



DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL

WASHINGTON, DC 20201



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Acting Administrator
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FROM: ^{/S/} Stuart Wright
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SUBJECT: Recommendation Followup Memorandum Report: *CMS Reporting to the Healthcare Integrity and Protection Data Bank*, OEI-07-09-00292

The Healthcare Integrity and Protection Data Bank (HIPDB) is a national data bank containing reports of adverse actions against health care practitioners, providers, and suppliers (collectively referred to as providers). Complete and accurate HIPDB information helps prevent the employment of potentially fraudulent or abusive providers. In a 2010 report entitled *CMS Reporting to the Healthcare Integrity and Protection Data Bank* (OEI-07-09-00290), the Office of Inspector General (OIG) found that the Centers for Medicare & Medicaid Services (CMS) took adverse actions against providers but did not report all of these actions to the HIPDB as required. For example, none of the adverse actions against durable medical equipment (DME) suppliers taken during 2008 had been reported to the HIPDB as of April 30, 2009. In the 2010 report, OIG recommended—and CMS concurred—that CMS should report all adverse actions as required. This memorandum report provides an assessment of CMS's reporting to the HIPDB approximately 2 years after the release of the initial report.

SUMMARY

To determine the extent to which CMS is addressing OIG's recommendation to report all adverse actions as required, we compared HIPDB data as of April 1, 2012, with data reported in our 2010 report. We found that CMS improved its reporting of adverse actions for DME suppliers, but not for other types of providers. We conclude that CMS has not fully addressed our 2010 report recommendation to report required adverse actions to the HIPDB.

BACKGROUND

The HIPDB is a national data bank containing reports of final adverse actions (e.g., exclusions from participation in a Federal health care program, criminal convictions related to health care) against providers. State and Federal agencies and health plans may query the HIPDB to assist them in preventing the employment or contracting of potentially fraudulent or abusive providers. As of April 1, 2012, the HIPDB contained information on 547,298 adverse actions.

A 2010 Federal law requires the transfer of all data in the HIPDB to the National Practitioner Data Bank (NPDB), and for the HIPDB to cease operations, although agencies and health plans will still be required to report the same adverse actions to the NPDB.¹

Establishment of the HIPDB

Section 221 of the Health Insurance Portability and Accountability Act of 1996 amended the Social Security Act by adding section 1128C, which required the Secretary of Health and Human Services—acting through OIG—and the United States Attorney General to create a national health care fraud and abuse control program. One component of this program is a national data bank containing certain adverse actions taken against providers. This data bank, known as the HIPDB, became operational in 1997.

The HIPDB is administered by the Health Resources and Services Administration (HRSA) through a Memorandum of Understanding with OIG. HRSA also administers the NPDB, which collects information related to the professional competence and conduct of physicians, dentists, and other health care practitioners. Section 6403 of the Patient Protection and Affordable Care Act (P.L. 111-148) streamlines data bank operations by eliminating duplicative data reporting and access requirements between the two data banks. Section 6403 requires the Secretary to establish a transition period to transfer all data in the HIPDB to the NPDB and, once completed, to cease HIPDB operations. Information previously collected and disclosed through the HIPDB will then be collected and disclosed through the NPDB. On February 15, 2012, HRSA published a Notice of Proposed Rulemaking to transfer the data in the HIPDB to the NPDB. To date, HRSA has not promulgated final regulations.

HIPDB Reporting Requirements

Federal and State government agencies and health plans are required to report certain final adverse actions (adverse actions) that they take against providers. The regulations in 45 CFR §§ 61.7–61.11 describe which adverse actions must be reported to HIPDB. Section E of the *HIPDB Guidebook* provides further explanation of each type of action, which includes licensure and certification actions, exclusions from participation in Federal and State health care programs, criminal convictions, civil judgments related to health care, and any other adjudicated actions of decision that the Secretary establishes by regulation.

¹ P.L. 111-148 § 6403.

Adverse actions must be reported within 30 calendar days of the date that the reporting entity took the action, the date the reporting entity became aware of the action, or the close of the next monthly reporting cycle as determined by the entity, whichever is latest.² If an appeal overturns a reported action, the reporting entity must submit a revised report to the HIPDB.³ Information reported to the HIPDB is maintained permanently, unless it is corrected or voided from the system. A correction or void may be submitted only by the reporting entity or at the direction of the Secretary.⁴

METHODOLOGY

We obtained a copy of the data in the HIPDB as of April 1, 2012. We compared these HIPDB data (e.g., the number, frequency, and types of adverse actions reported by CMS) with the data obtained for our 2010 report. By comparing the data from April 1, 2012, with those from April 30, 2009, we were able to make conclusions about the extent to which CMS's reporting to the HIPDB addresses our 2010 report recommendation.

Standards

This study was conducted in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

RESULTS

The HIPDB Contains Reports on Adverse Actions Taken Against DME Suppliers

As of April 1, 2012, the HIPDB contained reports on 6,761 adverse actions against DME suppliers, or more than 1,600 additional adverse actions since the data reported in our 2010 report. CMS reported 734 adverse actions against DME suppliers in 2010 and 796 adverse actions in 2011; as of April 1, 2012, CMS had reported 107 adverse actions in 2012. As of April 30, 2009, the HIPDB contained reports on 5,125 adverse actions taken against DME suppliers from 1998 through 2008,⁵ which averages approximately 466 per year during that period. Additionally, the submission dates of adverse action reports reflect reports being made throughout the year, rather than in batches on a periodic basis. The number, frequency, and types of reports indicate compliance with Federal requirements.

² 45 CFR § 61.5.

³ 45 CFR § 61.6(b); *HIPDB Guidebook*, pp. E-5 and E-15. Accessed at <http://www.npdb-hipdb.hrsa.gov/> on April 20, 2012.

⁴ *HIPDB Guidebook*, p. E-14. Accessed at <http://www.npdb-hipdb.hrsa.gov/> on April 20, 2012.

⁵ As of April 1, 2012, the HIPDB contained 5,124 adverse actions against DME suppliers reported between 1998 through 2008, indicating that one report from this time period was removed between 2009 and 2012.

The HIPDB Contains No Reports of Nursing Home Terminations Since June 2010

As of April 1, 2012, the HIPDB contained 84 adverse actions against nursing homes; CMS reported 45 adverse actions on September 30, 2009, and 39 actions on June 23, 2010. In 2009 and 2010, CMS reported annually on terminations. However, annual reporting of nursing home terminations does not comply with the timeframe-related reporting requirements in 45 CFR § 61.5. Additionally, no further adverse actions were reported after June 23, 2010, which indicates that CMS may no longer be reporting any nursing home terminations to the HIPDB.

The HIPDB Still Does Not Contain Adverse Actions Taken Against Certain Types of Providers

As of April 1, 2012, the HIPDB still did not contain adverse actions that CMS imposed against a variety of provider types, including laboratories, managed care plans, and prescription drug plans. The HIPDB is still missing reports of specific adverse actions we identified in our 2010 report, including: 148 adverse actions against laboratories in 2007; 30 adverse actions against managed care and prescription drug plans between January 1, 2006, and March 7, 2009; and an unknown number of civil monetary penalties against nursing homes.⁶ In addition to missing these earlier adverse actions, the HIPDB does not contain any subsequent reports against these types of providers, which indicates that CMS does not report as required.

CONCLUSION

Federal law requires the reporting of certain adverse actions taken against health care providers to be reported to the HIPDB. Complete and accurate HIPDB information helps prevent the employment of potentially fraudulent or abusive providers. When HRSA promulgates final regulations to transfer the data in the HIPDB to the NPDB, CMS will be required to report to the NPDB certain adverse actions that the agency is currently required to report to the HIPDB. We conclude from our followup review that CMS has not fully addressed our 2010 report recommendation to report required adverse actions to the HIPDB.

This report contains no new recommendations; however, our 2010 recommendation that CMS should report all adverse actions as required remains open. In its 2011 update to *OIG's Compendium of Unimplemented Recommendations*, CMS did not provide information on its efforts to report adverse actions. This report is being issued directly in final form because it contains no recommendations. If you have comments or questions about this report, please provide them within 60 days. Please refer to report number OEI-07-09-00292 in all correspondence.

cc: HRSA

⁶ The CMS Office of Financial Management collected more than \$37 million in civil monetary penalties in fiscal year 2008. CMS officials estimated that 85 percent of this amount was from nursing homes.