

REVIEW AND ANALYSIS OF VARIATIONS IN UTILIZATION  
OF HOSPITAL AND OTHER HEALTH CARE SERVICES

Pub. L. 99-509, title IX, §9353(a)(4), Oct. 21, 1986, 100 Stat. 2046, provided that: "The Secretary of Health and Human Services shall provide, to at least 12 utilization and quality control peer review organizations with contracts under part B of title XI of the Social Security Act [42 U.S.C. 1320c et seq.], data and data processing assistance to allow each of these organizations to review and analyze small-area variations, in the service area of the organization, in the utilization of hospital and other health care services for which payment is made under title XVIII of such Act [42 U.S.C. 1395 et seq.]."

**§ 1320c-4. Right to hearing and judicial review**

Any beneficiary who is entitled to benefits under subchapter XVIII, and, subject to section 1320c-3(a)(3)(D) of this title, any practitioner or provider, who is dissatisfied with a determination made by a contracting quality improvement organization in conducting its review responsibilities under this part, shall be entitled to a reconsideration of such determination by the reviewing organization. Where the reconsideration is adverse to the beneficiary and where the matter in controversy is \$200 or more, such beneficiary shall be entitled to a hearing by the Secretary (to the same extent as beneficiaries under subchapter II are entitled to a hearing by the Commissioner of Social Security under section 405(b) of this title). For purposes of the preceding sentence, subsection (l) of section 405 of this title shall apply, except that any reference in such subsection to the Commissioner of Social Security or the Social Security Administration shall be deemed a reference to the Secretary or the Department of Health and Human Services, respectively. Where the amount in controversy is \$2,000 or more, such beneficiary shall be entitled to judicial review of any final decision relating to a reconsideration described in this subsection.

(Aug. 14, 1935, ch. 531, title XI, §1155, as added Pub. L. 97-248, title I, §143, Sept. 3, 1982, 96 Stat. 388; amended Pub. L. 101-239, title VI, § 6224(b)(2), Dec. 19, 1989, 103 Stat. 2257; Pub. L. 103-296, title I, §108(b)(14), Aug. 15, 1994, 108 Stat. 1485; Pub. L. 112-40, title II, §261(a)(2)(C), Oct. 21, 2011, 125 Stat. 423.)

PRIOR PROVISIONS

A prior section 1320c-4, act Aug. 14, 1935, ch. 531, title XI, §1155, as added Oct. 30, 1972, Pub. L. 92-603, title II, §249F(b), 86 Stat. 1433; amended Oct. 25, 1977, Pub. L. 95-142, §5(c)(1), (d)(3), (o)(2), (p), 91 Stat. 1184, 1188, 1191, 1192; Dec. 5, 1980, Pub. L. 96-499, title IX, §§924(b)-(d), 925-927(a), 931(g), 94 Stat. 2629, 2630, 2634; Aug. 13, 1981, Pub. L. 97-35, title XXI, §§2111, 2113(d), 2121(f), 95 Stat. 793, 794, 796, related to functions and duties of Professional Standards Review Organizations, prior to the general revision of this part by Pub. L. 97-248.

AMENDMENTS

2011—Pub. L. 112-40 substituted "quality improvement" for "peer review".

1994—Pub. L. 103-296 substituted "(to the same extent as beneficiaries under subchapter II are entitled to a hearing by the Commissioner of Social Security under section 405(b) of this title). For purposes of the preceding sentence, subsection (l) of section 405 of this title shall apply, except that any reference in such subsection to the Commissioner of Social Security or the

Social Security Administration shall be deemed a reference to the Secretary or the Department of Health and Human Services, respectively. Where the amount in controversy is \$2,000 or more, such beneficiary shall be entitled to judicial review of any final decision relating to a reconsideration described in this subsection." for "(to the same extent as is provided in section 405(b) of this title), and, where the amount in controversy is \$2,000 or more, to judicial review of the Secretary's final decision."

1989—Pub. L. 101-239 inserted "subject to section 1320c-3(a)(3)(D) of this title," before "any practitioner or provider".

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-40 applicable to contracts entered into or renewed on or after Jan. 1, 2012, see section 261(e) of Pub. L. 112-40, set out as a note under section 1320c of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to determinations by utilization and quality control peer review organizations with respect to which preliminary notifications were made under section 1320c-3(a)(3)(B) of this title more than 30 days after Dec. 19, 1989, see section 6224(b)(3) of Pub. L. 101-239, set out as a note under section 1320c-3 of this title.

**§ 1320c-5. Obligations of health care practitioners and providers of health care services; sanctions and penalties; hearings and review**

**(a) Assurances regarding services and items ordered or provided by practitioner or provider**

It shall be the obligation of any health care practitioner and any other person (including a hospital or other health care facility, organization, or agency) who provides health care services for which payment may be made (in whole or in part) under this chapter, to assure, to the extent of his authority that services or items ordered or provided by such practitioner or person to beneficiaries and recipients under this chapter—

- (1) will be provided economically and only when, and to the extent, medically necessary;
- (2) will be of a quality which meets professionally recognized standards of health care; and

(3) will be supported by evidence of medical necessity and quality in such form and fashion and at such time as may reasonably be required by a reviewing quality improvement organization in the exercise of its duties and responsibilities.

**(b) Sanctions and penalties; hearings and review**

(1) If after reasonable notice and opportunity for discussion with the practitioner or person concerned, and, if appropriate, after the practitioner or person has been given a reasonable opportunity to enter into and complete a corrective action plan (which may include remedial education) agreed to by the organization, and has failed successfully to complete such plan, any organization having a contract with the Secretary under this part determines that such practitioner or person has—