101–508, set out as a note under section 1395i–3 of this title.


Section 4207(h)(2), formerly 4207(h)(2), of Pub. L. 101–508, as renumbered and amended by Pub. L. 103–432, title I, §160(d)(4), (11), Oct. 31, 1994, 108 Stats. 4444, provided that: "The amendments made by paragraph (a) [amending this section] shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987 [Pub. L. 100–203], except that the Secretary may not permit approval of a training and competency evaluation program or a competency evaluation program offered by or in a home health agency which, pursuant to any Federal or State law within the 2-year period beginning on October 1, 1988—

"(i) had its participation terminated under title XVIII of the Social Security Act [this subchapter];

"(ii) was assessed a civil money penalty not less than $5,000 for deficiencies in applicable quality standards for home health agencies;

"(iii) was subject to suspension by the Secretary of all or part of the payments to which it would otherwise be entitled under such title;

"(iv) operated under a temporary management appointed to oversee the operation of the agency and to ensure the health and safety of the agency’s patients; or

"(v) pursuant to State action, was closed or had its patients transferred."

**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 608b(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 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.

**Effective Date of 1987 Amendment**

Section 4202(b) of Pub. L. 100–203 provided that: "Except as otherwise specifically provided in section 1891(d) of the Social Security Act [subsec. (d) of this section] (as added by subsection (a)), the amendment made by subsection (a) [amending this section] shall become effective on the first day of the 18th calendar month to begin after the date of the enactment of this Act [Dec. 22, 1987]."

Section 4203(b) of Pub. L. 100–203, as amended by Pub. L. 100–360, title IV, §411(d)(3)(C), July 1, 1988, 102 Stat. 774, provided that: "Except as otherwise specifically provided in subsections (e) and (f) of section 1891 of the Social Security Act [subsecs. (e) and (f) of this section] (as added by subsection (a)), the amendment made by subsection (a) [amending this section] shall become effective on the first day of the 18th calendar month to begin after the date of the enactment of this Act [Dec. 22, 1987], and no intermediate sanction described in section 1891(f)(2)(A) of such Act [subsec. (f)(2)(A) of this section] shall be imposed for violations occurring before such effective date."

**Effective Date**

Section applicable to home health agencies as of the first day of the 18th calendar month that begins after Dec. 22, 1987, except as otherwise provided, see section 4202(c) of Pub. L. 100–203, set out as an Effective Date of 1987 Amendment note under section 1395x of this title.

**Treatment of Branch Offices; GAO Study on Supervision of Home Health Care Provided in Isolated Rural Areas**

Pub. L. 100–554, §1(a)(6) [title V, §506], Dec. 21, 2000, 114 Stat. 2763, 2766–281, provided that:

"(a) Treatment of Branch Offices.—

"(1) In General.—Notwithstanding any other provision of law, in determining purposes of title XVIII of the Social Security Act [this subchapter] whether an office of a home health agency constitutes a branch office or a separate home health agency, neither the time nor distance between a parent office of the home health agency and a branch office shall be the sole determinant of a home health agency’s branch office status.

"(2) Consideration of Forms of Technology in Definition of Supervision.—The Secretary of Health and Human Services may include forms of technology in determining what constitutes ‘supervision’ for purposes of determining a home health agency’s branch office status.

(b) GAO Study.—

"(1) Study.—The Comptroller General of the United States shall conduct a study of the provision of adequate supervision to maintain quality of home health services delivered under the medicare program under title XVIII of the Social Security Act [this subchapter] in isolated rural areas. The study shall evaluate the methods that home health agencies and subunits use to maintain adequate supervision in the delivery of services to clients residing in those areas, how these methods of supervision compare to requirements that subunits independently meet medicare conditions of participation, and the resources utilized by subunits to meet such conditions.

"(2) Report.—Not later than January 1, 2002, the Comptroller General shall submit to Congress a report on the study conducted under paragraph (1). The report shall include recommendations on whether exceptions are needed for subunits and branches of home health agencies under the medicare program to maintain access to the home health benefit or whether alternative policies should be developed to assure adequate supervision and access and recommendations on whether a national standard for supervision is appropriate.”

**§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) 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

(iii) the liability of the individual under such section 204(a)(1) has otherwise been relieved under such section; or
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(1) the individual is performing such physician’s 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.

(4) The Secretary shall not exclude an individual pursuant to paragraph (2)(C)(i) 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 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 1395 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 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.

(e) Transfer from trust funds

Amounts equal to the amounts deducted pursuant to this section shall be transferred from

1 So in original. Probably should be “individual’s”.

2 See References in Text note below.

3 So in original. Probably should be “individuals”.

4 See References in Text note below.
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.


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 254a of this title.

The Public Health Service Act, referred to in subsecs. (a)(1)(B) and (b), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended.

Subpart II of part D of title III of the Public Health Service Act, referred to in subsec. (a)(1)(B), is section 327b of this title.


Subsec. (b), Pub. L. 100–360, §411(f)(10)(C)(v)(V), as amended by Pub. L. 100–485, §608(d)(21)(F)(1), 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 paid by the deadline established by the Secretary pursuant to such respective section" for "but (2) which has not been paid by the deadline established by the Secretary pursuant to section 338E of the Public Health Service Act".


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 former provisions of this title] shall be effective 30 days after the date of the enactment of this Act [July 1, 1988]."