



DEPARTMENT OF HEALTH AND HUMAN SERVICES


OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20201



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TO: All State Medicaid Fraud Control Units

FROM: 
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Deputy Inspector General
for Evaluation and Inspections

SUBJECT: State Fraud Policy Transmittal No. 2016-1:
Elements of and Process for Submitting and Renewing a Data Mining Application

The purpose of this transmittal is to describe (1) the elements of a complete application to the Office of Inspector General (OIG) to conduct data mining as well as the process for submitting an application, and (2) the process for renewal of data mining approval from OIG. This transmittal updates and replaces State Fraud Policy Transmittal 2013-2 (July 1, 2013).

Background

On May 17, 2013, the Department of Health and Human Services (HHS) issued the final rule “State Medicaid Fraud Control Units; Data Mining” (78 Fed. Reg. 29055), codified at 42 CFR 1007.20(a). This rule amends a provision in HHS regulations prohibiting a State Medicaid Fraud Control Unit (MFCU or Unit) from using Federal matching funds to identify fraud through the screening and analysis of data, known as data mining. Specifically, this rule permits Federal financial participation in the costs of data mining if certain criteria are satisfied. For OIG to determine whether a Unit meets those criteria, the Unit must submit an application. The following describes the elements of a complete data mining application, how to submit the application, and the process and content required when requesting the renewal of an application.

Elements of a Complete Data Mining Application

A complete application for data mining must contain the following elements:

Methods of Coordination. The MFCU identifies the methods of coordination between the MFCU and the State Medicaid agency (SMA). The application must:

- Identify procedures that will be in place to coordinate data mining activities with the SMA. Procedures will address how duplication of effort will be avoided.

- Identify the position titles of the staff who will serve as the primary points of contact for data mining at the MFCU and the SMA.
- Include proposed language for an amended memorandum of understanding (MOU) between the MFCU and the SMA.
- Describe the SMA's level of support for the data mining application. This should include information on the SMA's role in determining the methods of coordination contained in the application and information on the SMA's awareness of the proposed MOU language. Ideally, the application should include a letter in support of the application from an appropriate SMA manager, such as the director of program integrity.

Staffing and Training.

- The MFCU identifies the staff who will conduct data mining and provides contact information, title, and office of such staff, as well as their job description(s).
- The MFCU describes the specialized training in data mining techniques that the MFCU staff engaged in data mining will receive.

Reporting. The MFCU describes how it will collect, track and report on:

- All costs expended that year attributed to data mining activities under section 1007.20.
- The amount of staff time devoted to data mining activities.
- The number of cases generated from those activities.
- The outcome and status of those cases, including the expected and actual monetary recoveries (both the Federal and non-Federal share).
- Any other relevant indicators of return on investment from data mining activities.

Budget Implications.

- The MFCU describes the anticipated costs of implementing data mining, including staff time and equipment costs.

Process for Submitting a Data Mining Application

Interested MFCUs should submit their application electronically to both the director of the Medicaid Fraud Policy and Oversight Division and to their Unit's assigned oversight program analyst. OIG will acknowledge receipt of the application. Under 42 CFR 1007.20(a)(i), OIG has 90 days from receipt to review a written request, consult with the Centers for Medicare & Medicaid Services (CMS), and approve or deny the application. The regulations provide that if OIG fails to respond within 90 days, the request shall be considered approved.

OIG may request additional information in writing if any elements described in this guidance are missing from the application or if our analysis or consultation with CMS requires additional information or clarification. The regulation provides that OIG will have 90 days from receipt of the additional information to approve or deny the request.

Process and Content for Renewal of Data Mining Approval

For those MFCUs approved to conduct data mining, the approval is valid for a 3-year period from the date of the initial approval (see 42 CFR 1007.20(a)(4)(iii)). Approved MFCUs that wish to maintain eligibility for conducting data mining activities should electronically submit a written request to the director of the Medicaid Fraud Policy and Oversight Division and to their Unit's assigned program analyst, requesting renewal for an additional 3-year period. The request also should include a copy of the current agreement with the SMA. The MFCU should submit the request at least 45 days prior to the scheduled expiration date of the initial data mining approval. OIG will acknowledge receipt of the request.

The request for renewal should inform OIG of any significant changes to the Unit's data mining activities since the submission of the initial data mining application, as well as any anticipated changes regarding data mining. Specifically, the letter should describe any changes to the MFCU's methods of coordination with the SMA, including updates to the MOU agreement with the SMA; changes to data mining staffing and training practices; and changes in budget implications (including estimated costs of staff time and equipment). To the extent that the Unit anticipates changes to the Unit's data mining over the upcoming 3-year period, the request should include a summary of those changes. MFCUs should include with their renewal request the current agreement with the State Medicaid Agency, whether or not it has changed since the initial approval.

OIG will review the renewal request as well as the information on data mining activities in the Unit's annual reports and other sources. OIG may request additional information from the Unit if necessary to its decision regarding the request for approval. Once OIG has reviewed the renewal request and other information, OIG will promptly notify the MFCU by letter of its decision to approve or deny the request.

Approved MFCUs that wish to extend their data mining approval beyond the current approval period should continue to submit requests at 3-year intervals, consistent with this transmittal.

If you have any questions, please contact Richard Stern, Director, Medicaid Fraud Policy and Oversight Division. He can be reached at (202) 619-0480.