

## EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-203 effective Mar. 2, 2004, and effective with respect to overpayments under subchapters II, VIII, and XVI of this chapter that are outstanding on or after such date, see section 210(c) of Pub. L. 108-203, set out as a note under section 404 of this title.

**§ 1009. Hearings and review****(a) Hearings****(1) In general**

The Commissioner of Social Security shall make findings of fact and decisions as to the rights of any individual applying for payment under this subchapter. The Commissioner of Social Security shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be a qualified individual and is in disagreement with any determination under this subchapter with respect to entitlement to, or the amount of, benefits under this subchapter, if the individual requests a hearing on the matter in disagreement within 60 days after notice of the determination is received, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing affirm, modify, or reverse the Commissioner of Social Security's findings of fact and the decision. The Commissioner of Social Security may, on the Commissioner of Social Security's own motion, hold such hearings and conduct such investigations and other proceedings as the Commissioner of Social Security deems necessary or proper for the administration of this subchapter. In the course of any hearing, investigation, or other proceeding, the Commissioner may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Commissioner of Social Security even though inadmissible under the rules of evidence applicable to court procedure. The Commissioner of Social Security shall specifically take into account any physical, mental, educational, or linguistic limitation of the individual (including any lack of facility with the English language) in determining, with respect to the entitlement of the individual for benefits under this subchapter, whether the individual acted in good faith or was at fault, and in determining fraud, deception, or intent.

**(2) Effect of failure to timely request review**

A failure to timely request review of an initial adverse determination with respect to an application for any payment under this subchapter or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any payment under this subchapter if the applicant demonstrates that the applicant failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for payments in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration.

**(3) Notice requirements**

In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Commissioner of Social Security shall describe in clear and specific language the effect on possible entitlement to benefits under this subchapter of choosing to reapply in lieu of requesting review of the determination.

**(b) Judicial review**

The final determination of the Commissioner of Social Security after a hearing under subsection (a)(1) of this section shall be subject to judicial review as provided in section 405(g) of this title to the same extent as the Commissioner of Social Security's final determinations under section 405 of this title.

(Aug. 14, 1935, ch. 531, title VIII, §809, as added Pub. L. 106-169, title II, §251(a), Dec. 14, 1999, 113 Stat. 1851.)

## PRIOR PROVISIONS

For prior provisions, see note set out under section 1001 of this title.

**§ 1010. Other administrative provisions****(a) Regulations and administrative arrangements**

The Commissioner of Social Security may prescribe such regulations, and make such administrative and other arrangements, as may be necessary or appropriate to carry out this subchapter.

**(b) Payment of benefits**

Benefits under this subchapter shall be paid at such time or times and in such installments as the Commissioner of Social Security determines are in the interests of economy and efficiency.

**(c) Entitlement redeterminations**

An individual's entitlement to benefits under this subchapter, and the amount of the benefits, may be redetermined at such time or times as the Commissioner of Social Security determines to be appropriate.

**(d) Suspension and termination of benefits**

Regulations prescribed by the Commissioner of Social Security under subsection (a) of this section may provide for the suspension and termination of entitlement to benefits under this subchapter as the Commissioner determines is appropriate.

(Aug. 14, 1935, ch. 531, title VIII, §810, as added Pub. L. 106-169, title II, §251(a), Dec. 14, 1999, 113 Stat. 1852.)

## PRIOR PROVISIONS

For prior provisions, see note set out under section 1001 of this title.

**§ 1010a. Optional Federal administration of State recognition payments****(a) In general**

The Commissioner of Social Security may enter into an agreement with any State (or political subdivision thereof) that provides cash payments on a regular basis to individuals enti-

tled to benefits under this subchapter under which the Commissioner of Social Security shall make such payments on behalf of such State (or subdivision).

**(b) Agreement terms**

**(1) In general**

Such agreement shall include such terms as the Commissioner of Social Security finds necessary to achieve efficient and effective administration of both this subchapter and the State program.

**(2) Financial terms**

Such agreement shall provide for the State to pay the Commissioner of Social Security, at such times and in such installments as the parties may specify—

(A) an amount equal to the expenditures made by the Commissioner of Social Security pursuant to such agreement as payments to individuals on behalf of such State; and

(B) an administration fee to reimburse the administrative expenses incurred by the Commissioner of Social Security in making payments to individuals on behalf of the State.

**(c) Special disposition of administration fees**

Administration fees, upon collection, shall be credited to a special fund established in the Treasury of the United States for State recognition payments for certain World War II veterans. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this subchapter.

(Aug. 14, 1935, ch. 531, title VIII, §810A, as added Pub. L. 106-554, §1(a)(1) [title V, §518(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-73.)

**§ 1011. 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 an application for benefits 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 any right to the benefits;

(3) having knowledge of the occurrence of any event affecting—

(A) his or her initial or continued right to the benefits; or

(B) the initial or continued right to the benefits of any other individual in whose behalf he or she has applied for or is receiving the benefit,

conceals or fails to disclose the event with an intent fraudulently to secure the benefit either in a greater amount or quantity than is due or when no such benefit is authorized;

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

(5) conspires to commit any offense described in any of paragraphs (1) through (3),

shall be fined under title 18, imprisoned not more than 5 years, or both, except that in the case of a person who receives a fee or other income for services performed in connection with any determination with respect to benefits under this subchapter (including a claimant representative, translator, or current or former employee of the Social Security Administration), or who is a physician or other health care provider who submits, or causes the submission of, medical or other evidence in connection with any such determination, such person shall be guilty of a felony and upon conviction thereof shall be fined under title 18, or imprisoned for not more than ten years, or both.

**(b) Court order for restitution**

**(1) In general**

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 1007(i) of this title.

**(2) Related provisions**

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) Stated reasons for not ordering restitution**

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) Receipt of restitution payments**

**(A) In general**

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) Payment to the individual**

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 XVI of this chapter by the individual.