

**(5) Medicare fee-for-service program**

The term “Medicare fee-for-service program” means the original medicare fee-for-service program under parts A and B of title XVIII of the Social Security Act (42 U.S.C. 1395[c] et seq.; 1395j et seq.).

**(6) Medicare provider**

The term “Medicare provider” means a provider of services (as defined in subsection (u) of section 1861 of the Social Security Act (42 U.S.C. 1395x)) and a supplier (as defined in subsection (d) of such section).

**(7) Secretary**

The term “Secretary” means the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services.

**(8) State**

The term “State” means each of the 50 States and the District of Columbia.

(Pub. L. 111-240, title IV, § 4241, Sept. 27, 2010, 124 Stat. 2599.)

## REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (g) and (i)(2), (3), (5), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XI, XVIII, XIX, and XXI of the Act are classified generally to subchapters XI (§1301 et seq.), XVIII (§1395 et seq.), XIX (§1396 et seq.), and XXI (§1397aa et seq.), respectively, of this chapter. Parts A and B of title XVIII of the Act are classified generally to Parts A (§1395c et seq.) and B (§1395j et seq.) of subchapter XVIII of this chapter. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

## CODIFICATION

Section was enacted as part of the Small Business Jobs Act of 2010, and not as part of the Social Security Act which comprises this chapter.

**§ 1320a-7n. Disclosure of predictive modeling and other analytics technologies to identify and prevent waste, fraud, and abuse****(a) Reference to predictive modeling technologies requirements**

For provisions relating to the use of predictive modeling and other analytics technologies to identify and prevent waste, fraud, and abuse with respect to the Medicare program under subchapter XVIII, the Medicaid program under subchapter XIX, and the Children’s Health Insurance Program under subchapter XXI, see section 1320a-7m of this title.

**(b) Limiting disclosure of predictive modeling technologies**

In implementing such provisions under such section 1320a-7m with respect to covered algorithms (as defined in subsection (c)), the following shall apply:

**(1) Nonapplication of FOIA**

The covered algorithms used or developed for purposes of such section 1320a-7m (including by the Secretary or a State (or an entity operating under a contract with a State)) shall be exempt from disclosure under section 552(b)(3) of title 5.

**(2) Limitation with respect to use and disclosure of information by State agencies****(A) In general**

A State agency may not use or disclose covered algorithms used or developed for purposes of such section 1320a-7m except for purposes of administering the State plan (or a waiver of the plan) under the Medicaid program under subchapter XIX or the State child health plan (or a waiver of the plan) under the Children’s Health Insurance Program under subchapter XXI, including by enabling an entity operating under a contract with a State to assist the State to identify or prevent waste, fraud, and abuse with respect to such programs.

**(B) Information security**

A State agency shall have in effect data security and control policies that the Secretary finds adequate to ensure the security of covered algorithms used or developed for purposes of such section 1320a-7m and to ensure that access to such information is restricted to authorized persons for purposes of authorized uses and disclosures described in subparagraph (A).

**(C) Procedural requirements**

State agencies to which information is disclosed pursuant to such section 1320a-7m shall adhere to uniform procedures established by the Secretary.

**(c) Covered algorithm defined**

In this section, the term “covered algorithm”—

(1) means a predictive modeling or other analytics technology, as used for purposes of section 1320a-7m(a) of this title to identify and prevent waste, fraud, and abuse with respect to the Medicare program under subchapter XVIII, the Medicaid program under subchapter XIX, and the Children’s Health Insurance Program under subchapter XXI; and

(2) includes the mathematical expressions utilized in the application of such technology and the means by which such technology is developed.

(Aug. 14, 1935, ch. 531, title XI, §1128K, as added Pub. L. 114-198, title VII, §706(a), July 22, 2016, 130 Stat. 753.)

**§ 1320a-8. Civil monetary penalties and assessments for subchapters II, VIII and XVI****(a) False statements or representations of material fact; proceedings to exclude; wrongful conversions by representative payees**

(1) Any person (including an organization, agency, or other entity) who—

(A) 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 or benefits or payments under subchapter VIII or XVI, that the person knows or should know is false or misleading,

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