

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTERS FOR MEDICARE & MEDICAID SERVICES

Statement of Organization, Functions, and Delegations of Authority

Part F of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Centers for Medicare & Medicaid Service (CMS), 68 FR 60694, dated October 23, 2003, is superseded to include the following delegation of authority from the Secretary to the Administrator, CMS, with the authority to redelegate, to carry out the following administrative and enforcement activities invested in the Secretary of the Department of Health and Human Services under part C, of title XI of the Social Security Act, as amended.

- Section F.30., Delegations of Authority, is superseded to include the following delegation of authority for certain provisions under part C, of title XI of the Social Security Act.

WW. 1. The authority under section 262 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, as amended, except to the extent these actions pertain to the "Security Standards for the Protection of Electronic Protected Health Information," or the "Standards for Privacy of Individually Identifiable Health Information" at 45 CFR, part 160 and part 164, subparts A, C, and E to:

A. impose civil money penalties under section 1176 of the Social Security Act for a covered entity's failure to comply with certain requirements and standards;

B. issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or compliance review

for failure to comply with certain requirements and standards; and

C. make exception determinations, under section 1178(a)(2)(A) of the Social Security Act, concerning when provisions of State laws that are contrary to the Federal standards are not preempted by the Federal provisions.

2. The authority under section 262 of HIPAA, Public Law 104-191, as amended, to administer and to make decisions regarding the interpretation, implementation and enforcement of the regulations adopting standards and general administrative requirements under 45 CFR, part 160 and part 162, except to the extent these actions pertain to the “Security Standards for the Protection of Electronic Protected Health Information,” or the “Standards for Privacy of Individually Identifiable Health Information” at 45 CFR, part 160 and part 164, subparts A, C, and E.

Exclusion to This Authority

All actions under Part C of Title XI of the Social Security Act that pertain to “Security Standards for the Protection of Electronic Protected Health Information” or the “Standards for Privacy of Individually Identifiable Health Information”, were delegated by the Secretary to the Director, Office for Civil Rights, and are excluded from this delegation. This delegation to the Administrator also excludes the authority to issue regulations and to hold hearings and issue final determinations if the respondent has requested a hearing on the imposition of civil monetary penalties. This delegation shall be exercised under the Department’s existing delegation of authority and policy relating to regulations.

This delegation supersedes the memorandum from the Secretary to the Administrator, Centers for Medicare & Medicaid Services, dated October 7, 2003, titled “Delegation of Authority for Certain Provisions Under Part C of Title XI of the Social Security Act.”

I hereby affirm and ratify any actions taken by the Administrator of CMS or his/her subordinates which involved the exercise of the authority delegated herein prior to the effective date of this delegation.

This delegation is effective immediately.

Kathlen Sebelius
Secretary

Dated: July 27, 2009

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