

(on or after the issuance of such regulations) as the Secretary specifies in such regulations.”

**§ 1320b-17. Cross-program recovery of overpayments from benefits**

**(a) In general**

Subject to subsection (b), whenever the Commissioner of Social Security determines that more than the correct amount of any payment has been made to a person under a program described in subsection (e), the Commissioner of Social Security may recover the amount incorrectly paid by decreasing any amount which is payable to such person under any other program specified in that subsection.

**(b) Limitation applicable to current benefits**

**(1) In general**

In carrying out subsection (a), the Commissioner of Social Security may not decrease the monthly amount payable to an individual under a program described in subsection (e) that is paid when regularly due—

(A) in the case of benefits under subchapter II or VIII, by more than 10 percent of the amount of the benefit payable to the person for that month under such subchapter; and

(B) in the case of benefits under subchapter XVI, by an amount greater than the lesser of—

(i) the amount of the benefit payable to the person for that month; or

(ii) an amount equal to 10 percent of the person's income for that month (including such monthly benefit but excluding payments under subchapter II when recovery is also made from subchapter II payments and excluding income excluded pursuant to section 1382a(b) of this title).

**(2) Exception**

Paragraph (1) shall not apply if—

(A) the person or the spouse of the person was involved in willful misrepresentation or concealment of material information in connection with the amount incorrectly paid; or

(B) the person so requests.

**(c) No effect on eligibility or benefit amount under subchapter VIII or XVI**

In any case in which the Commissioner of Social Security takes action in accordance with subsection (a) to recover an amount incorrectly paid to any person, neither that person, nor (with respect to the program described in subsection (e)(3)) any individual whose eligibility for benefits under such program or whose amount of such benefits, is determined by considering any part of that person's income, shall, as a result of such action—

(1) become eligible for benefits under the program described in paragraph (2) or (3) of subsection (e); or

(2) if such person or individual is otherwise so eligible, become eligible for increased benefits under such program.

**(d) Inapplicability of prohibition against assessment and legal process**

Section 407 of this title shall not apply to actions taken under the provisions of this section

to decrease amounts payable under subchapters II and XVI.

**(e) Programs described**

The programs described in this subsection are the following:

(1) The old-age, survivors, and disability insurance benefits program under subchapter II.

(2) The special benefits for certain World War II veterans program under subchapter VIII.

(3) The supplemental security income benefits program under subchapter XVI (including, for purposes of this section, State supplementary payments paid by the Commissioner pursuant to an agreement under section 1382e(a) of this title or section 212(b) of Public Law 93-66).

(Aug. 14, 1935, ch. 531, title XI, § 1147, as added Pub. L. 105-306, § 8(a), Oct. 28, 1998, 112 Stat. 2928; amended Pub. L. 106-169, title II, § 251(b)(7), Dec. 14, 1999, 113 Stat. 1855; Pub. L. 108-203, title II, § 210(a), Mar. 2, 2004, 118 Stat. 516.)

**Editorial Notes**

REFERENCES IN TEXT

Section 212(b) of Public Law 93-66, referred to in subsec. (e)(3), is section 212(b) of Pub. L. 93-66, title II, July 9, 1973, 87 Stat. 156, as amended, which is set out as a note under section 1382 of this title.

AMENDMENTS

2004—Pub. L. 108-203 amended section catchline and text generally, substituting provisions relating to recovery of overpayments from benefits under subchapters II, VIII, and XVI of this chapter, consisting of subsecs. (a) to (e), for provisions relating to recovery of overpayments from benefits under subchapter XVI of this chapter, consisting of subsecs. (a) and (b).

1999—Pub. L. 106-169, § 251(b)(7)(B), substituted “other” for “social security” in section catchline.

Subsec. (a)(1). Pub. L. 106-169, § 251(b)(7)(A), inserted “or VIII” after “person under subchapter II” and substituted “payable under such subchapter” for “payable under subchapter II of this chapter”.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-203 effective Mar. 2, 2004, and effective with respect to overpayments under subchapters II, VIII, and XVI of this chapter that are outstanding on or after such date, see section 210(c) of Pub. L. 108-203, set out as a note under section 404 of this title.

EFFECTIVE DATE

Section effective Oct. 28, 1998, and applicable to amounts incorrectly paid which remain outstanding on or after such date, see section 8(c) of Pub. L. 105-306, set out as an Effective Date of 1998 Amendment note under section 404 of this title.

**§ 1320b-18. Repealed. Pub. L. 108-203, title II, § 210(b)(3), Mar. 2, 2004, 118 Stat. 517**

Section, act Aug. 14, 1935, ch. 531, title XI, § 1147A, as added Pub. L. 106-169, title II, § 251(b)(8), Dec. 14, 1999, 113 Stat. 1856, related to recovery of social security benefit overpayments from subchapter VIII benefits. See section 1320b-17 of this title.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF REPEAL

Repeal effective Mar. 2, 2004, and effective with respect to overpayments under subchapters II, VIII, and