

STUDY ON POSSIBLE MEASURES TO IMPROVE FRAUD
PREVENTION AND ADMINISTRATIVE PROCESSING

Pub. L. 106-169, title II, §210, Dec. 14, 1999, 113 Stat. 1842, provided that:

“(a) STUDY.—As soon as practicable after the date of the enactment of this Act [Dec. 14, 1999], the Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration and the Attorney General, shall conduct a study of possible measures to improve—

“(1) prevention of fraud on the part of individuals entitled to disability benefits under section 223 of the Social Security Act [42 U.S.C. 423] or benefits under section 202 of such Act [42 U.S.C. 402] based on the beneficiary’s disability, individuals eligible for supplemental security income benefits under title XVI of such Act [42 U.S.C. 1381 et seq.], and applicants for any such benefits; and

“(2) timely processing of reported income changes by individuals receiving such benefits.

“(b) REPORT.—Not later than 1 year after the date of the enactment of this Act [Dec. 14, 1999], the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report that contains the results of the Commissioner’s study under subsection (a). The report shall contain such recommendations for legislative and administrative changes as the Commissioner considers appropriate.”

§ 1320a-8a. Administrative procedure for imposing penalties for false or misleading statements

(a) In general

Any person who—

(1) makes, or causes to be made, a statement or representation of a material fact, for use in determining any initial or continuing right to or the amount of monthly insurance benefits under subchapter II of this chapter or benefits or payments under subchapter XVI of this chapter that the person knows or should know is false or misleading,

(2) makes such a statement or representation for such use with knowing disregard for the truth, or

(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under subchapter II of this chapter or benefits or payments under subchapter XVI of this chapter, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to, in addition to any other penalties that may be prescribed by law, a penalty described in subsection (b) of this section to be imposed by the Commissioner of Social Security.

(b) Penalty

The penalty described in this subsection is—

(1) nonpayment of benefits under subchapter II of this chapter that would otherwise be payable to the person; and

(2) ineligibility for cash benefits under subchapter XVI of this chapter,

for each month that begins during the applicable period described in subsection (c) of this section.

(c) Duration of penalty

The duration of the applicable period, with respect to a determination by the Commissioner under subsection (a) of this section that a person has engaged in conduct described in subsection (a) of this section, shall be—

(1) six consecutive months, in the case of the first such determination with respect to the person;

(2) twelve consecutive months, in the case of the second such determination with respect to the person; and

(3) twenty-four consecutive months, in the case of the third or subsequent such determination with respect to the person.

(d) Effect on other assistance

A person subject to a period of nonpayment of benefits under subchapter II of this chapter or ineligibility for subchapter XVI of this chapter benefits by reason of this section nevertheless shall be considered to be eligible for and receiving such benefits, to the extent that the person would be receiving or eligible for such benefits but for the imposition of the penalty, for purposes of—

(1) determination of the eligibility of the person for benefits under subchapters XVIII and XIX of this chapter; and

(2) determination of the eligibility or amount of benefits payable under subchapter II or XVI of this chapter to another person.

(e) Definition

In this section, the term “benefits under subchapter VIII or XVI of this chapter” includes State supplementary payments made by the Commissioner pursuant to an agreement under section 1010a or 1382e(a) of this title or section 212(b) of Public Law 93-66, as the case may be.

(f) Consultations

The Commissioner of Social Security shall consult with the Inspector General of the Social Security Administration regarding initiating actions under this section.

(Aug. 14, 1935, ch. 531, title XI, §1129A, as added Pub. L. 106-169, title II, §207(a), Dec. 14, 1999, 113 Stat. 1837; amended Pub. L. 106-554, §1(a)(1) [title V, §518(b)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-74; Pub. L. 108-203, title II, §201(a)(2), Mar. 2, 2004, 118 Stat. 508.)

REFERENCES IN TEXT

Section 212(b) of Public Law 93-66, referred to in subsec. (e), is section 212(b) of Pub. L. 93-66, title II, July 9, 1973, 87 Stat. 155, as amended, which is set out as a note under section 1382 of this title.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-203 substantially re-wrote text of subsec. (a). Prior to amendment, text read as follows: “Any person who makes, or causes to be made, a statement or representation of a material fact for use in determining any initial or continuing right to or the amount of—

“(1) monthly insurance benefits under subchapter II of this chapter; or

“(2) benefits or payments under subchapter XVI of this chapter,

that the person knows or should know is false or misleading or knows or should know omits a material fact or who makes such a statement with knowing disregard

for the truth shall be subject to, in addition to any other penalties that may be prescribed by law, a penalty described in subsection (b) of this section to be imposed by the Commissioner of Social Security.”

2000—Subsec. (e). Pub. L. 106-554, §1(a)(1) [title V, §518(b)(2)(B), (D)], inserted “1010a or” after “agreement under section” and “, as the case may be” before period at end.

Pub. L. 106-554, §1(a)(1) [title V, §518(b)(2)(C)], which directed the amendment of subsec. (e) by inserting “1010A or” before “1382(e)(a)”, could not be executed because “1382(e)(a)” does not appear in text.

Pub. L. 106-554, §1(a)(1) [title V, §518(b)(2)(A)], which directed the amendment of subsec. (e) by inserting “VIII or” after “benefits under”, was executed by making the insertion after “benefits under subchapter” to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-203 applicable with respect to violations committed after Nov. 27, 2006, see section 201(d) of Pub. L. 108-203, set out as a note under section 1320a-8 of this title.

EFFECTIVE DATE

Section applicable to statements and representations made on or after Dec. 14, 1999, see section 207(e) of Pub. L. 106-169, set out as an Effective Date of 1999 Amendment note under section 402 of this title.

REGULATIONS

Pub. L. 106-169, title II, §207(d), Dec. 14, 1999, 113 Stat. 1838, provided that: “Within 6 months after the date of the enactment of this Act [Dec. 14, 1999], the Commissioner of Social Security shall develop regulations that prescribe the administrative process for making determinations under section 1129A of the Social Security Act [42 U.S.C. 1320a-8a] (including when the applicable period in subsection (c) of such section shall commence), and shall provide guidance on the exercise of discretion as to whether the penalty should be imposed in particular cases.”

§ 1320a-8b. Attempts to interfere with administration of this chapter

Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this chapter, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this chapter, shall be fined not more than \$5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than \$3,000, imprisoned not more than 1 year, or both. In this subsection, the term “threats of force” means threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor.

(Aug. 14, 1935, ch. 531, title XI, §1129B, as added Pub. L. 108-203, title II, §206, Mar. 2, 2004, 118 Stat. 512.)

§ 1320a-9. Demonstration projects

(a) Authority to approve demonstration projects

(1) In general

The Secretary may authorize States to conduct demonstration projects pursuant to this section which the Secretary finds are likely to promote the objectives of part B or E of subchapter IV of this chapter.

(2) Limitation

During fiscal years 2012 through 2014, the Secretary may authorize demonstration projects described in paragraph (1), with not more than 10 demonstration projects to be authorized in each fiscal year.

(3) Conditions for State eligibility

For purposes of a new demonstration project under this section that is initially approved in any of fiscal years 2012 through 2014, a State shall be authorized to conduct such demonstration project only if the State satisfies the following conditions:

(A) Identify 1 or more goals

(i) In general

The State shall demonstrate that the demonstration project is designed to accomplish 1 or more of the following goals:

(I) Increase permanency for all infants, children, and youth by reducing the time in foster placements when possible and promoting a successful transition to adulthood for older youth.

(II) Increase positive outcomes for infants, children, youth, and families in their homes and communities, including tribal communities, and improve the safety and well-being of infants, children, and youth.

(III) Prevent child abuse and neglect and the re-entry of infants, children, and youth into foster care.

(ii) Long-term therapeutic family treatment centers; addressing domestic violence

With respect to a demonstration project that is designed to accomplish 1 or more of the goals described in clause (i), the State may elect to establish a program—

(I) to permit foster care maintenance payments to be made under part E of subchapter IV to a long-term therapeutic family treatment center (as described in paragraph (8)(B)) on behalf of a child residing in the center; or

(II) to identify and address domestic violence that endangers children and results in the placement of children in foster care.

(B) Demonstrate readiness

The State shall demonstrate through a narrative description the State’s capacity to effectively use the authority to conduct a demonstration project under this section by identifying changes the State has made or plans to make in policies, procedures, or other elements of the State’s child welfare program that will enable the State to successfully achieve the goal or goals of the project.