

Dec. 10, 2004, of misuse of funds by a fiduciary, see section 507(b)(2) of Pub. L. 108-454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

§ 6107. Reissuance of benefits

(a) **NEGLIGENT FAILURE BY SECRETARY.**—(1) In any case in which the negligent failure of the Secretary to investigate or monitor a fiduciary results in misuse of benefits by the fiduciary, the Secretary shall pay to the beneficiary or the beneficiary's successor fiduciary an amount equal to the amount of benefits that were so misused.

(2) There shall be considered to have been a negligent failure by the Secretary to investigate and monitor a fiduciary in the following cases:

(A) A case in which the Secretary failed to review a fiduciary's accounting within 60 days of the date on which that accounting is scheduled for review.

(B) A case in which the Secretary was notified of allegations of misuse, but failed to act within 60 days of the date of such notification to terminate the fiduciary.

(C) In any other case in which actual negligence is shown.

(b) **REISSUANCE OF MISUSED BENEFITS IN OTHER CASES.**—(1) In any case not covered by subsection (a) in which a fiduciary misuses all or part of an individual's benefit paid to such fiduciary, the Secretary shall pay to the beneficiary or the beneficiary's successor fiduciary an amount equal to the amount of such benefit so misused.

(2) In any other case in which the Secretary obtains recoupment from a fiduciary who has misused benefits, the Secretary shall promptly remit payment of the recouped amounts to the beneficiary or the beneficiary's successor fiduciary as the case may be.

(c) **LIMITATION ON TOTAL AMOUNT PAID.**—The total of the amounts paid to a beneficiary (or a beneficiary's successor fiduciary) under this section may not exceed the total benefit amount misused by the fiduciary with respect to that beneficiary.

(d) **RECOUPMENT OF AMOUNTS REISSUED.**—In any case in which the Secretary reissues a benefit payment (in whole or in part) under subsection (a) or (b), the Secretary shall make a good faith effort to obtain recoupment from the fiduciary to whom the payment was originally made.

(Added Pub. L. 108-454, title V, § 503(a)(1), Dec. 10, 2004, 118 Stat. 3619; amended Pub. L. 116-315, title VII, § 7005(a), Jan. 5, 2021, 134 Stat. 5059.)

Editorial Notes

AMENDMENTS

2021—Subsec. (b)(1). Pub. L. 116-315, § 7005(a)(1), substituted “In any case not covered by subsection (a) in which a fiduciary” for “In any case in which a fiduciary described in paragraph (2)”.

Subsec. (b)(2), (3). Pub. L. 116-315, § 7005(a)(2), (3), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: “Paragraph (1) applies to a fiduciary that—

“(A) is not an individual; or

“(B) is an individual who, for any month during a period when misuse occurs, serves 10 or more individuals who are beneficiaries under this title.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 116-315, title VII, § 7005(b), Jan. 5, 2021, 134 Stat. 5059, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to any determination by the Secretary of Veterans Affairs made on or after the date of the enactment of this Act [Jan. 5, 2021] regarding the misuse of benefits by a fiduciary.”

EFFECTIVE DATE

Section applicable with respect to any determinations by the Secretary of Veterans Affairs made after Dec. 10, 2004, of misuse of funds by a fiduciary, see section 507(b)(2) of Pub. L. 108-454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

§ 6108. Authority for judicial orders of restitution

(a) Any Federal court, when sentencing a defendant convicted of an offense arising from the misuse of benefits under this title, may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Department.

(b) Sections 3612, 3663, and 3664 of title 18 shall apply with respect to the issuance and enforcement of orders of restitution under subsection (a). In so applying those sections, the Department shall be considered the victim.

(c) If the court does not order restitution, or orders only partial restitution, under subsection (a), the court shall state on the record the reasons therefor.

(d) Amounts received in connection with misuse by a fiduciary of funds paid as benefits under laws administered by the Secretary shall be paid to the individual whose benefits were misused. If the Secretary has previously reissued the misused benefits, the amounts shall be treated in the same manner as overpayments recouped by the Secretary and shall be deposited to the credit of the applicable revolving fund, trust fund, or appropriation.

(Added Pub. L. 108-454, title V, § 504(b)(1), Dec. 10, 2004, 118 Stat. 3621.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the first day of the seventh month beginning after Dec. 10, 2004, see section 507(a) of Pub. L. 108-454, set out as an Effective Date of 2004 Amendment note under section 5312 of this title.

CHAPTER 63—OUTREACH ACTIVITIES

Sec.¹

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§ 6301. Purpose; definitions

(a) **PURPOSE.**—The Congress declares that—

¹ Editorially supplied.