TITLE 42 - THE PUBLIC HEALTH AND WELFARE
CHAPTER 7 - SOCIAL SECURITY
SUBCHAPTER XI - GENERAL PROVISIONS, PEER REVIEW, AND ADMINISTRATIVE SIMPLIFICATION
Part A - General Provisions

§ 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 of this chapter or benefits or payments under subchapter XVI of this chapter 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 of this chapter or benefits or payments under subchapter XVI of this chapter, 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) of this section 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 of this chapter that would otherwise be payable to the person; and

(2) ineligibility for cash benefits under subchapter XVI of this chapter,

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

(c) Duration of penalty

The duration of the applicable period, with respect to a determination by the Commissioner under subsection (a) of this section that a person has engaged in conduct described in subsection (a) of this section, 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 of this chapter or ineligibility for subchapter XVI of this chapter 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 of this chapter; and

(2) determination of the eligibility or amount of benefits payable under subchapter II or XVI of this chapter to another person.
(e) Definition

In this section, the term “benefits under subchapter VIII or XVI of this chapter” 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.


References in Text

Section 212(b) of Public Law 93–66, referred to in subsec. (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) of this section 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 “1382e(a)” 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 “1382e(a)”, could not be executed because “1382e(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, provided that: “Within 6 months after the date of the enactment of this Act [Dec. 14, 1999], the Commissioner of Social Security shall develop regulations that prescribe the administrative process for making determinations under section 1129A of the Social Security Act [this section] (including when the applicable period in subsection (c) of such section shall commence), and shall provide guidance on the exercise of discretion as to whether the penalty should be imposed in particular cases.”