

enabling industry groups or others to submit to the Commission for approval self-regulatory guidelines that would implement the Rule's protections.²

Pursuant to § 312.10 of the Rule, Privo has submitted proposed self-regulatory guidelines to the Commission for approval. The full text of the proposed guidelines is available on the Commission's Web site, www.ftc.gov/privacy/safeharbor/shp.htm.

Section B. Questions on the Proposed Guidelines

The Commission is seeking comment on various aspects of the proposed guidelines, and is particularly interested in receiving comment on the questions that follow. These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted. Responses to these questions should cite the numbers and subsection of the questions being answered. For all comments submitted, please provide any relevant data, statistics, or any other evidence, upon which those comments are based.

1. Please provide comment on any or all of the provisions in the proposed guidelines. For each provision commented on please describe (a) the impact of the provision(s) (including any benefits and costs), if any, and (b) what alternatives, if any, Privo should consider, as well as the costs and benefits of those alternatives.

2. Do the provisions of the proposed guidelines governing operators' information practices provide "the same or greater protections for children" as those contained in §§ 312.2–312.8 of the Rule?³ Where possible, please cite the relevant sections of both the Rule and the proposed guidelines.

3. Are the mechanisms used to assess operators' compliance with the guidelines effective?⁴ If not, please describe (a) how the proposed guidelines could be modified to satisfy the Rule's requirements, and (b) the costs and benefits of those modifications.

4. Are the incentives for operators' compliance with the guidelines effective?⁵ If not, please describe (a) how the proposed guidelines could be modified to satisfy the Rule's requirements, and (b) the costs and benefits of those modifications.

5. Do the guidelines provide adequate means for resolving consumer

complaints? If not, please describe (a) how the proposed guidelines could be modified to resolve consumer complaints adequately, and (b) the costs and benefits of those modifications.

Section C. Invitation To Comment

All persons are hereby given notice of the opportunity to submit written data, views, facts, and arguments addressing the proposed self-regulatory guidelines. The Commission invites written comments to assist it in ascertaining the facts necessary to reach a determination as to whether to approve the proposed guidelines. Written comments must be submitted on or before May 7, 2004. Comments should refer to "Privo Safe Harbor Proposal, Project No. P044506" to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room 159-H (Annex F, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If the comment contains any material for which confidential treatment is requested, it must be filed in paper (rather than electronic) form, and the first page of the document must be clearly labeled "Confidential."⁶ The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington Area and at the Commission is subject to delay due to heightened security precautions. Comments filed in electronic form (except comments containing any confidential material) should be sent to the following email box: privosafeharbor@ftc.gov.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at www.ftc.gov/privacy/safeharbor/shp.htm. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from

the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

By direction of the Commission.

Donald S. Clark,

Secretary.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Computer Matching Program (Match No. 2003–02)

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Notice of Computer Matching Program (CMP).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, this notice announces the establishment of a CMP that CMS plans to conduct with the Texas Health and Human Services Commission (HHSC). We have provided background information about the proposed matching program in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed matching program, CMS invites comments on all portions of this notice. See **EFFECTIVE DATES** section below for comment period.

EFFECTIVE DATES: CMS filed a report of the CMP with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on March 23, 2004. We will not disclose any information under a matching agreement until 40 days after filing a report to OMB and Congress or 30 days after publication. We may defer implementation of this matching program if we receive comments that persuade us to defer implementation.

ADDRESSES: The public should address comments to: Director, Division of Privacy Compliance Data Development (DPCDD), Enterprise Databases Group, Office of Information Services, CMS,

² See 16 CFR 312.10; 64 FR at 59906–59908, 59915.

³ See 16 CFR 312.10(b)(1); 64 FR at 59915.

⁴ See 16 CFR 312.10(b)(2); 64 FR at 59915.

⁵ See 16 CFR 312.10(b)(3); 64 FR at 59915.

⁶ Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

Mail stop N2-04-27, 7500 Security Boulevard, Baltimore, Maryland 21244-1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.-3 p.m., eastern daylight time.

FOR FURTHER INFORMATION CONTACT:

Lourdes Grindal Miller, Health Insurance Specialist, Centers for Medicare & Medicaid Services, Office of Financial Management, Program Integrity Group, Mail-stop C3-02-16, 7500 Security Boulevard, Baltimore Maryland 21244-1850. The telephone number is (410) 786-1022 and e-mail is lgrindalmiller@cms.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Description of the Matching Program

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100-503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 100-508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, state, or local government records. It requires Federal agencies involved in computer matching programs to:

1. Negotiate written agreements with the other agencies participating in the matching programs;
2. Obtain the Data Integrity Board approval of the match agreements;
3. Furnish detailed reports about matching programs to Congress and OMB;
4. Notify applicants and beneficiaries that the records are subject to matching; and,
5. Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. CMS Computer Matches Subject to the Privacy Act

CMS has taken action to ensure that all CMPs that this Agency participates in comply with the requirements of the Privacy Act of 1974, as amended.

Dated: March 23, 2004.

Dennis Smith,

Acting Administrator, Centers for Medicare & Medicaid Services.

Computer Match No. 2003-02

NAME:

"Computer Matching Agreement Between the Centers for Medicare & Medicaid Services (CMS) and the State of Texas Health and Human Services Commission (HHSC) for Disclosure of Medicare and Medicaid Information."

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive

PARTICIPATING AGENCIES:

The Centers for Medicare & Medicaid Services, and State of Texas Health and Human Services Commission

AUTHORITY FOR CONDUCTING MATCHING PROGRAM:

This CMA is executed to comply with the Privacy Act of 1974 (Title 5 United States Code (U.S.C.) 552a), (as amended by Public Law (Pub. L.) 100-503, the Computer Matching and Privacy Protection Act (CMPPA) of 1988), the Office of Management and Budget (OMB) Circular A-130, titled "Management of Federal Information Resources" at 65 **Federal Register** (FR) 77677 (December 12, 2000), and OMB guidelines pertaining to computer matching at 54 FR 25818 (June 19, 1989).

This Agreement provides for information matching fully consistent with the authority of the Secretary of the Department of Health and Human Services (Secretary). Section 1816 of the Social Security Act (the Act) permits the Secretary to contract with fiscal intermediaries to "make such audits of the records of providers as may be necessary to insure that proper payments are made under this part," and to "perform such other functions as are necessary to carry out this subsection" (42 U.S.C. 1395h (a)).

Section 1842 of the Act provides that the Secretary may contract with entities known as carriers to "make such audits of the records of providers of services as may be necessary to assure that proper payments are made" (42 U.S.C. 1395u(a)(1)(C)); "assist in the application of safeguards against unnecessary utilization of services furnished by providers of services and other persons to individuals entitled to benefits" (42 U.S.C. 1395u(a)(2)(B)); and "to otherwise assist * * * in discharging administrative duties necessary to carry out the purposes of this part" (42 U.S.C. 1395u(a)(4)).

Furthermore, section 1874(b) of the Act authorizes the Secretary to contract with any person, agency, or institution to secure on a reimbursable basis such special data, actuarial information, and other information as may be necessary in the carrying out of his functions under this title (42 U.S.C. 1395kk(b)).

Section 1893 of the Act establishes the Medicare Integrity Program, under which the Secretary may contract with eligible entities to conduct a variety of program safeguard activities, including fraud review employing equipment and software technologies that surpass the existing capabilities of Fiscal Intermediaries and carriers (42 U.S.C. 1395ddd). The contracting entities are called Program Safeguards Contractors (PSC).

HHSC is charged with the administration of the Medicaid program in Texas and is the single state agency for such purpose (Texas Government Code (TGC) 531.021). HHSC may act as an agent or representative of the Federal government for any purpose in furtherance of HHSC's functions or administration of the Federal funds granted to the state (TGC 531.021). In Texas, HHSC provides qualifying individuals with health care and related remedial or preventive services, including both Medicaid services and services authorized under state law that are not provided under Federal law. The program to provide all such services is known as the Texas Medical Assistance Program. (TGC 531.021).

HHSC's disclosure of the Texas Medicaid Program (TMP) data pursuant to this agreement is for purposes directly connected with the administration of the TMP program, in compliance with Texas Human Resources Code sections 12.003 and 21.012, and CFR 431.300 through 431.307. Those purposes are the detection, prosecution and deterrence of fraud and abuse (F&A) in the TMP, and the enforcement of state law relating to the provisions of program services (TGC 531.102).

PURPOSE (S) OF THE MATCHING PROGRAM:

The purpose of this agreement is to establish the conditions, safeguards, and procedures under which the Centers for Medicare & Medicaid Services (CMS) will conduct a computer matching program with the State of Texas Health and Human Services Commission (HHSC) to study claims, billing, and eligibility information to detect suspected instances of Medicare and Medicaid fraud and abuse (F&A) in the State of Texas. CMS and HHSC will provide TriCenturion, a CMS contractor (hereinafter referred to as the

“Custodian”), with Medicare and Medicaid records pertaining to eligibility, claims, and billing which the Custodian will match in order to merge the information into a single database. Utilizing fraud detection software, the information will then be used to identify patterns of aberrant practices requiring further investigation. The following are examples of the type of aberrant practices that may constitute F&A by practitioners, providers, and suppliers in the State of Texas expected to be identified in this matching program: (1) billing for provisions of more than 24 hours of services in one day, (2) providing treatment and services in ways more statistically significant than similar practitioner groups, and (3) up-coding and billing for services more expensive than those actually performed.

DESCRIPTION OF RECORDS TO BE USED IN THE MATCHING PROGRAM:

The release of the data for CMS are maintained in the following SOR: National Claims History (NCH), System No. 09-70-0005 was most recently published in the **Federal Register**, at 67 FR 57015 (September 6, 2002). NCH contains records needed to facilitate obtaining Medicare utilization review data that can be used to study the operation and effectiveness of the Medicare program. Matched data will be released to HHSC pursuant to the routine use as set forth in the system notice.

Carrier Medicare Claims Record, System No. 09-70-0501 published in the **Federal Register** at 67 FR 54428 (August 22, 2002). Matched data will be released to HHSC pursuant to the routine use as set forth in the system notice.

Enrollment Database, System No. 09-70-0502 (formerly known as the Health Insurance Master Record) published at 67 FR 3203 (January 23, 2002). Matched data will be released to HHSC pursuant to the routine use set forth in the system notice.

Intermediary Medicare Claims Record, System No. 09-70-0503 published in the **Federal Register** at 67 FR 65982 (October 29, 2002). Matched data will be released to HHSC pursuant to the routine use as set forth in the system notice.

Unique Physician/Provider Identification Number (formerly known as the Medicare Physician Identification and Eligibility System), System No. 09-70-0525, was most recently published in the **Federal Register** at 53 FR 50584 (Dec 16, 1988). Matched data will be released to HHSC pursuant to the

routine use as set forth in the system notice.

Medicare Supplier Identification File, System No. 09-70-0530 was most recently published in the **Federal Register**, at 67 FR 48184 (July 23, 2002). Matched data will be released to HHSC pursuant to the routine use as set forth in the system notice.

Medicare Beneficiary Database, System No. 09-70-0536 published in the **Federal Register** at 67 FR 63392 (December 6, 2001). Matched data will be released to HHSC pursuant to the routine use as set forth in the system notice.

The data for HHSC are maintained in the following data files: The data that the Texas Medicaid Fraud and Abuse Detection System (MFADS) receives from the acute care claims processor comprises over 320 files. These files include not only the claims data, but also all other data necessary to process the claim such as client, provider, and reference information. The Texas Medicaid claims administrator vendor utilizes a real-time transaction processing system to adjudicate the claims and therefore, has organized the data to facilitate efficient transaction processing. This data organization results in the data being parsed out over a number of data tables. It is these data tables that are extracted for processing by the MFADS. As these files are received, they are organized or reassembled into an Oracle relational database to support access using the MFADS tools.

In addition to the organization of the data, there are numerous updates that take place during the monthly load process. The monthly acute extracts that are received contain data that has finalized during the month. Therefore, these files must be applied to the multi-year database, changing some of the data through an update process as well as adding additional records. It is due to these reasons that the data will be extracted from the MFADS database rather than from incoming data sources. All or part of these elements may be used in this data-matching program.

INCLUSIVE DATES OF THE MATCH:

The CMP shall become effective no sooner than 40 days after the report of the Matching Program is sent to OMB and Congress, or 30 days after publication in the **Federal Register**, which ever is later. The matching program will continue for 18 months from the effective date and may be

extended for an additional 12 months thereafter, if certain conditions are met.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

American Indian-Alaska Native Head Start-University Partnerships Program

Federal Agency Contact Name: Administration for Children and Families (ACF) & Office of Planning, Research and Evaluation (OPRE).

Funding Opportunity Title: American Indian-Alaska Native Head Start-University Partnerships.

Announcement Type: Initial.

Funding Opportunity Number: HHS-2004-ACF-OPRE-YF-0002.

CFDA Number: 93.600.

Due Date for Letter of Intent (Encouraged): 3 weeks prior to June 7, 2004.

Due Date for Applications (Required): The due date for the receipt of applications is June 7, 2004.

I. Funding Opportunity Description

Funds are provided for American Indian-Alaska Native Head Start-University Partnerships to build model research partnerships between American Indian-Alaska Native program staff, members of tribal communities, and researchers.

This grant program is part of a larger Head Start research effort. Three other grant funding mechanisms are being offered concurrently with the one described in this announcement. They include: (1) Head Start-University Partnerships: Measurement Development for Head Start Children and Families, (2) Head Start Graduate Student Research Grants, and (3) Head Start Graduate Student Research Partnership Development Grants. For more information, please see these other Head Start Research announcements listed in the **Federal Register** or listed on <http://www.Grants.Gov>, or send an inquiry to the email address listed above.

Priority Area: American Indian-Alaska Native Head Start-University Partnerships.

A. Purpose

This new initiative creates an opportunity for building model research partnerships between American Indian—Alaska Native program staff, members of tribal communities, and