

(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,¹ 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.”,

¹ 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.

(b) “Supplemental security income benefits” defined

For purposes of this section, the term “supplemental security income benefits” means benefits paid or payable by the Commissioner of Social Security under subchapter XVI, including State supplementary payments under an agreement pursuant to section 1382e(a) of this title or an administration agreement under section 212(b) of Public Law 93-66.

(c) Reimbursement of the State

From the amount of the reduction made under subsection (a), the Commissioner of Social Security shall reimburse the State on behalf of which supplementary payments were made for the amount (if any) by which such State’s expenditures on account of such supplementary payments for the month or months involved exceeded the expenditures which the State would have made (for such month or months) if the individual had received the benefits under subchapter II at the times they were regularly due. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury.

(Aug. 14, 1935, ch. 531, title XI, §1127, as added Pub. L. 96-265, title V, §501(a), June 9, 1980, 94 Stat. 469; amended Pub. L. 98-369, div. B, title VI, §2615(a), July 18, 1984, 98 Stat. 1132; Pub. L. 101-508, title V, §5106(b), Nov. 5, 1990, 104 Stat. 1388-268; Pub. L. 103-296, title I, §108(b)(8), title III, §321(f)(3)(B)(ii), Aug. 15, 1994, 108 Stat. 1483, 1542.)

REFERENCES IN TEXT

Section 212(b) of Pub. L. 93-66, referred to in subsec. (b), is set out as a note under section 1382 of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-296, §321(f)(3)(B)(ii), in last sentence substituted “subsection (a)(4) or (b) of section 406 of this title” for “section 406(a)(4) of this title”.

Subsecs. (b), (c). Pub. L. 103-296, §108(b)(8), substituted “Commissioner of Social Security” for “Secretary”.

1990—Subsec. (a). Pub. L. 101-508 inserted at end “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 section 406(a)(4) of this title.”

1984—Pub. L. 98-369 substituted provisions relating to adjustment in supplemental security income benefits on account of retroactive benefits under subchapter II of this chapter for provisions which related to adjustment of retroactive benefits under subchapter II of this chapter on account of supplemental security income benefits.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 108(b)(8) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

Amendment by section 321(f)(3)(B)(ii) of Pub. L. 103-296 effective as if included in the provisions of the Omnibus Reconciliation Act of 1990, Pub. L. 101-508, to which such amendment relates, except that such amendment applicable with respect to favorable judgments made after 180 days after Aug. 15, 1994, see section 321(f)(5) of Pub. L. 103-296, set out as a note under section 405 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable with respect to determinations made on or after July 1, 1991, and to reimbursement for travel expenses incurred on or after Apr. 1, 1991, see section 5106(d), of Pub. L. 101-508, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. B, §2615(b), July 18, 1984, 98 Stat. 1133, provided that: “The amendment made by this section [amending this section] shall apply for purposes of reducing retroactive benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] or retroactive supplemental security income benefits payable beginning with the seventh month following the month in which this Act is enacted [July 1984]; except that in the case of retroactive title II benefits other than those which result from a determination of entitlement following an application for benefits under title II or from a reinstatement of benefits under title II following a period of suspension or termination of such benefits, it shall apply when the Secretary of Health and Human Services determines that it is administratively feasible.”

EFFECTIVE DATE

Pub. L. 96-265, title V, §501(d), June 9, 1980, 94 Stat. 470, provided that: “The amendments made by this section [enacting this section and amending sections 404 and 1383 of this title] shall be applicable in the case of payments of monthly insurance benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] entitlement for which is determined on or after the first day of the thirteenth month which begins after the date of the enactment of this Act [June 9, 1980].”

§ 1320a-6a. Interagency coordination to improve program administration**(a) Coordination agreement**

Notwithstanding any other provision of law, including section 407 of this title, the Commissioner of Social Security (referred to in this section as “the Commissioner”) and the Director of the Office of Personnel Management (referred to in this section as “the Director”) shall enter into an agreement under which a system is established to carry out the following procedure:

(1) The Director shall notify the Commissioner when any individual is determined to be entitled to a monthly disability annuity payment pursuant to subchapter V of chapter 84 of subpart G of part III of title 5 and shall certify that such individual has provided the authorization described in subsection (f).

(2) If the Commissioner determines that an individual described in paragraph (1) is also entitled to past-due benefits under section 423 of this title, the Commissioner shall notify the Director of such fact.

(3) Not later than 30 days after receiving a notification described in paragraph (2) with respect to an individual, the Director shall provide the Commissioner with the total amount of any disability annuity overpayments made to such individual, as well as any other information (in such form and manner as the Commissioner shall require) that the Commissioner determines is necessary to carry out this section.

(4) If the Director provides the Commissioner with the information described in paragraph (3) in a timely manner, the Commissioner may withhold past-due benefits under