

# Appendix B

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# Appendix B

## Recovery Act Reviews

### Medicare and Medicaid

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Acronyms and Abbreviations for Selected Terms Used in the Medicare and Medicaid Section:

HIT—health information technology

PHI—protected health information

### Medicare Part A and Part B

#### **Medicare—Incentive Payments for Electronic Health Records**

We will review Medicare incentive payments to eligible health care professionals and hospitals for adopting electronic health records (EHR) and the Centers for Medicare & Medicaid Services (CMS) safeguards to prevent erroneous incentive payments. An EHR is an electronic record of health-related information for an individual that is generated by health care providers. It may include a patient's health history, along with other items. The American Recovery and Reinvestment Act of 2009 (Recovery Act) authorized Medicare incentive payments over a 5-year period to physicians and hospitals that demonstrate meaningful use of certified EHR technology. (§§ 4101 and 4102.) Incentive payments were scheduled to begin in 2011 and continue through 2016, with payment reductions to health care professionals who fail to become meaningful users of EHRs beginning in 2015. (§ 4101(b).) According to Congressional Budget Office (CBO) estimates, CMS's net spending for incentives will total about \$20 billion. We will review Medicare incentive payment data from 2011 to identify payments to providers that should not have received incentive payments (e.g., those not meeting selected meaningful use criteria). We will also assess CMS's plans to oversee incentive payments for the duration of the program and actions taken to remedy erroneous incentive payments. (OEI; 05-11-00250; expected issue date: fiscal year (FY) 2013; work in progress; OAS; W-00-13-31352; expected issue date: FY 2013; new start; Recovery Act)

### Medicaid Administration

#### **Medicaid—Incentive Payments for Electronic Health Records**

We will review Medicaid incentive payments to Medicaid providers and hospitals for adopting EHRs and CMS's safeguards to prevent erroneous incentive payments. The Recovery Act establishes 100-percent Federal financial participation for allowable expenses for eligible Medicaid providers to purchase, implement, and operate certified EHR technology. (§ 4201.) The section also provides a 90-percent Federal match for State administrative expenses for the adoption of certified EHR technology by Medicaid providers. According to CBO estimates, Medicaid spending for incentives will total about \$12 billion between 2011 and 2019. We will determine whether incentive payments to Medicaid

providers to purchase, implement, and operate EHR technology were claimed in accordance with Medicaid requirements. We will also assess CMS's actions to remedy erroneous incentive payments and its plans for securing the payments for the duration of the incentive program, as well as review payments to States for administrative expenses. (OAS; W-00-12-31351; various reviews; expected issue date: FY 2013; work in progress; Recovery Act)

## Medicare and Medicaid Information Systems and Data Security

### Health Information Technology System Enhancements

We will review HIT enhancements to CMS systems to ensure that they include standards adopted by the Department of Health and Human Services (HHS) and that adequate information technology (IT) security controls are in place to protect sensitive EHR and personal information. The Recovery Act provides financial incentives through Medicare and Medicaid to encourage doctors, hospitals, health clinics, and other entities to adopt and use certified EHRs. Medicare incentive payments are being phased out over time and replaced with financial penalties for providers that are not using EHR technology. CMS systems require modification to manage the new requirements. (OAS; W-00-12-27109; various reviews; expected issue date: FY 2013; work in progress; Recovery Act)

### Contractor System Enhancements

We will review health information technology (HIT) enhancements to systems used by Medicare and Part D contractors to ensure that adequate security controls are in place to protect sensitive EHR and personal information that is being added as a result of the Federal HIT initiatives. CMS contractor systems require modification to comply with the new requirements. (OAS; W-00-12-27109; various reviews; expected issue date: FY 2013; new start; Recovery Act)

### OCR Oversight of the HIPAA Privacy Rule

We will review Office for Civil Rights (OCR) oversight of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule. The Privacy Rule establishes Federal minimum standards for safeguarding individually identifiable protected health information (PHI). The Recovery Act requires that OCR investigate all privacy complaints filed against covered entities if a preliminary investigation indicates willful neglect of the Privacy Rule. Covered entities include health plans, health care clearinghouses, and health care providers that electronically transmit health information in connection with certain HIPAA transactions and technical standards. The Recovery Act also strengthened OCR's enforcement of the HIPAA Privacy Rule by increasing the civil monetary penalties (CMP) for covered entities' noncompliance. (74 Fed. Reg. 56123.) We will review OCR's investigation policies and assess OCR's oversight to ensure that covered entities are complying with the Privacy Rule. (OEI; 09-10-00510; expected issue date: FY 2013; work in progress; Recovery Act)

### OCR Oversight of the HITECH Breach Notification Rule

We will review OCR's oversight of the Health Information Technology for Economic and Clinical Health Act (HITECH) Breach Notification Rule, which requires that covered entities, as defined by HIPAA, notify affected individuals; the Secretary of HHS; and when required, the media, following the discovery of a breach in unsecured PHI. A breach is the unauthorized acquisition, access, use, or disclosure of PHI that compromises the security or privacy of such information. Unsecured PHI is individually identifiable health information that is unencrypted or not destroyed in a way that renders the PHI unusable or unreadable by unauthorized individuals. HHS provided additional guidance on what is considered to be unsecured PHI in its issuances at 74 Fed. Reg. 19006 and 74 Fed. Reg. 42741. The Secretary of HHS delegated oversight responsibility to OCR. We will review OCR's policies for investigating breaches reported by covered entities and determine whether Medicare Part B-covered entities have policies or plans in place to mitigate breaches.

*(OEI; 09-10-00511; expected issue date: FY 2013; work in progress; Recovery Act)*

## Public Health Programs

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Acronyms and Abbreviations for Selected Terms Used in the Public Health Programs Section:

EHR—electronic health records

ONC—Office of the National Coordinator for Health Information Technology

## Health Resources and Services Administration

### HRSA—Limited-Scope Audits of Grantees' Capacities

We will determine whether potentially high-risk recipients of Recovery Act funds for new access points are capable of managing Federal awards. Under the New Access Points Program, 50 of the 126 grantees receiving \$156 million in Recovery Act funds for new service delivery sites are new grantees. In light of the Office of Inspector General's (OIG) oversight role in preventing fraud, waste, and abuse and given the increased number of grants and the expanded revenue base of grantees, we will also conduct limited-scope audits of grants for Increased Demand for Services (\$342 million), the Capital Improvement Program (\$853 million), and the Facility Investment Program (\$520 million). The objective of the audits will be to assess grantees' capacities to manage and account for Federal funds and to operate community health service delivery sites in accordance with Federal regulations. *(OAS; W-00-11-27105; W-00-12-27105; various reviews; expected issue date: FY 2013; work in progress, Recovery Act)*

### HRSA—Recovery Act Funding for Community Health Centers Infrastructure Development

We will review community health centers and other facilities in two States to determine whether Recovery Act funds were spent in accordance with Federal regulations. The Recovery Act provided

\$2 billion to be invested in community health centers. Of that amount, \$1.5 billion funds infrastructure development for community health centers, which includes acquisition of equipment, construction, and renovation. Another \$500 million has been provided to fund operations of health centers. Community health centers are locally directed and operated providers of preventive and primary care. Forty-six community health centers in Florida were awarded about \$88 million in Recovery Act funding. In Alabama, one community health center received about \$15 million for a competitive Facility Investment Program grant, almost half of the total amount received by the other 14 Alabama grantees. On the basis of results, audits may be performed in other States.

*(OAS; W-00-11-27105; W-00-12-27105; expected issue date: FY 2013; work in progress; Recovery Act)*

### **HRSA—Community Health Centers Receiving Health Information Technology Funding**

We will review general security controls in place for community health center systems funded by HRSA HIT grants to ensure that adequate HIT security controls are in place to protect sensitive EHR and personal information. HRSA will expend \$120 million of \$1.5 billion in Recovery Act funding for HIT systems and network grants to support EHR for community health centers. Almost 300 community health centers are expected to benefit from the funding. *(OAS; W-00-13-27109; various reviews; expected issue date: FY 2013; new start; Recovery Act)*

### **HRSA—Health Information Technology Grants**

We will determine the extent to which HRSA Recovery Act grants supported the implementation and expansion of EHRs through health-center-controlled networks. In 2009 and 2010, HRSA awarded 99 grants totaling nearly \$121 million in Recovery Act funds for EHR implementation and other HIT initiatives. We will survey HRSA grantees about how Recovery Act grants supported the adoption, use, and sustainability of EHRs through health-center-controlled networks. *(OEI; 09-11-00380; expected issue date: FY 2013; work in progress; Recovery Act)*

## **National Institutes of Health**

### **NIH—Internal Controls for Extramural Construction and Shared Instrumentation**

We will review NIH's internal controls for awarding extramural construction and shared instrumentation grants. NIH's extramural construction spending plan proposes \$1 billion in Recovery Act funds for renovations, repairs, improvements, or construction of core research facilities. The shared instrumentation spending plan proposes \$300 million in Recovery Act funds to purchase major items of biomedical research equipment. As part of OIG's oversight role in preventing fraud, waste, and abuse, we will determine whether NIH's internal controls for the systems used to process and monitor Recovery Act grants are effective and efficient. *(OAS; W-00-11-2710 ; W-00-12-27101; expected issue date: FY 2013; work in progress, Recovery Act)*

### **NIH—College and University Indirect Costs Claimed as Direct Costs**

We will determine whether colleges and universities have appropriately charged administrative and clerical salaries to federally sponsored grants. Prior audit work found problems in this area. A large amount of Recovery Act funds will be used for grants to colleges and universities. We will review administrative and clerical expenses claimed for reimbursement as direct charges to Federal grants and contracts when those costs should have been treated as indirect costs and recovered through negotiated facility and administrative rates. Such costs are usually treated as indirect costs.

(Office of Management and Budget (OMB) Circular A-21, *Cost Principles for Educational Institutions*.)

However, direct charging of the costs may be appropriate when the nature of the work performed under a specific project requires extensive administrative or clerical support. (OAS; W-00-11-27101; W-00-12-27101; expected issue date: FY 2013; work in progress, Recovery Act)

## Human Services Programs

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Acronyms and Abbreviations for Selected Terms Used in the Human Services Programs Section:

ACF—Administration for Children and Families

TANF—Temporary Assistance for Needy Families

GATES—Grants Administration Tracking Evaluation System

## Administration for Children and Families

### **ACF—Grantees' Use of Funds**

We will review the use of funds, including Recovery Act funds, by Head Start agencies. The Recovery Act requires that the \$1 billion in supplemental funds for Head Start grantees be used in a manner consistent with the requirements of the Head Start Act. Recipients of Head Start funds are required to ensure that the funds are used for authorized purposes. (45 CFR §§ 74.21(b)(3) and 92.20(b)(3).) We will determine whether Head Start funds and Recovery Act funds were properly used for the purposes outlined in Federal award letters, approved Head Start agency grant applications, and program requirements. (OAS; W-00-11-27100; W-00-12-27100; expected issue date: FY 2013; work in progress, Recovery Act)

### **ACF—Grant System**

We will determine whether adequate general and application security controls for ACF'S Grants Administration Tracking Evaluation System (GATES) are in place to ensure that the confidentiality, integrity, and availability of sensitive data in transit and at rest are maintained. GATES is used by ACF grants officers and specialists to manage grant programs and process grant applications from receipt through award. ACF received \$10 billion for grants supporting Head Start, Early Head Start, Temporary Assistance for Needy Families (TANF), child care and development, and community services. We will also determine whether ACF's grant awards require increased security provisions to protect sensitive EHR or personal information at the grantee level. (OAS; W-00-11-27109; various reviews; expected issue date: FY 2013; new start; Recovery Act)

### **ACF—Health Information Technology Grants**

We will review general security controls for systems funded by ACF HIT grants to determine whether adequate security controls are in place to protect sensitive EHR and personal information. ACF will award HIT grants to State agencies, local governments, nonprofit organizations, and school systems administering Head Start, Early Head Start, TANF, Child Care and Community Development Block Grant, and Community Services Block Grant programs. We will also determine whether ACF grantees receiving HIT funds have sufficient processes in place to ensure that the confidentiality, integrity, and availability of sensitive data in transit and at rest are maintained. (OAS; W-00-11-27109; various reviews; expected issue date: FY 2013; new start; Recovery Act)

## Other HHS-Related Issues

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### Office of the National Coordinator

#### **ONC—State Compliance With Grant Requirements**

We will review security controls implemented by States to safeguard electronic health information exchanges. The Office of the National Coordinator for Health Information Technology (ONC) is authorized to award planning and implementation grants to States to facilitate and expand electronic health information exchanges. (Public Health Service Act of 1944, § 3013, as added by the Recovery Act, § 13301.) To receive an implementation grant, a State must submit a plan describing the activities to be carried out to facilitate and expand electronic health information exchange pursuant to nationally recognized standards and implementation specifications. (OAS; W-00-13-27109; various reviews; expected issue date: FY 2013; new start; Recovery Act)

### Cross-Cutting Investigative Activities

#### **Integrity of Recovery Act Expenditures**

We will evaluate credible allegations of improper expenditures of Recovery Act funds to identify cases in which criminal investigations will be opened and enforcement actions pursued. Recovery Act funding will result in a significant increase in the number of grants and contracts awarded by the Department of Health and Human Services (HHS). Accordingly, we expect an increase in the number of complaints and referrals of grant- and contract-related fraud allegations. The Recovery Act requires transparency and accountability in the awarding and spending of funds. (OI; various reviews; expected issue dates: FY 2009 through FY 2012; work in progress; Recovery Act)

**Enforcement of Whistleblower Protections**

We will evaluate credible allegations of reprisals against whistleblowers by entities or individuals receiving Recovery Act funds to identify cases in which criminal investigations will be opened and antireprisal enforcement actions pursued. The Recovery Act extends whistleblower protection to employees who reasonably believe they are being retaliated against for reporting misuse of Recovery Act funds received by their non-Federal employers. (§ 1553.) *(OIG; various reviews; expected issue dates: FY 2009 through FY 2012; work in progress; Recovery Act)*

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