

covered individual from participation in any Federal health care program (as defined in section 1320a-7b(f) of this title).

(2) Increased harm

If a covered individual violates subsection (b) and the violation exacerbates the harm to the victim of the crime or results in harm to another individual—

(A) the covered individual shall be subject to a civil money penalty of not more than \$300,000; and

(B) the Secretary may make a determination in the same proceeding to exclude the covered individual from participation in any Federal health care program (as defined in section 1320a-7b(f) of this title).

(3) Excluded individual

During any period for which a covered individual is classified as an excluded individual under paragraph (1)(B) or (2)(B), a long-term care facility that employs such individual shall be ineligible to receive Federal funds under this chapter.

(4) Extenuating circumstances

(A) In general

The Secretary may take into account the financial burden on providers with underserved populations in determining any penalty to be imposed under this subsection.

(B) Underserved population defined

In this paragraph, the term “underserved population” means the population of an area designated by the Secretary as an area with a shortage of elder justice programs or a population group designated by the Secretary as having a shortage of such programs. Such areas or groups designated by the Secretary may include—

(i) areas or groups that are geographically isolated (such as isolated in a rural area);

(ii) racial and ethnic minority populations; and

(iii) populations underserved because of special needs (such as language barriers, disabilities, alien status, or age).

(d) Additional penalties for retaliation

(1) In general

A long-term care facility may not—

(A) discharge, demote, suspend, threaten, harass, or deny a promotion or other employment-related benefit to an employee, or in any other manner discriminate against an employee in the terms and conditions of employment because of lawful acts done by the employee; or

(B) file a complaint or a report against a nurse or other employee with the appropriate State professional disciplinary agency because of lawful acts done by the nurse or employee,

for making a report, causing a report to be made, or for taking steps in furtherance of making a report pursuant to subsection (b)(1).

(2) Penalties for retaliation

If a long-term care facility violates subparagraph (A) or (B) of paragraph (1) the facility

shall be subject to a civil money penalty of not more than \$200,000 or the Secretary may classify the entity as an excluded entity for a period of 2 years pursuant to section 1320a-7(b) of this title, or both.

(3) Requirement to post notice

Each long-term care facility shall post conspicuously in an appropriate location a sign (in a form specified by the Secretary) specifying the rights of employees under this section. Such sign shall include a statement that an employee may file a complaint with the Secretary against a long-term care facility that violates the provisions of this subsection and information with respect to the manner of filing such a complaint.

(e) Procedure

The provisions of section 1320a-7a of this title (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to a civil money penalty or exclusion under this section in the same manner as such provisions apply to a penalty or proceeding under section 1320a-7a(a) of this title.

(f) Definitions

In this section, the terms “elder justice”, “long-term care facility”, and “law enforcement” have the meanings given those terms in section 1397j of this title.

(Aug. 14, 1935, ch. 531, title XI, §1150B, as added Pub. L. 111-148, title VI, §6703(b)(3), Mar. 23, 2010, 124 Stat. 800.)

§ 1320b-26. Funding for providers relating to COVID-19

(a) Funding

In addition to amounts otherwise available, there is appropriated to the Secretary, for fiscal year 2021, out of any monies in the Treasury not otherwise appropriated, \$8,500,000,000 for purposes of making payments to eligible health care providers for health care related expenses and lost revenues that are attributable to COVID-19. Amounts appropriated under the preceding sentence shall remain available until expended.

(b) Application requirement

To be eligible for a payment under this section, an eligible health care provider shall submit to the Secretary an application in such form and manner as the Secretary shall prescribe. Such application shall contain the following:

(1) A statement justifying the need of the provider for the payment, including documentation of the health care related expenses attributable to COVID-19 and lost revenues attributable to COVID-19.

(2) The tax identification number of the provider.

(3) Such assurances as the Secretary determines appropriate that the eligible health care provider will maintain and make available such documentation and submit such reports (at such time, in such form, and containing such information as the Secretary shall prescribe) as the Secretary determines is necessary to ensure compliance with any condi-

tions imposed by the Secretary under this section.

(4) Any other information determined appropriate by the Secretary.

(c) Limitation

Payments made to an eligible health care provider under this section may not be used to reimburse any expense or loss that—

- (1) has been reimbursed from another source; or
- (2) another source is obligated to reimburse.

(d) Application of requirements, rules, and procedures

The Secretary shall apply any requirements, rules, or procedures as the Secretary deems appropriate for the efficient execution of this section.

(e) Definitions

In this section:

(1) Eligible health care provider

The term “eligible health care provider” means—

(A) a provider of services (as defined in section 1395x(u) of this title) or a supplier (as defined in section 1395x(d) of this title) that—

(i) is enrolled in the Medicare program under subchapter XVIII under section 1395cc(j) of this title (including temporarily enrolled during the emergency period described in section 1320b-5(g)(1)(B) of this title for such period);

(ii) provides diagnoses, testing, or care for individuals with possible or actual cases of COVID-19; and

(iii) is a rural provider or supplier; or

(B) a provider or supplier that—

(i) is enrolled with a State Medicaid plan under subchapter XIX (or a waiver of such plan) in accordance with subsections (a)(77) and (kk) of section 1396a of this title (including enrolled pursuant to section 1396a(a)(78) or section 1396u-2(d)(6) of this title) or enrolled with a State child health plan under subchapter XXI (or a waiver of such plan) in accordance with subparagraph (G) of section 1397gg(e)(1) of this title (including enrolled pursuant to subparagraph (D) or (Q) of such section);

(ii) provides diagnoses, testing, or care for individuals with possible or actual cases of COVID-19; and

(iii) is a rural provider or supplier.

(2) Health care related expenses attributable to COVID-19

The term “health care related expenses attributable to COVID-19” means health care related expenses to prevent, prepare for, and respond to COVID-19, including the building or construction of a temporary structure, the leasing of a property, the purchase of medical supplies and equipment, including personal protective equipment and testing supplies, providing for increased workforce and training (including maintaining staff, obtaining additional staff, or both), the operation of an emergency operation center, retrofitting a fa-

cility, providing for surge capacity, and other expenses determined appropriate by the Secretary.

(3) Lost revenue attributable to COVID-19

The term “lost revenue attributable to COVID-19” has the meaning given that term in the Frequently Asked Questions guidance released by the Department of Health and Human Services in June 2020, including the difference between such provider’s budgeted and actual revenue if such budget had been established and approved prior to March 27, 2020.

(4) Payment

The term “payment” includes, as determined appropriate by the Secretary, a prepayment, a prospective payment, a retrospective payment, or a payment through a grant or other mechanism.

(5) Rural provider or supplier

The term “rural provider or supplier” means—

(A) a—

(i) provider or supplier located in a rural area (as defined in section 1395ww(d)(2)(D) of this title); or

(ii) provider treated as located in a rural area pursuant to section 1395ww(d)(8)(E) of this title;

(B) a provider or supplier located in any other area that serves rural patients (as defined by the Secretary), which may include, but is not required to include, a metropolitan statistical area with a population of less than 500,000 (determined based on the most recently available data);

(C) a rural health clinic (as defined in section 1395x(aa)(2) of this title);

(D) a provider or supplier that furnishes home health, hospice, or long-term services and supports in an individual’s home located in a rural area (as defined in section 1395ww(d)(2)(D) of this title); or

(E) any other rural provider or supplier (as defined by the Secretary).

(Aug. 14, 1935, ch. 531, title XI, §1150C, as added Pub. L. 117-2, title IX, §9911, Mar. 11, 2021, 135 Stat. 236.)

PART B—PEER REVIEW OF UTILIZATION AND QUALITY OF HEALTH CARE SERVICES

§ 1320c. Purpose

The purpose of this part is to establish the contracting process which the Secretary must follow pursuant to the requirements of section 1395y(g) of this title, including the definition of the quality improvement organizations with which the Secretary shall contract, the functions such quality improvement organizations are to perform, the confidentiality of medical records, and related administrative matters to facilitate the carrying out of the purposes of this part.

(Aug. 14, 1935, ch. 531, title XI, §1151, as added Pub. L. 97-248, title I, §143, Sept. 3, 1982, 96 Stat. 382; amended Pub. L. 112-40, title II, §261(a)(2)(C), Oct. 21, 2011, 125 Stat. 423.)