

an assessment, in lieu of damages sustained by the United States because of such statement or representation, of not more than twice the amount of benefits or payments paid as a result of such a statement or representation. In addition, the Commissioner of Social Security may make a determination in the same proceeding to recommend that the Secretary exclude, as provided in section 1320a-7 of this title, such a person who is a medical provider or physician from participation in the programs under subchapter XVIII."

Subsec. (a)(3). Pub. L. 108-203, §111(a), added par. (3).

Subsec. (b)(3)(A). Pub. L. 108-203, §201(c)(1), struck out "charging fraud or false statements" after "Federal or State crime".

Subsec. (c)(1). Pub. L. 108-203, §201(c)(2), substituted ", representations, or actions" for "and representations".

Subsec. (e)(1)(A). Pub. L. 108-203, §201(c)(3), substituted "violation occurred" for "statement or representation referred to in subsection (a) of this section was made".

Subsec. (e)(2)(B). Pub. L. 108-203, §201(b), substituted "In the case of any other amounts recovered under this section," for "In the case of amounts recovered arising out of a determination relating to subchapter VIII or XVI of this chapter."

1999—Pub. L. 106-169, §251(b)(6)(A), substituted "II, VIII" for "II" in section catchline.

Subsec. (a)(1)(B), (C). Pub. L. 106-169, §251(b)(6)(B), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (a)(2). Pub. L. 106-169, §251(b)(6)(C), inserted "or subchapter VIII," after "subchapter II".

Subsec. (e)(1)(C)(ii), (iii). Pub. L. 106-169, §251(b)(6)(D), added cl. (ii) and redesignated former cl. (ii) as (iii).

Subsec. (e)(2)(B). Pub. L. 106-169, §251(b)(6)(E), substituted "subchapter VIII or XVI" for "subchapter XVI".

Subsec. (l). Pub. L. 106-169, §251(b)(6)(F), substituted "subchapter VIII or XVI" for "subchapter XVI".

1994—Subsec. (a)(1). Pub. L. 103-296, §108(b)(10)(A)(i), (ii), in closing provisions substituted "Commissioner of Social Security" for "Secretary", inserted "recommend that the Secretary" before "exclude, as provided", and struck out before period at end "and to direct the appropriate State agency to exclude the person from participation in any State health care program permanently or for such period as the Secretary determines".

Subsecs. (a)(2), (b)(1), (2), (c). Pub. L. 103-296, §108(b)(10)(A)(i), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

Subsec. (d). Pub. L. 103-296, §108(b)(10)(A)(i), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

Pub. L. 103-296, §108(b)(10)(A)(i), which directed that this section be amended by substituting "Commissioner of Social Security" for "Secretary" wherever appearing, was also executed by substituting "Commissioner's" for "Secretary's" wherever appearing in subsec. (d), to reflect the probable intent of Congress, because Pub. L. 103-296, §108(b)(10)(A)(i), (iii)(I), substituted "Commissioner of Social Security" for "Secretary" throughout this section and in subsec. (g) substituted "Commissioner's" for "Secretary's".

Subsecs. (e), (f). Pub. L. 103-296, §108(b)(10)(A)(i), which directed amendment of this section by substituting "Commissioner of Social Security" for "Secretary" each place it appears, was executed in subsecs. (e) and (f) by making the substitution wherever appearing except where appearing before "of the Treasury" in subsec. (e)(1)(B) to reflect the probable intent of Congress.

Subsec. (g). Pub. L. 103-296, §108(b)(10)(A)(iii), substituted "Commissioner's" for "Secretary's" and "the Commissioner shall notify the Secretary of the final determination and the reasons therefor, and the Secretary shall then notify the entities described in section 1320a-7a(h) of this title of such final determination." for "the provisions of section 1320a-7a(h) of this title shall apply."

Subsecs. (h), (i). Pub. L. 103-296, §108(b)(10)(A)(i), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

Subsec. (k). Pub. L. 103-296, §108(b)(10)(A)(iv), inserted "based on a recommendation under subsection (a)" after "section 1320a-7 of this title".

Subsec. (l). Pub. L. 103-296, §206(e)(1), added subsec. (l).

Pub. L. 103-296, §108(b)(10)(A)(i), (v), in subsec. (l) as added by Pub. L. 103-296, §206(e)(1), substituted "Social Security Administration" for "Department of Health and Human Services" and "Commissioner of Social Security" for "Secretary".

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-203, title I, §111(b), Mar. 2, 2004, 118 Stat. 507, provided that: "The amendment made by this section [amending this section] shall apply with respect to violations committed after the date of the enactment of this Act [Mar. 2, 2004]."

Pub. L. 108-203, title II, §201(d), Mar. 2, 2004, 118 Stat. 508, provided that: "The amendments made by this section [amending this section and section 1320a-8a of this title] shall apply with respect to violations committed after the date on which the Commissioner of Social Security implements the centralized computer file described in section 202 [set out as a note under section 902 of this title]." [The centralized computer file was implemented Nov. 27, 2006, see 72 F.R. 27424.]

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 108(b)(10)(A) 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.

Pub. L. 103-296, title II, §206(e)(2), Aug. 15, 1994, 108 Stat. 1515, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on October 1, 1994."

EFFECTIVE DATE

Section applicable to conduct occurring on or after Oct. 1, 1994, see section 206(b)(3) of Pub. L. 103-296, set out as an Effective Date of 1994 Amendment note under section 1320a-7 of this title.

STUDY ON POSSIBLE MEASURES TO IMPROVE FRAUD PREVENTION AND ADMINISTRATIVE PROCESSING

Pub. L. 106-169, title II, §210, Dec. 14, 1999, 113 Stat. 1842, required the Commissioner of Social Security to study possible measures to improve prevention of fraud and administrative processing and submit the results no later than 1 year after Dec. 14, 1999.

§ 1320a-8a. Administrative procedure for imposing penalties for false or misleading statements

(a) In general

Any person who—

(1) 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 XVI that the person knows or should know is false or misleading,

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

(3) omits from a statement or representation for such use, or otherwise withholds disclosure of, a fact which the person knows or should know is material to the determination of any initial or continuing right to or the amount of monthly insurance benefits under subchapter II or benefits or payments under subchapter

XVI, if the person knows, or should know, that the statement or representation with such omission is false or misleading or that the withholding of such disclosure is misleading,

shall be subject to, in addition to any other penalties that may be prescribed by law, a penalty described in subsection (b) to be imposed by the Commissioner of Social Security.

(b) Penalty

The penalty described in this subsection is—

- (1) nonpayment of benefits under subchapter II that would otherwise be payable to the person; and
- (2) ineligibility for cash benefits under subchapter XVI,

for each month that begins during the applicable period described in subsection (c).

(c) Duration of penalty

The duration of the applicable period, with respect to a determination by the Commissioner under subsection (a) that a person has engaged in conduct described in subsection (a), shall be—

- (1) six consecutive months, in the case of the first such determination with respect to the person;
- (2) twelve consecutive months, in the case of the second such determination with respect to the person; and
- (3) twenty-four consecutive months, in the case of the third or subsequent such determination with respect to the person.

(d) Effect on other assistance

A person subject to a period of nonpayment of benefits under subchapter II or ineligibility for subchapter XVI benefits by reason of this section nevertheless shall be considered to be eligible for and receiving such benefits, to the extent that the person would be receiving or eligible for such benefits but for the imposition of the penalty, for purposes of—

- (1) determination of the eligibility of the person for benefits under subchapters XVIII and XIX; and
- (2) determination of the eligibility or amount of benefits payable under subchapter II or XVI to another person.

(e) Definition

In this section, the term “benefits under subchapter VIII or XVI” includes State supplementary payments made by the Commissioner pursuant to an agreement under section 1010a or 1382e(a) of this title or section 212(b) of Public Law 93-66, as the case may be.

(f) Consultations

The Commissioner of Social Security shall consult with the Inspector General of the Social Security Administration regarding initiating actions under this section.

(Aug. 14, 1935, ch. 531, title XI, §1129A, as added Pub. L. 106-169, title II, §207(a), Dec. 14, 1999, 113 Stat. 1837; amended Pub. L. 106-554, §1(a)(1) [title V, §518(b)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-74; Pub. L. 108-203, title II, §201(a)(2), Mar. 2, 2004, 118 Stat. 508.)

REFERENCES IN TEXT

Section 212(b) of Public Law 93-66, referred to in subsection (e), is section 212(b) 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.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-203 substantially rewrote text of subsec. (a). Prior to amendment, text read as follows: “Any person who 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—

“(1) monthly insurance benefits under subchapter II of this chapter; or

“(2) benefits or payments under subchapter XVI of this chapter,

that the person knows or should know is false or misleading or knows or should know omits a material fact or who makes such a statement with knowing disregard for the truth shall be subject to, in addition to any other penalties that may be prescribed by law, a penalty described in subsection (b) to be imposed by the Commissioner of Social Security.”

2000—Subsec. (e). Pub. L. 106-554, §1(a)(1) [title V, §518(b)(2)(B), (D)], inserted “1010a or” after “agreement under section” and “, as the case may be” before period at end.

Pub. L. 106-554, §1(a)(1) [title V, §518(b)(2)(C)], which directed the amendment of subsec. (e) by inserting “1010A or” before “1382(e)(a)”, could not be executed because “1382(e)(a)” does not appear in text.

Pub. L. 106-554, §1(a)(1) [title V, §518(b)(2)(A)], which directed the amendment of subsec. (e) by inserting “VIII or” after “benefits under”, was executed by making the insertion after “benefits under subchapter” to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-203 applicable with respect to violations committed after Nov. 27, 2006, see section 201(d) of Pub. L. 108-203, set out as a note under section 1320a-8 of this title.

EFFECTIVE DATE

Section applicable to statements and representations made on or after Dec. 14, 1999, see section 207(e) of Pub. L. 106-169, set out as an Effective Date of 1999 Amendment note under section 402 of this title.

REGULATIONS

Pub. L. 106-169, title II, §207(d), Dec. 14, 1999, 113 Stat. 1838, required, within 6 months after Dec. 14, 1999, the development of regulations prescribing the administrative process for making determinations under this section and guidance on discretion in imposing penalties.

§ 1320a-8b. Attempts to interfere with administration of this chapter

Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this chapter, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this chapter, shall be fined not more than \$5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than \$3,000, imprisoned not more than 1 year, or both. In this subsection, the term “threats of force” means