



DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20201



TO: All Medicaid Fraud Control Unit Directors

FROM: Ann Maxwell
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SUBJECT: State Fraud Policy Transmittal No. 2026-1, Permissible Data Mining Activities

The purpose of this transmittal is to waive the requirement codified at 42 CFR § 1007.20(a)(4), such that Medicaid Fraud Control Units (MFCUs or Units) are no longer required to obtain prior approval before conducting, and receiving Federal financial participation (FFP) for, data mining activities. This transmittal replaces State Fraud Policy Transmittal No. 2020-2, Elements of and Process for Submitting and Renewing a Data Mining Application.

Background

Federal regulations at 42 CFR § 1007.20, amended in 2013, permit a Unit to identify fraud through the screening and analysis of data, known as data mining, and receive FFP associated with the costs of data mining after submitting a written request and receiving approval from the Office of Inspector General (OIG).

Waiver of OIG Approval Requirement for Data Mining Activities

OIG is waiving 42 CFR § 1007.20(a)(4) in its entirety, which currently states:

(4) OIG, in consultation with CMS, approves in advance the provisions of the agreement as defined in paragraph (a)(3) of this section.

(i) OIG will act on a request from a Unit for review and approval of the agreement within 90 days after receipt of a written request, or the request shall be considered approved if OIG fails to respond within 90 days after receipt of the written request.

(ii) If OIG requests additional information in writing, the 90-day period for OIG action on the request begins on the day OIG receives the information from the Unit.

(iii) The approval is for 3 years.

(iv) A Unit may request renewal of its data-mining approval for additional 3-year periods by submitting a written request for renewal to OIG, along with an updated agreement with the Medicaid agency.

The effect of waiving 42 CFR § 1007.20(a)(4) is that Units will no longer need to submit a written request to OIG or receive OIG's approval to conduct data mining activities and receive FFP for such activities.

Further, the ability to conduct data mining activities will not be limited to 3-year periods, which required reassessment to continue for an additional 3 years. Units that currently have a data mining waiver do not need to reapply in the future to continue those activities.

Continuing Requirements Related to Data Mining Activities

Federal requirements under 42 CFR § 1007.20(a)(1)-(3) remain in effect. These requirements state that FFP for the costs of a Unit's data mining activities may be authorized upon satisfaction of each of the following conditions:

1. The Unit identifies the methods of coordination between the Unit and the Medicaid agency and the individuals serving as primary points of contact for data mining, as well as the contact information, title, and office of such individuals.
2. Unit employees engaged in data mining receive specialized training in data mining techniques.
3. The Unit's written agreement with the State Medicaid agency—required by 42 CFR § 1007.9(d)—describes how the Unit will comply with requirements 1 and 2 directly above.

A Unit's compliance with 42 CFR § 1007.20(a)(1)-(3) will continue to be assessed as part of the annual recertification and onsite inspection process.

Federal requirements under 42 CFR § 1007.17(a)(1)(ii) also remain in effect. Any Unit conducting data mining activities funded by the MFCU grant is required to report the information outlined in 42 CFR § 1007.17(a)(1)(ii). This includes:

- All costs expended by the Unit attributed to data mining activities
- 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 Federal and non-Federal share)
- Any other relevant indicia of return on investment from such activities.

This information must be reported annually as part of a Unit's recertification package.

Considerations for Effective Data Mining Programs

While not required, OIG recommends the following activities for Units to support effective and secure data mining: (1) obtain direct access to Medicaid Management Information System data, managed care data, and any other necessary data sources and (2) maintain appropriate security measures for the data that the Unit will use in data mining and the results of data mining activities.