

**TITLE 42 - THE PUBLIC HEALTH AND WELFARE**  
**CHAPTER 7 - SOCIAL SECURITY**  
**SUBCHAPTER XVIII - HEALTH INSURANCE FOR AGED AND DISABLED**  
**Part E - Miscellaneous Provisions**

**§ 1395ccc. Offset of payments to individuals to collect past-due obligations arising from breach of scholarship and loan contract**

**(a) In general**

- (1)** **(A)** Subject to subparagraph **(B)**, the Secretary shall enter into an agreement under this section with any individual who, by reason of a breach of a contract entered into by such individual pursuant to the National Health Service Corps Scholarship Program, the Physician Shortage Area Scholarship Program, or the Health Education Assistance Loan Program, owes a past-due obligation to the United States (as defined in subsection **(b)** of this section).
- (B)** The Secretary shall not enter into an agreement with an individual under this section to the extent—
- (i)** **(I)** the individual has entered into a contract with the Secretary pursuant to section 204(a)(1) of the Public Health Service Amendments of 1987, and
- (II)** the individual has fulfilled or (as determined by the Secretary) is fulfilling the terms of such contract; or
- (ii)** the liability of the individual under such section 204 (a)(1) has otherwise been relieved under such section; or
- (iii)** the individual is performing such physician's<sup>1</sup> service obligation under a forbearance agreement entered into with the Secretary under subpart II of part D of title III of the Public Health Service Act [42 U.S.C. 254d et seq.].
- (2)** The agreement under this section shall provide that—
- (A)** deductions shall be made from the amounts otherwise payable to the individual under this subchapter, in accordance with a formula and schedule agreed to by the Secretary and the individual, until such past-due obligation (and accrued interest) have been repaid;
- (B)** payment under this subchapter for services provided by such individual shall be made only on an assignment-related basis;
- (C)** if the individual does not provide services, for which payment would otherwise be made under this subchapter, of a sufficient quantity to maintain the offset collection according to the agreed upon formula and schedule—
- (i)** the Secretary shall immediately inform the Attorney General, and the Attorney General shall immediately commence an action to recover the full amount of the past-due obligation, and
- (ii)** subject to paragraph (4), the Secretary shall immediately exclude the individual from the program under this subchapter, until such time as the entire past-due obligation has been repaid.
- (3)** If the individual refuses to enter into an agreement or breaches any provision of the agreement—
- (A)** the Secretary shall immediately inform the Attorney General, and the Attorney General shall immediately commence an action to recover the full amount of the past-due obligation, and
- (B)** subject to paragraph (4), the Secretary shall immediately exclude the individual from the program under this subchapter, until such time as the entire past-due obligation has been repaid.

NB: This unofficial compilation of the U.S. Code is current as of Jan. 5, 2009 (see <http://www.law.cornell.edu/uscode/uscprint.html>).

(4) The Secretary shall not exclude an individual pursuant to paragraph (2)(C)(ii) or paragraph (3)(B) if such individual is a sole community practitioner or sole source of essential specialized services in a community if a State requests that the individual not be excluded.

**(b) Past-due obligation**

For purposes of this section, a past-due obligation is any amount—

(1) owed by an individual to the United States by reason of a breach of a scholarship contract under section 338E of the Public Health Service Act [42 U.S.C. 254o] or under subpart III of part F of title VII of such Act (as in effect before October 1, 1976) and which has not been paid by the deadline established by the Secretary pursuant to such respective section, and has not been canceled, waived, or suspended by the Secretary pursuant to such section; or

(2) owed by an individual to the United States by reason of a loan covered by Federal loan insurance under subpart I<sup>2</sup> of part C of title VII of the Public Health Service Act and payment for which has not been cancelled, waived, or suspended by the Secretary under such subpart.

**(c) Collection under this section shall not be exclusive**

This section shall not preclude the United States from applying other provisions of law otherwise applicable to the collection of obligations owed to the United States, including (but not limited to) the use of tax refund offsets pursuant to section 3720A of title 31 and the application of other procedures provided under chapter 37 of title 31.

**(d) Collection from providers and health maintenance organizations**

(1) In the case of an individual who owes a past-due obligation, and who is an employee of, or affiliated by a medical services agreement with, a provider having an agreement under section 1395cc of this title or a health maintenance organization or competitive medical plan having a contract under section 1395l of this title or section 1395mm of this title, the Secretary shall deduct the amounts of such past-due obligation from amounts otherwise payable under this subchapter to such provider, organization, or plan.

(2) Deductions shall be in accordance with a formula and schedule agreed to by the Secretary, the individual and the provider, organization, or plan. The deductions shall be made from the amounts otherwise payable to the individual under this subchapter as long as the individual continues to be employed or affiliated by a medical services agreement.

(3) Such deduction shall not be made until 6 months after the Secretary notifies the provider, organization, or plan of the amount to be deducted and the particular physicians<sup>3</sup> to whom the deductions are attributable.

(4) A deduction made under this subsection shall relieve the individual of the obligation (to the extent of the amount collected) to the United States, but the provider, organization, or plan shall have a right of action to collect from such individual the amount deducted pursuant to this subsection (including accumulated interest).

(5) No deduction shall be made under this subsection if, within the 6-month period after notice is given to the provider, organization, or plan, the individual pays the past-due obligation, or ceases to be employed by the provider, organization, or plan.

(6) The Secretary shall also apply the provisions of this subsection in the case of an individual who is a member of a group practice, if such group practice submits bills under this program as a group, rather than by individual physicians.<sup>3</sup>

**(e) Transfer from trust funds**

Amounts equal to the amounts deducted pursuant to this section shall be transferred from the Trust Fund from which the payment to the individual, provider, or other entity would otherwise have been made, to the general fund in the Treasury, and shall be credited as payment of the past-due obligation of the individual from whom (or with respect to whom) the deduction was made.

**Footnotes**

<sup>1</sup> So in original. Probably should be “individual’s”.

<sup>2</sup> See References in Text note below.

<sup>3</sup> So in original. Probably should be “individuals”.

(Aug. 14, 1935, ch. 531, title XVIII, § 1892, as added Pub. L. 100–203, title IV, § 4052(a), Dec. 22, 1987, 101 Stat. 1330–95; amended Pub. L. 100–360, title IV, § 411(f)(10)(A), (C)(i), July 1, 1988, 102 Stat. 780; Pub. L. 100–485, title VI, § 608(d)(21)(E)–(H), Oct. 13, 1988, 102 Stat. 2420.)

**References in Text**

Section 204(a)(1) of the Public Health Service Amendments of 1987, referred to in subsec. (a)(1)(B), is section 204(a)(1) of Pub. L. 100–177, title II, Dec. 1, 1987, 101 Stat. 1000, which is set out as a note under section 2540 of this title.

The Public Health Service Act, referred to in subsecs. (a)(1)(B)(iii) and (b), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Subpart II of part D of title III of the Act is classified generally to subpart II (§ 254d et seq.) of part D of subchapter II of chapter 6A of this title. Subpart I of part C of title VII of the Act was classified generally to subpart I (§ 294 et seq.) of part C of subchapter V of chapter 6A of this title and was omitted in the general revision of subchapter V by Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994. See subpart I (§ 292 et seq.) of part A of subchapter V of chapter 6A of this title. Subpart III of part F of title VII of the Public Health Service Act (as in effect before October 1, 1976) was classified to subpart III (§ 295g–21 et seq.) of part F of subchapter V of chapter 6A of this title, prior to repeal by Pub. L. 94–484, title IV, § 409(a), Oct. 12, 1976, 90 Stat. 2290. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

**Amendments**

1988—Pub. L. 100–360, § 411(f)(10)(C)(i)(I), substituted “individuals” for “physicians” and inserted “and loan” in section catchline.

Subsec. (a)(1)(A). Pub. L. 100–360, § 411(f)(10)(C)(i)(IV), as amended by Pub. L. 100–485, § 608(d)(21)(H), inserted “, the Physician Shortage Area Scholarship Program, or the Health Education Assistance Loan Program”.

Pub. L. 100–360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100–485, § 608(d)(21)(G), substituted “individual” for “physician” in two places.

Subsec. (a)(1)(B). Pub. L. 100–360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100–485, § 608(d)(21)(G), substituted “an individual” for “a physician” in introductory provisions and “individual” for “physician” in cls. (i)(I) and (II), (ii), and (iii).

Subsec. (a)(2)(A) to (C). Pub. L. 100–360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100–485, § 608(d)(21)(G), substituted “individual” for “physician” wherever appearing.

Subsec. (a)(2)(C)(ii). Pub. L. 100–360, § 411(f)(10)(A)(i), substituted “paragraph (4)” for “paragraph (3)”.

Subsec. (a)(3). Pub. L. 100–360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100–485, § 608(d)(21)(G), substituted “individual” for “physician” in introductory provisions.

Subsec. (a)(3)(B). Pub. L. 100–360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100–485, § 608(d)(21)(G), substituted “individual” for “physician”.

Pub. L. 100–360, § 411(f)(10)(A)(i), substituted “paragraph (4)” for “paragraph (3)”.

Subsec. (a)(4). Pub. L. 100–360, § 411(f)(10)(C)(i)(III), substituted “community practitioner” for “community physician”.

Pub. L. 100–360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100–485, § 608(d)(21)(G), substituted “an individual” for “a physician” and “such individual” for “such physician”.

Pub. L. 100–360, § 411(f)(10)(A)(iii), as amended by Pub. L. 100–360, § 608(d)(21)(E), inserted before period at end “if a State requests that the individual not be excluded”.

Pub. L. 100–360, § 411(f)(10)(A)(ii), substituted “exclude” for “bar”.

Subsec. (b). Pub. L. 100–360, § 411(f)(10)(C)(i)(V), as amended by Pub. L. 100–485, § 608(d)(21)(F)(i), substituted “or under subpart III of part F of title VII of such Act (as in effect before October 1, 1976) and which has not been

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paid by the deadline established by the Secretary pursuant to such respective section” for “, and (2) which has not been paid by the deadline established by the Secretary pursuant to section 338E of the Public Health Service Act”.

Subsec. (b)(1). Pub. L. 100–360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100–485, § 608(d)(21)(G), substituted “an individual” for “a physician”.

Subsec. (b)(2). Pub. L. 100–360, § 411(f)(10)(C)(i)(VI), as amended by Pub. L. 100–485, § 608(d)(21)(F)(i), added par. (2).

Subsec. (d)(1). Pub. L. 100–360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100–485, § 608(d)(21)(G), substituted “an individual” for “a physician”.

Subsec. (d)(2). Pub. L. 100–360, § 411(f)(10)(C)(i)(VII), as added by Pub. L. 100–485, § 608(d)(21)(F), substituted “continues” for “continued”.

Pub. L. 100–360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100–485, § 608(d)(21)(G), substituted “individual” for “physician” in three places.

Subsec. (d)(4) to (6). Pub. L. 100–360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100–485, § 608(d)(21)(G), substituted “individual” for “physician” wherever appearing.

Subsec. (e). Pub. L. 100–360, § 411(f)(10)(C)(i)(II), as amended by Pub. L. 100–485, § 608(d)(21)(G), substituted “individual” for “physician” in two places.

### **Effective Date of 1988 Amendments**

Amendment by Pub. L. 100–485 effective as if included in the enactment of the Medicare Catastrophic Coverage Act of 1988, Pub. L. 100–360, see section 608(g)(1) of Pub. L. 100–485, set out as a note under section 704 of this title.

Except as specifically provided in section 411 of Pub. L. 100–360, amendment by section 411(f)(10)(A) of Pub. L. 100–360, as it relates to a provision in the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203, effective as if included in the enactment of that provision in Pub. L. 100–203, see section 411(a) of Pub. L. 100–360, set out as a Reference to OBRA; Effective Date note under section 106 of Title 1, General Provisions.

Section 411(f)(10)(C)(iii) of Pub. L. 100–360 provided that: “The Amendments made by this subparagraph [amending this section and former section 294f of this title] shall be effective 30 days after the date of the enactment of this Act [July 1, 1988].”

### **Effective Date**

Section 4052(c) of Pub. L. 100–203 provided that: “The amendments made by this section [enacting this section and amending section 254o of this title] shall be effective on the date of the enactment of this Act [Dec. 22, 1987].”