

(6) Unauthorized withdrawals

A State may establish procedures—

(A) to penalize or remove an individual from the health opportunity account based on nonqualified withdrawals by the individual from such an account; and

(B) to recoup costs that derive from such nonqualified withdrawals.

(Aug. 14, 1935, ch. 531, title XIX, §1938, as added Pub. L. 109–171, title VI, §6082(2), Feb. 8, 2006, 120 Stat. 113.)

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsecs. (a)(3) and (d)(3)(A)(ii), is classified generally to Title 26, Internal Revenue Code.

PRIOR PROVISIONS

A prior section 1938 of act Aug. 14, 1935, was renumbered section 1939 and is classified to section 1396v of this title.

PROHIBITING INITIATION OF NEW HEALTH OPPORTUNITY ACCOUNT DEMONSTRATION PROGRAMS

Pub. L. 111–3, title VI, §613, Feb. 4, 2009, 123 Stat. 101, provided that: “After the date of the enactment of this Act [Feb. 4, 2009], the Secretary of Health and Human Services may not approve any new demonstration programs under section 1938 of the Social Security Act (42 U.S.C. 1396u–8).”

§ 1396v. References to laws directly affecting medicaid program**(a) Authority or requirements to cover additional individuals**

For provisions of law which make additional individuals eligible for medical assistance under this subchapter, see the following:

(1) AFDC

(A) Section 602(a)(32)¹ of this title (relating to individuals who are deemed recipients of aid but for whom a payment is not made).

(B) Section 602(a)(37)¹ of this title (relating to individuals who lose AFDC eligibility due to increased earnings).

(C) Section 606(h)¹ of this title (relating to individuals who lose AFDC eligibility due to increased collection of child or spousal support).

(D) Section 682(e)(6)¹ of this title (relating to certain individuals participating in work supplementation programs).

(2) SSI

(A) Section 1382(e) of this title (relating to treatment of couples sharing an accommodation in a facility).

(B) Section 1382h of this title (relating to benefits for individuals who perform substantial gainful activity despite severe medical impairment).

(C) Section 1383c(b) of this title (relating to preservation of benefit status for disabled widows and widowers who lost SSI benefits because of 1983 changes in actuarial reduction formula).

(D) Section 1383c(c) of this title (relating to individuals who lose eligibility for SSI benefits due to entitlement to child's insurance benefits under section 402(d) of this title).

(E) Section 1383c(d) of this title (relating to individuals who lose eligibility for SSI benefits due to entitlement to early widow's or widower's insurance benefits under section 402(e) or (f) of this title).

(3) Foster care and adoption assistance

Sections 672(h) and 673(b) of this title (relating to medical assistance for children in foster care and for adopted children).

(4) Refugee assistance

Section 1522(e)(5) of title 8 (relating to medical assistance for certain refugees).

(5) Miscellaneous

(A) Section 230 of Public Law 93–66 (relating to deeming eligible for medical assistance certain essential persons).

(B) Section 231 of Public Law 93–66 (relating to deeming eligible for medical assistance certain persons in medical institutions).

(C) Section 232 of Public Law 93–66 (relating to deeming eligible for medical assistance certain blind and disabled medically indigent persons).

(D) Section 13(c) of Public Law 93–233 (relating to deeming eligible for medical assistance certain individuals receiving mandatory State supplementary payments).

(E) Section 503 of Public Law 94–566 (relating to deeming eligible for medical assistance certain individuals who would be eligible for supplemental security income benefits but for cost-of-living increases in social security benefits).

(F) Section 310(b)(1) of Public Law 96–272 (relating to continuing medicaid eligibility for certain recipients of Department of Veterans Affairs pensions).

(b) Additional State plan requirements

For other provisions of law that establish additional requirements for State plans to be approved under this subchapter, see the following:

(1) Section 1382g of this title (relating to requirement for operation of certain State supplementation programs).

(2) Section 212(a) of Public Law 93–66 (relating to requiring mandatory minimum State supplementation of SSI benefits program).

(Aug. 14, 1935, ch. 531, title XIX, §1939, formerly §1920, as added Pub. L. 99–272, title IX, §9526, Apr. 7, 1986, 100 Stat. 218; renumbered §1921, Pub. L. 99–509, title IX, §9407(b), Oct. 21, 1986, 100 Stat. 2058; amended Pub. L. 99–514, title XVIII, §1895(c)(5), Oct. 22, 1986, 100 Stat. 2936; Pub. L. 99–643, §6(c), Nov. 10, 1986, 100 Stat. 3578; renumbered §1922, Pub. L. 100–93, §5(b), Aug. 18, 1987, 101 Stat. 690; renumbered §1923 and §1924 and amended Pub. L. 100–203, title IV, §§4112(a)(1), 4118(p)(9), 4211(a)(1), title IX, §9116(d), Dec. 22, 1987, 101 Stat. 1330–148, 1330–159, 1330–182, 1330–306, as amended Pub. L. 100–360, title IV, §411(k)(6)(B)(i), (10)(L), (n)(3), July 1, 1988, 102 Stat. 793, 797, as amended Pub. L. 100–485, title VI, §608(d)(28), Oct. 13, 1988, 102 Stat. 2423; renumbered §1925, Pub. L. 100–360, title III, §303(a)(1)(A), July 1, 1988, 102 Stat. 754; renumbered §1926 and amended Pub. L. 100–485, title II, §202(c)(5), title III, §303(a)(1), Oct. 13, 1988, 102 Stat. 2378, 2385; renumbered §1927, Pub. L.

¹ See References in Text note below.

101-239, title VI, § 6402(b), Dec. 19, 1989, 103 Stat. 2260; renumbered § 1928, Pub. L. 101-508, title IV, § 4401(a)(3), Nov. 5, 1990, 104 Stat. 1388-143; Pub. L. 102-54, § 13(q)(3)(A)(v), June 13, 1991, 105 Stat. 279; renumbered § 1931, Pub. L. 103-66, title XIII, § 13631(b)(1), Aug. 10, 1993, 107 Stat. 637; renumbered § 1932, Pub. L. 104-193, title I, § 114(a)(1), Aug. 22, 1996, 110 Stat. 2177; renumbered §§ 1933, 1934, and 1935, Pub. L. 105-33, title IV, §§ 4701(a), 4732(c), 4802(a)(2), Aug. 5, 1997, 111 Stat. 489, 520, 538; renumbered § 1936, Pub. L. 108-173, title I, § 103(a)(2)(A), Dec. 8, 2003, 117 Stat. 2154; renumbered § 1937, renumbered § 1938, renumbered § 1939, Pub. L. 109-171, title VI, §§ 6034(a)(1), 6044(a), 6082(1), Feb. 8, 2006, 120 Stat. 74, 88, 113.)

REFERENCES IN TEXT

Section 602 of this title, referred to in subsec. (a)(1)(A), (B), was repealed and a new section 602 enacted by Pub. L. 104-193, title I, § 103(a)(1), Aug. 22, 1996, 110 Stat. 2112, and, as so enacted, subsec. (a) of section 602 no longer contains a par. (32) or (37).

Section 606 of this title, referred to in subsec. (a)(1)(C), was repealed and a new section 606 enacted by Pub. L. 104-193, title I, § 103(a)(1), Aug. 22, 1996, 110 Stat. 2112, and, as so enacted, no longer contains a subsec. (h).

Section 682 of this title, referred to in subsec. (a)(1)(D), was repealed by Pub. L. 104-193, title I, § 108(e), Aug. 22, 1996, 110 Stat. 2167.

Sections 230, 231, and 232 of Public Law 93-66, referred to in subsec. (a)(5)(A) to (C), are sections 230, 231, and 232 of Pub. L. 93-66, title II, July 9, 1973, 87 Stat. 159, 160, as amended, which are set out as notes under section 1396a of this title.

Section 13(c) of Public Law 93-233, referred to in subsec. (a)(5)(D), is section 13(c) of Pub. L. 93-233, Dec. 31, 1973, 87 Stat. 965, which is set out as a note under section 1396a of this title.

Section 503 of Public Law 94-566, referred to in subsec. (a)(5)(E), is section 503 of Pub. L. 94-566, title V, Oct. 20, 1976, 90 Stat. 2685, which is set out as a note under section 1396a of this title.

Section 310(b)(1) of Public Law 96-272, referred to in subsec. (a)(5)(F), is section 310(b)(1) of Pub. L. 96-272, title III, June 17, 1980, 94 Stat. 533, which is set out as a note under section 1396a of this title.

Section 212(a) of Public Law 93-66, referred to in subsec. (b)(2), is section 212(a) of Pub. L. 93-66, title II, July 9, 1973, 87 Stat. 155, as amended, which is set out as a note under section 1382 of this title.

CODIFICATION

Section was formerly classified to section 1396s of this title prior to renumbering by Pub. L. 103-66.

AMENDMENTS

1991—Subsec. (a)(5)(F). Pub. L. 102-54 substituted “Department of Veterans Affairs” for “Veterans’ Administration”.

1988—Subsec. (a)(1). Pub. L. 100-360, § 411(k)(10)(L), made technical correction to directory language of Pub. L. 100-203, § 4118(p)(9), see 1987 Amendment note below.

Subsec. (a)(1)(D). Pub. L. 100-485, § 202(c)(5), substituted “section 682(e)(6) of this title” for “section 614(g) of this title”.

Subsec. (a)(2). Pub. L. 100-360, § 411(k)(10)(L), made technical correction to directory language of Pub. L. 100-203, § 4118(p)(9), see 1987 Amendment note below.

Subsec. (a)(2)(E). Pub. L. 100-360, § 411(n)(3), as added by Pub. L. 100-485, § 608(d)(28), amended Pub. L. 100-203, § 9116(d), see 1987 Amendment note below.

1987—Subsec. (a)(1). Pub. L. 100-203, § 4118(p)(9), as amended by Pub. L. 100-360, § 411(k)(10)(L), amended par. (1) generally. Prior to amendment, par. (1) read as follows:

“(1) AFDC.—(A) Section 602(a)(32) of this title (relating to individuals who are deemed recipients of aid but for whom a payment is not made). Section 602(a)(37) of this title (relating to individuals who lose AFDC eligibility due to increased earnings).

“(C) Section 606(h) of this title (relating to individuals who lose AFDC eligibility due to increased collection of child or spousal support).

“(D) Section 614(g) of this title (relating to certain individuals participating in work supplementation programs).”

Subsec. (a)(2). Pub. L. 100-203, § 4118(p)(9), as amended by Pub. L. 100-360, § 411(k)(10)(L), amended par. (2) generally. Prior to amendment, par. (2) read as follows:

“(2) SSI.—(A) Section 1382h of this title (relating to benefits for individuals who perform substantial gainful activity despite severe medical impairment).

“(B) Section 1383c(b) of this title (relating to preservation of benefit status for disabled widows and widowers who lost SSI benefits because of 1983 changes in actuarial reduction formula).

“(B)[(C)] Section 1383c of this title (relating to individuals who lose eligibility for SSI benefits due to entitlement to child’s insurance benefits under section 402(d) of this title).”

Subsec. (a)(2)(E). Pub. L. 100-203, § 9116(d), as amended generally by Pub. L. 100-360, § 411(n)(3), as added by Pub. L. 100-485, § 608(d)(28), added subpar. (E).

1986—Subsec. (a)(1). Pub. L. 99-514, § 1895(c)(5)(A), redesignated subpars. (B) and (C) as (C) and (D), respectively, and inserted at beginning of subpar. (A) “Section 602(a)(32) of this title (relating to individuals who are deemed recipients of aid but for whom a payment is not made).”

Subsec. (a)(2). Pub. L. 99-643, which directed amendment of section 1920(a)(2) of the Social Security Act by designating existing provisions as subpar. (A) and adding subpar. (B) relating to section 1383c of this title as it relates to individuals who lose eligibility for SSI benefits due to entitlement to child’s insurance benefits, was executed to this section, section 1921 of the Social Security Act, to reflect the probable intent of Congress and the redesignation of section 1920 of the Social Security Act as section 1921 by Pub. L. 99-509.

Pub. L. 99-514, § 1895(c)(5)(B), designated existing provisions as subpar. (A) and added subpar. (B) relating to section 1383c(b) of this title as it relates to preservation of benefit status for certain disabled widows and widowers.

Subsec. (a)(3). Pub. L. 99-514, § 1895(c)(5)(C), substituted “Sections 672(h) and 673(b) of this title” for “Section 673(b) of this title”.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by section 202(c)(5) of Pub. L. 100-485 effective Oct. 1, 1990, with provision for earlier effective dates in case of States making certain changes in their State plans and formally notifying the Secretary of Health and Human Services of their desire to become subject to the amendments by title II of Pub. L. 100-485, at such earlier effective dates, see section 204 of Pub. L. 100-485, set out as a note under section 671 of this title.

Amendment by section 608(d)(28) of Pub. L. 100-485 effective as if included in the enactment of the Medicare Catastrophic Coverage Act of 1988, Pub. L. 100-360, see section 608(g)(1) of Pub. L. 100-485, set out as a note under section 704 of this title.

Except as specifically provided in section 411 of Pub. L. 100-360, amendment by section 411(k)(6)(B)(i), (10)(L), (n)(3) of Pub. L. 100-360, as it relates to a provision in the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, effective as if included in the enactment of that provision in Pub. L. 100-203, see section 411(a) of Pub. L. 100-360, set out as a Reference to OBRA: Effective Date note under section 106 of Title 1, General Provisions.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-643 effective July 1, 1987, except as otherwise provided, see section 10(b) of Pub.

L. 99-643, set out as a note under section 1396a of this title.

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985, Pub. L. 99-272, see section 1895(e) of Pub. L. 99-514, set out as a note under section 162 of Title 26, Internal Revenue Code.

REFERENCES TO PROVISIONS OF PART A OF SUBCHAPTER IV CONSIDERED REFERENCES TO SUCH PROVISIONS AS IN EFFECT JULY 16, 1996

For provisions that certain references to provisions of part A (§601 et seq.) of subchapter IV of this chapter be considered references to such provisions of part A as in effect July 16, 1996, see section 1396u-1(a) of this title.

§ 1396w. Asset verification through access to information held by financial institutions

(a) Implementation

(1) In general

Subject to the provisions of this section, each State shall implement an asset verification program described in subsection (b), for purposes of determining or redetermining the eligibility of an individual for medical assistance under the State plan under this subchapter.

(2) Plan submittal

In order to meet the requirement of paragraph (1), each State shall—

(A) submit not later than a deadline specified by the Secretary consistent with paragraph (3), a State plan amendment under this subchapter that describes how the State intends to implement the asset verification program; and

(B) provide for implementation of such program for eligibility determinations and redeterminations made on or after 6 months after the deadline established for submittal of such plan amendment.

(3) Phase-in

(A) In general

(i) Implementation in current asset verification demo States

The Secretary shall require those States specified in subparagraph (C) (to which an asset verification program has been applied before June 30, 2008) to implement an asset verification program under this subsection by the end of fiscal year 2009.

(ii) Implementation in other States

The Secretary shall require other States to submit and implement an asset verification program under this subsection in such manner as is designed to result in the application of such programs, in the aggregate for all such other States, to enrollment of approximately, but not less than, the following percentage of enrollees, in the aggregate for all such other States, by the end of the fiscal year involved:

(I) 12.5 percent by the end of fiscal year 2009.

(II) 25 percent by the end of fiscal year 2010.

(III) 50 percent by the end of fiscal year 2011.

(IV) 75 percent by the end of fiscal year 2012.

(V) 100 percent by the end of fiscal year 2013.

(B) Consideration

In selecting States under subparagraph (A)(ii), the Secretary shall consult with the States involved and take into account the feasibility of implementing asset verification programs in each such State.

(C) States specified

The States specified in this subparagraph are California, New York, and New Jersey.

(D) Construction

Nothing in subparagraph (A)(ii) shall be construed as preventing a State from requesting, and the Secretary from approving, the implementation of an asset verification program in advance of the deadline otherwise established under such subparagraph.

(4) Exemption of territories

This section shall only apply to the 50 States and the District of Columbia.

(b) Asset verification program

(1) In general

For purposes of this section, an asset verification program means a program described in paragraph (2) under which a State—

(A) requires each applicant for, or recipient of, medical assistance under the State plan under this subchapter on the basis of being aged, blind, or disabled to provide authorization by such applicant or recipient (and any other person whose resources are required by law to be disclosed to determine the eligibility of the applicant or recipient for such assistance) for the State to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act¹ [12 U.S.C. 3415] but at no cost to the applicant or recipient) from any financial institution (within the meaning of section 1101(1) of such Act [12 U.S.C. 3401(1)]) any financial record (within the meaning of section 1101(2) of such Act) held by the institution with respect to the applicant or recipient (and such other person, as applicable), whenever the State determines the record is needed in connection with a determination with respect to such eligibility for (or the amount or extent of) such medical assistance; and

(B) uses the authorization provided under subparagraph (A) to verify the financial resources of such applicant or recipient (and such other person, as applicable), in order to determine or redetermine the eligibility of such applicant or recipient for medical assistance under the State plan.

(2) Program described

A program described in this paragraph is a program for verifying individual assets in a manner consistent with the approach used by the Commissioner of Social Security under section 1383(e)(1)(B)(ii) of this title.

¹ See References in Text note below.