

an entity described in section 1320a-3(a)(2) of this title;

(2) the term “managing employee” means, with respect to a provider, a person described in section 1320a-5(b) of this title; and

(3) the term “person with an ownership or control interest” means, with respect to a provider—

(A) a person described in section 1320a-3(a)(3) of this title, or

(B) a person who has one of the 5 largest direct or indirect ownership or control interests in the provider.

(Aug. 14, 1935, ch. 531, title XI, §1124A, as added Pub. L. 101-508, title IV, §4164(b)(1), Nov. 5, 1990, 104 Stat. 1388-101; amended Pub. L. 103-432, title I, §147(f)(7)(A)(i), Oct. 31, 1994, 108 Stat. 4432; Pub. L. 105-33, title IV, §4313(b), (c), Aug. 5, 1997, 111 Stat. 388.)

#### REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsecs. (a)(3) and (c)(1)(B), is classified generally to Title 26, Internal Revenue Code.

Section 1320a-3 of this title, referred to in subsec. (c)(1), does not contain a subsec. (c).

#### AMENDMENTS

1997—Subsec. (a)(3). Pub. L. 105-33, §4313(b)(1), added par. (3).

Subsec. (c). Pub. L. 105-33, §4313(c)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (c)(1). Pub. L. 105-33, §4313(b)(2), inserted “(or, for purposes of subsection (a)(3), any entity receiving payment)” after “on an assignment-related basis”.

Subsec. (d). Pub. L. 105-33, §4313(c)(1), redesignated subsec. (c) as (d).

1994—Subsec. (a)(2)(A). Pub. L. 103-432 made technical amendment to reference to subchapter XVIII of this chapter to correct reference to corresponding provision of original act.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 4313(b) of Pub. L. 105-33 applicable to payment for items and services furnished more than 90 days after date of submission of report under section 4313(d) of Pub. L. 105-33, set out as a note under section 1320a-3 of this title, see section 4313(e) of Pub. L. 105-33, set out as a note under section 1320a-3 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-432, title I, §147(g), Oct. 31, 1994, 108 Stat. 4432, provided that: “Except as otherwise provided in this section [amending this section and sections 1320b-5, 1395f, 1395p, 1395q, 1395x, 1395y, and 1395cc of this title, enacting provisions set out as notes under sections 1395f, 1395p, and 1395y of this title, amending provisions set out as notes under this section and sections 254b, 1395f, and 1395u of this title, and repealing provisions set out as a note under section 1395f of this title], the amendments made by this section shall take effect as if included in the enactment of OBRA-1990 [Pub. L. 101-508].”

#### EFFECTIVE DATE

Pub. L. 101-508, title IV, §4164(b)(4), Nov. 5, 1990, 104 Stat. 1388-102, as amended by Pub. L. 103-432, title I, §147(f)(7)(A)(ii), Oct. 31, 1994, 108 Stat. 4432, provided that: “The amendments made by paragraphs (1), (2), and (3) [enacting this section and amending sections 1320a-7 and 1320a-7b of this title] shall apply with respect to items or services furnished on or after—

“(A) January 1, 1993, in the case of items or services furnished by a provider who, on or before the date of the enactment of this Act [Nov. 5, 1990], has furnished

items or services for which payment may be made under part B of title XVIII of the Social Security Act [42 U.S.C. 1395j et seq.]; or

“(B) January 1, 1992, in the case of items or services furnished by any other provider.”

#### REPORT ON CONFIDENTIALITY OF SOCIAL SECURITY ACCOUNT NUMBERS

Before amendment by Pub. L. 105-33 may become effective, Secretary of Health and Human Services is required to submit to Congress a report on steps Secretary has taken to assure the confidentiality of social security account numbers that will be provided to Secretary, see section 4313(d) of Pub. L. 105-33, set out as a note under section 1320a-3 of this title.

#### § 1320a-4. Issuance of subpoenas by Comptroller General

##### (a) Authorization; scope; service and proof of service

For the purpose of any audit, investigation, examination, analysis, review, evaluation, or other function authorized by law with respect to any program authorized under this chapter, the Comptroller General of the United States shall have power to sign and issue subpoenas to any person requiring the production of any pertinent books, records, documents, or other information. Subpoenas so issued by the Comptroller General shall be served by anyone authorized by him (1) by delivering a copy thereof to the person named therein, or (2) by registered mail or by certified mail addressed to such person at his last dwelling place or principal place of business. A verified return by the person so serving the subpoena setting forth the manner of service, or, in the case of service by registered mail or by certified mail, the return post office receipt therefor signed by the person so served, shall be proof of service.

##### (b) Contumacy or refusal to obey subpoena; contempt proceedings

In case of contumacy by, or refusal to obey a subpoena issued pursuant to subsection (a) of this section and duly served upon, any person, any district court of the United States for the judicial district in which such person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Comptroller General, shall have jurisdiction to issue an order requiring such person to produce the books, records, documents, or other information sought by the subpoena; and any failure to obey such order of the court may be punished by the court as a contempt thereof. In proceedings brought under this subsection, the Comptroller General shall be represented by attorneys employed in the Government Accountability Office or by counsel whom he may employ without regard to the provisions of title 5 governing appointments in the competitive service, and the provisions of chapter 51 and subchapters III and VI of chapter 53 of such title, relating to classification and General Schedule pay rates.

##### (c) Nondisclosure of personal medical records by Government Accountability Office

No personal medical record in the possession of the Government Accountability Office shall be subject to subpoena or discovery proceedings in a civil action.

(Aug. 14, 1935, ch. 531, title XI, §1125, as added Pub. L. 95-142, §6, Oct. 25, 1977, 91 Stat. 1192; amended Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Subsecs. (b) and (c). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” wherever appearing.

**§ 1320a-5. Disclosure by institutions, organizations, and agencies of owners, officers, etc., convicted of offenses related to programs; notification requirements; “managing employee” defined**

(a) As a condition of participation in or certification or recertification under the programs established by subchapters XVIII,<sup>1</sup> and XIX, any hospital, nursing facility, or other entity (other than an individual practitioner or group of practitioners) shall be required to disclose to the Secretary or to the appropriate State agency the name of any person that is a person described in subparagraphs (A) and (B) of section 1320a-7(b)(8) of this title. The Secretary or the appropriate State agency shall promptly notify the Inspector General in the Department of Health and Human Services of the receipt from any entity of any application or request for such participation, certification, or recertification which discloses the name of any such person, and shall notify the Inspector General of the action taken with respect to such application or request.

(b) For the purposes of this section, the term “managing employee” means, with respect to an entity, an individual, including a general manager, business manager, administrator, and director, who exercises operational or managerial control over the entity, or who directly or indirectly conducts the day-to-day operations of the entity.

(Aug. 14, 1935, ch. 531, title XI, §1126, as added Pub. L. 95-142, §8(a), Oct. 25, 1977, 91 Stat. 1194; amended Pub. L. 97-35, title XXIII, §2353(j), Aug. 13, 1981, 95 Stat. 873; Pub. L. 98-369, div. B, title VI, §2663(j)(2)(D)(vi), July 18, 1984, 98 Stat. 1170; Pub. L. 100-93, §8(b), Aug. 18, 1987, 101 Stat. 692.)

AMENDMENTS

1987—Subsec. (a). Pub. L. 100-93, §8(b)(1), in first sentence substituted “or other entity (other than an individual practitioner or group of practitioners) shall be required to disclose to the Secretary or to the appropriate State agency the name of any person that is a person described in subparagraphs (A) and (B) of section 1320a-7(b)(8) of this title.” for “or other institution, organization, or agency shall be required to disclose to the Secretary or to the appropriate State agency the name of any person who—

“(1) has a direct or indirect ownership or control interest of 5 percent or more in such institution, organization, or agency or is an officer, director, agent, or managing employee (as defined in subsection (b) of this section) of such institution, organization, or agency, and

“(2) has been convicted (on or after October 25, 1977, or within such period prior to that date as the Secretary shall specify in regulations) of a criminal offense related to the involvement of such person in any of such programs.”,

<sup>1</sup> So in original. The comma probably should not appear.

and in second sentence substituted “entity” for “institution, organization, or agency”.

Subsec. (b). Pub. L. 100-93, §8(b)(2), substituted “entity” for “institution, organization, or agency” in three places.

1984—Subsec. (a). Pub. L. 98-369 substituted “Health and Human Services” for “Health, Education, and Welfare” in provisions following par. (2).

1981—Subsec. (a). Pub. L. 97-35 substituted in provision preceding par. (1) “and XIX” for “XIX, and XX”.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-93 effective at end of fourteen-day period beginning Aug. 18, 1987, and inapplicable to administrative proceedings commenced before end of such period, see section 15(a) of Pub. L. 100-93, set out as a note under section 1320a-7 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, except as otherwise explicitly provided, see section 2354 of Pub. L. 97-35, set out as an Effective Date note under section 1397 of this title.

EFFECTIVE DATE

Pub. L. 95-142, §8(e), Oct. 25, 1977, 91 Stat. 1195, provided that: “The amendments made by this section [enacting this section and amending sections 1395cc, 1396b, and 1397a of this title] shall apply with respect to contracts, agreements, and arrangements entered into and approvals given pursuant to applications or requests made on and after the first day of the fourth month beginning after the date of the enactment of this Act [Oct. 25, 1977].”

**§ 1320a-6. Adjustments in SSI benefits on account of retroactive benefits under subchapter II**

**(a) Reduction in benefits**

Notwithstanding any other provision of this chapter, in any case where an individual—

(1) is entitled to benefits under subchapter II that were not paid in the months in which they were regularly due; and

(2) is an individual or eligible spouse eligible for supplemental security income benefits for one or more months in which the benefits referred to in clause (1) were regularly due,

then any benefits under subchapter II that were regularly due in such month or months, or supplemental security income benefits for such month or months, which are due but have not been paid to such individual or eligible spouse shall be reduced by an amount equal to so much of the supplemental security income benefits, whether or not paid retroactively, as would not have been paid or would not be paid with respect to such individual or spouse if he had received such benefits under subchapter II in the month or months in which they were regularly due. A benefit under subchapter II shall not be reduced pursuant to the preceding sentence to the extent that any amount of such benefit would not otherwise be available for payment in full of the maximum fee which may be recovered from such benefit by an attorney pursuant to subsection (a)(4) or (b) of section 406 of this title.