

with special rule for States whose legislature meets biennially, and does not have regular session scheduled in calendar year 1994, see section 13741(c) of Pub. L. 103-66, set out as an Effective Date of 1993 Amendment note under section 303 of this title.]

[Amendment by Pub. L. 99-603 effective Oct. 1, 1987, see section 121(c)(2) of Pub. L. 99-603, set out as an Effective Date of 1986 Amendment note under section 502 of this title.]

REIMBURSEMENT FOR ERRONEOUS STATE SUPPLEMENTARY PAYMENTS; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 95-216, title IV, §405, Dec. 20, 1977, 91 Stat. 1564, provided that:

“(a) Notwithstanding any other provision of law, the Secretary of Health, Education, and Welfare [now Health and Human Services] is authorized and directed to pay to each State an amount equal to the amount expended by such State for erroneous supplementary payments to aged, blind, or disabled individuals whenever, and to the extent to which, the Secretary through an audit by the Department of Health, Education, and Welfare [now Health and Human Services] which has been reviewed and concurred in by the Inspector General of such department determines that—

“(1) such amount was paid by such State as a supplementary payment during the calendar year 1974 pursuant to an agreement between the State and the Secretary required by section 212 of the Act entitled ‘An Act to extend the Renegotiation Act of 1951 for one year, and for other purposes’, approved July 9, 1973, [set out as a note under section 1382 of this title], or such amount was paid by such State as an optional State supplementation, as defined in section 1616 of the Social Security Act [42 U.S.C. 1382], during the calendar year 1974,

“(2) the erroneous payments were the result of good faith reliance by such State upon erroneous or incomplete information supplied by the Department of Health, Education, and Welfare [now Health and Human Services], through the State data exchange, or good faith reliance upon incorrect supplemental security income benefit payments made by such department, and

“(3) recovery of the erroneous payments by such State would be impossible or unreasonable.

“(b) There are authorized to be appropriated such sums as are necessary to carry out the provisions of this section.”

§ 1383a. Penalties for fraud

(a) In general

Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit under this subchapter,

(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit,

(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit, or (B) the initial or continued right to any such benefit of any other individual in whose behalf he has applied for or is receiving such benefit, conceals or fails to disclose such event with an intent fraudulently to secure such benefit either in a greater amount or quantity than is due or when no such benefit is authorized, or

(4) having made application to receive any such benefit for the use and benefit of another and having received it, knowingly and willfully converts such benefit or any part thereof

to a use other than for the use and benefit of such other person,

shall be fined under title 18, imprisoned not more than 5 years, or both.

(b) Restitution

(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a) of this section, may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in—

(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

(B) an individual suffering a financial loss due to the defendant's violation of subsection (a) of this section in his or her capacity as the individual's representative payee appointed pursuant to section 1383(a)(2) of this title.

(2) Sections 3612, 3663, and 3664 of title 18 shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Commissioner of Social Security shall be considered the victim.

(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

(4)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

(B) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this subchapter, subchapter II of this chapter, or subchapter VIII of this chapter by the individual.

(c) Prohibition on certification as representative payee

Any person or entity convicted of a violation of subsection (a) of this section or of section 408 of this title may not be certified as a representative payee under section 1383(a)(2) of this title.

(Aug. 14, 1935, ch. 531, title XVI, §1632, as added Pub. L. 92-603, title III, §301, Oct. 30, 1972, 86 Stat. 1478; amended Pub. L. 98-460, §16(c)(1), Oct. 9, 1984, 98 Stat. 1810; Pub. L. 103-296, title II, §206(c)(1), (2), Aug. 15, 1994, 108 Stat. 1513; Pub. L. 108-203, title II, §209(c), Mar. 2, 2004, 118 Stat. 515.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108-203, §209(c)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 108-203, §209(c)(1), (3), redesignated subsec. (b) as (c), struck out “(2)” before “Any person”, and struck out par (1) which read as follows: “If a person or entity violates subsection (a) of this section in the person's or entity's role as, or in applying

to become, a representative payee under section 1383(a)(2) of this title on behalf of another individual (other than the person's eligible spouse), and the violation includes a willful misuse of funds by the person or entity, the court may also require that full or partial restitution of funds be made to such other individual."

1994—Subsec. (a). Pub. L. 103-296, §206(c)(1), inserted closing provisions and struck out former closing provisions which read as follows: "shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year, or both."

Subsec. (b). Pub. L. 103-296, §206(c)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

"(b)(1) Any person or other entity who is convicted of a violation of any of the provisions of paragraphs (1) through (4) of subsection (a) of this section, if such violation is committed by such person or entity in his role as, or in applying to become, a payee under section 1383(a)(2) of this title on behalf of another individual (other than such person's eligible spouse), in lieu of the penalty set forth in subsection (a) of this section—

"(A) upon his first such conviction, shall be guilty of a misdemeanor and shall be fined not more than \$5,000 or imprisoned for not more than one year, or both; and

"(B) upon his second or any subsequent such conviction, shall be guilty of a felony and shall be fined not more than \$25,000 or imprisoned for not more than five years, or both.

"(2) In any case in which the court determines that a violation described in paragraph (1) includes a willful misuse of funds by such person or entity, the court may also require that full or partial restitution of such funds be made to the individual for whom such person or entity was the certified payee.

"(3) Any person or entity convicted of a felony under this section or under section 408 of this title may not be certified as a payee under section 1383(a)(2) of this title."

1984—Pub. L. 98-460 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-203 applicable with respect to violations occurring on or after Mar. 2, 2004, see section 209(d) of Pub. L. 108-203, set out as a note under section 408 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-296, title II, §206(c)(3), Aug. 15, 1994, 108 Stat. 1514, provided that: "The amendments made by this subsection [amending this section] shall apply to conduct occurring on or after October 1, 1994."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-460 effective Oct. 9, 1984, and applicable with respect to violations occurring on or after such date, see section 16(d) of Pub. L. 98-460, set out as a note under section 405 of this title.

EFFECTIVE DATE

Pub. L. 92-603, title III, §301, Oct. 30, 1972, 86 Stat. 1465, provided that this section is effective Jan. 1, 1974.

APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Vir-

gin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

§ 1383b. Administration

(a) Authority of Commissioner

Subject to subsection (b) of this section, the Commissioner of Social Security may make such administrative and other arrangements (including arrangements for the determination of blindness and disability under section 1382c(a)(2) and (3) of this title in the same manner and subject to the same conditions as provided with respect to disability determinations under section 421 of this title) as may be necessary or appropriate to carry out the Commissioner's functions under this subchapter.

(b) Examination to determine blindness

In determining, for purposes of this subchapter, whether an individual is blind, there shall be an examination of such individual by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select.

(c) Notification of review

(1) In any case in which the Commissioner of Social Security initiates a review under this subchapter, similar to the continuing disability reviews authorized for purposes of subchapter II of this chapter under section 421(i) of this title, the Commissioner of Social Security shall notify the individual whose case is to be reviewed in the same manner as required under section 421(i)(4) of this title.

(2) For suspension of continuing disability reviews and other reviews under this subchapter similar to reviews under section 421 of this title in the case of an individual using a ticket to work and self-sufficiency, see section 1320b-19(i) of this title.

(d) Regulations regarding completion of plans for achieving self-support

The Commissioner of Social Security shall establish by regulation criteria for time limits and other criteria related to individuals' plans for achieving self-support, that take into account—

(1) the length of time that the individual will need to achieve the individual's employment goal (within such reasonable period as the Commissioner of Social Security may establish); and

(2) other factors determined by the Commissioner of Social Security to be appropriate.

(e) Review of State agency blindness and disability determinations

(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in connection with applications for benefits under this subchapter on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled as of a specified onset date. The Commissioner of Social Security shall review such a determination before any action is taken to implement the determination.

(2)(A) In carrying out paragraph (1), the Commissioner of Social Security shall review—

(i) at least 20 percent of all determinations referred to in paragraph (1) that are made in fiscal year 2006;