respect to the protected health information of such individual.

(Pub. L. 111-5, div. A, title XIII, §13421, Feb. 17, 2009, 123 Stat. 276.)

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.

The Social Security Act, referred to in subsec. (a), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part C of title XI of the Act is classified generally to part C (§1320d et seq.) of subchapter XI of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Health Insurance Portability and Accountability Act of 1996, referred to in subsec. (b), is Pub. L. 104-191, Aug. 21, 1996, 110 Stat. 1936. Section 262(a) of the Act enacted sections 1320d to 1320d-8 of this title. Section 264 of the Act is set out as a note under section 1320d-2 of this title. For complete classification of this Act to the Code, see Short Title of 1996 Amendments note set out under section 201 of this title and Tables.

**§ 17952. Regulatory references**

Each reference in this subchapter to a provision of the Code of Federal Regulations refers to such provision as in effect on February 17, 2009 (or to the most recent update of such provision).

(Pub. L. 111-5, div. A, title XIII, §13422, Feb. 17, 2009, 123 Stat. 276.)

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 sub-