
**OFFICE OF
THE INSPECTOR GENERAL**

SOCIAL SECURITY ADMINISTRATION

**USE OF SANCTIONED MEDICAL
PROVIDERS BY STATE DISABILITY
DETERMINATION SERVICES**

March 2001

A-07-99-24006

AUDIT REPORT



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SOCIAL SECURITY

Office of the Inspector General

MEMORANDUM

Date: March 30, 2001

Refer To:

To: Larry G. Massanari
Acting Commissioner
of Social Security

From: Inspector General

Subject: Use of Sanctioned Medical Providers by State Disability Determination Services
(A-07-99-24006)

OBJECTIVE

The objectives of our audit were to determine: (1) if State Disability Determination Services' (DDS) procedures are adequate to ensure exclusion of sanctioned medical providers (SMP) from performing consultative examinations (CE) for disability determinations; and (2) on a test basis, if SMPs are performing CEs.

BACKGROUND

The Disability Insurance (DI) program, established in 1954 under title II of the Social Security Act (Public Law 83-761), provides benefits to disabled wage earners and their families. In 1972, Congress enacted the Supplemental Security Income (SSI) program (Public Law 92-603). The SSI program provides benefits to financially needy individuals who are aged, blind and/or disabled.

The Social Security Administration (SSA) is responsible for the policies on developing disability claims under the DI and SSI programs. Disability determinations under SSA's DI and SSI programs are performed by each State DDS in accordance with Federal regulations.¹ DDSs are authorized to purchase CEs to supplement the medical evidence of record (MER) obtained from claimants' treating sources.² SSA reimburses DDSs for 100 percent of allowable expenditures.

¹ States may turn this function over to the Federal government if they no longer want to make disability determinations. 20 Code of Federal Regulations (CFR), sections 404.1503(a) and 416.903(a).

² CEs include medical and psychological examinations, x-rays, and laboratory tests. MER includes copies of laboratory reports, prescriptions, x-rays, ancillary tests, operative and pathology reports, consultative reports, and other technical information.

Federal regulations³ prohibit DDSs from purchasing CEs from medical providers:

- who are currently excluded, suspended or barred from participation in Federal or federally-assisted programs;
- whose license to provide health care is currently lawfully revoked or suspended by any State licensing authority for reasons bearing on professional competence, professional conduct or financial integrity; or
- who have surrendered such a license while formal disciplinary proceedings involving professional conduct are pending.

These providers are referred to as SMPs. However, DDSs are allowed to purchase MER from SMPs, and are directed to give the MER normal consideration in processing disability claims.⁴

To comply with Federal regulations precluding use of SMPs, SSA instructs DDSs to review the SMP list compiled by the Department of Health and Human Services, Office of Inspector General (HHS-OIG).⁵ The HHS-OIG posts the SMP list monthly in a downloadable format at its Internet web site.⁶ The list contains data on individual health care providers and other medical entities (e.g., hospitals, clinics, health maintenance organizations (HMO), and other medical businesses), which:

- have been convicted of engaging in fraud, abuse or professional misconduct as specified under Sections 1128 and 1156 of the Social Security Act; and
- are prohibited from providing items or services to beneficiaries under titles V, XVIII, XIX, XX, and XXI.⁷

In addition to reviewing the HHS-OIG SMP list, SSA's Program Operations Manual System (POMS)⁸ provides additional instructions for DDS use in ensuring the integrity of the DI and SSI programs. These instructions require DDSs to verify medical providers'

³ 20 CFR section 404.1503a (1999), for DI, and 20 CFR section 416.903a (1999), for SSI.

⁴ POMS DI 39569.004C.2 and 20 CFR section 404.1503a, for DI; 20 CFR section 416.903a, for SSI.

⁵ POMS DI 39569.004D.1 and Disability Determination Services Administrators' Letter No. 481.

⁶ HHS-OIG website: <http://www.dhhs.gov/progorg/oig/cumsan/main.htm>. SSA's Office of Disability provides a copy of the HHS-OIG SMP list via electronic mail to DDSs without Internet access.

⁷ Title V (Maternal and Child Health Services Block Grant); title XVIII (Medicare); title XIX (Medicaid); title XX (Block Grants for Social Services); and title XXI (State Children's Health Insurance).

⁸ POMS DI 39569.004D.2 and DI 39569.007B.1.

current licensure and credentials with the State Medical Board and to submit names of new CE providers to SSA's Regional Office for a Federation of State Medical Boards (FSMB) credentials check.

SCOPE

To achieve our objective, we:

- reviewed sections of the Social Security Act, the Code of Federal Regulations, and SSA's POMS;
- interviewed SSA, Office of Disability (OD) Professional Relations Branch staff, in Baltimore, Maryland;
- sent a questionnaire to the 48 continental United States DDSs to obtain information regarding procedures used to identify SMPs;
- randomly selected 10 DDSs⁹ for on-site field work and: (a) interviewed DDS staff regarding procedures used to identify SMPs; (b) obtained electronic data files of MER and CE payments made during the period of October 1, 1997 through December 31, 1998;
- compared MER and CE payment amounts in the electronic data files obtained from the 10 DDSs to the MER and CE payment amounts reported to SSA on the Report of Obligations (Form SSA-4513) to validate the completeness of the data;
- obtained an electronic, cumulative SMP list from HHS-OIG for the period of October 1, 1997 to December 31, 1998;
- downloaded the General Services Administration's (GSA) "List of Parties Excluded From Federal Procurement and Nonprocurement Programs"¹⁰ from its web site on September 7, 1999; and
- matched CE and MER payments for eight DDSs¹¹ to the HHS-OIG and GSA SMP lists to identify CE and MER payments to SMPs.

⁹ Randomly selected DDSs were Delaware, Illinois, Iowa, Kansas, Massachusetts, North Carolina, Oklahoma, Utah, Virginia, and Wisconsin.

¹⁰ For this report we refer to this as the GSA SMP list.

¹¹ The data files provided by Massachusetts and Virginia DDSs did not contain sufficient data to complete our objective. See Appendix B for detailed information on our sample methodology and matching procedures.

We conducted our audit between October 1998 and October 2000 in Kansas City, Missouri. The audited entities were State DDSs and OD under the Deputy Commissioner for Disability and Income Security Programs. We conducted our review in accordance with generally accepted government auditing standards.

RESULTS OF REVIEW

Based on our audit, DDS procedures generally appeared adequate to ensure exclusion of SMPs from performing CEs for disability determinations. However, based on our tests, we identified 3 SMPs who performed 10 CEs during our audit period. We believe that the current system is vulnerable to such an occurrence because the HHS-OIG SMP list used by SSA was not a complete list of all SMPs, some DDSs did not adhere to all of SSA's instructions for identifying SMPs, and SSA has not established instructions for DDSs to identify individual SMPs employed by medical clinics and other medical businesses.

CE PURCHASES FROM SMPs

In June 1999, we obtained information from 48 continental United States DDSs on the procedures used to identify SMPs. This information disclosed that 48 DDSs have procedures in place to match the medical providers used for CEs against the HHS-OIG SMP list as required by SSA's instructions.

CE Purchases From SMPs

To test the effectiveness of the procedures DDSs have in place to identify SMPs, we matched CE payments made to medical providers by eight DDSs to the HHS-OIG and GSA SMP lists.¹² Of the 565,265 CE payments made by these

8 DDSs, we confirmed 10 CEs purchased from SMPs, as shown in the following table.¹³ The 10 CEs were purchased from 3 medical providers on behalf of 7 claimants. The three medical providers had been sanctioned for at least 4 years and each provider appeared on HHS-OIG's Internet web site SMP list. We question the reliability of the procedures used by the Illinois, Oklahoma, and Utah DDSs with regard to their review of the HHS-OIG SMP lists since the SMPs were not detected.

¹² See Appendix B for detailed matching procedures.

¹³ While we identified only 10 CE payments to SMPs, there may have been other payments to SMPs that we are not aware of because the DDSs' data files did not list the names of the individual medical providers employed by medical clinics or other medical businesses. Of the 14,423 medical providers from which the 8 DDSs purchased CEs, 2,114 were medical clinics or other medical businesses.

State DDS	Medical Providers Used by DDS for CEs	Number of CE Purchases	Confirmed CE Purchases From SMPs	CE Payment Amount to SMPs
Delaware	120	6,516	0	\$ 0
Illinois	10,072	263,778	6	621
Iowa	1,113	25,490	0	0
Kansas	426	40,852	0	0
North Carolina	1,306	118,587	0	0
Oklahoma	551	55,025	1	85
Utah	229	34,340	3	708
Wisconsin	606	20,677	0	0
Total	14,423	565,265	10	\$1,414

Of the 10 CEs purchased from SMPs for the 7 claimants, 6 claimants were awarded disability benefits or continued to receive disability benefits based on the results of the continuing disability review. During our audit time period of October 1, 1997 through December 31, 1998, these 6 claimants received disability payments totaling \$30,238. We did not verify whether the disability decisions for these 6 claimants were correct.

COMPLETENESS OF THE HHS-OIG SMP LIST

SMPs On GSA’s SMP List Did Not Appear On HHS-OIG’s SMP List

The HHS-OIG SMP list did not identify all SMPs. We compared MER payments made to medical providers by the eight DDSs to the SMP lists maintained by HHS-OIG and GSA. This comparison identified 12 MER payments made by 2 DDSs to 2 SMPs who appeared only on GSA’s SMP list. For one DDS, the GSA SMP list identified a SMP used

by the DDS that did not appear on the HHS-OIG SMP list under the same name. For another DDS, the GSA SMP list identified a SMP used by the DDS who was not listed on the HHS-OIG SMP list. Thus, differences do exist between the two SMP lists. SSA should establish a SMP list to be used by DDSs that identifies all SMPs.

DDS ADHERENCE TO SSA’S PROGRAM INTEGRITY INSTRUCTIONS

We interviewed officials at 10 DDSs¹⁴ on the procedures used to identify SMPs. The interviews disclosed that the following six DDSs violated some SSA instructions with regard to program integrity.

¹⁴ Interviews were conducted with staff at the following DDSs: Delaware, Illinois, Iowa, Kansas, Massachusetts, North Carolina, Oklahoma, Utah, Virginia, and Wisconsin.

- Delaware and Illinois DDSs did not review the HHS-OIG SMP list for medical providers practicing in communities near and across the border in neighboring States.
- Iowa, Kansas, and Utah DDSs did not check the HHS-OIG SMP list for the status of treating physicians who perform CEs.¹⁵ A treating physician has an ongoing and consistent relationship with the claimant, as opposed to a consulting physician who sees a claimant at the request of the DDS for the purpose of obtaining a report supporting the claimant’s alleged disability.
- Iowa DDS did not verify the medical license or credentials of CE providers with the State Medical Board.¹⁶
- Oklahoma DDS did not forward the names of new physicians to the Regional Office (RO) staff for the FSMB credentials check.¹⁷ The FSMB maintains disciplinary action information on physicians practicing in the United States. The FSMB coordinator informs the RO of the results, and the RO notifies the DDS if SMPs are identified.¹⁸

SMPs PRACTICING IN MEDICAL CLINICS

SSA’s instructions to DDSs used in identifying SMPs do not provide for the discovery of SMPs employed by medical clinics and other medical businesses (e.g., laboratories, hospitals, and HMOs). While we identified only 10 CE payments to SMPs, there may have been other payments to SMPs that we are not aware of because the DDSs’ data files did not list the names of the individual medical providers employed by medical clinics or other medical businesses. Of the 14,423 medical providers from which the 8 DDSs purchased CEs, some 2,114 were medical clinics or other medical businesses. SSA should establish procedures for DDSs to use in identifying SMPs employed by medical clinics and other medical businesses.

An Iowa DDS Best Practice During our interview with the Iowa DDS Professional Relations Officer, a best practice was identified. The Iowa DDS has a procedure to identify SMPs employed by medical clinics. The Iowa DDS obtains the names of physicians during site visits to clinics providing CE services to the DDS. The names of the clinic physicians are then compared to the HHS-OIG SMP list and, if any SMPs are identified, the DDS does not schedule CEs with the clinic. In our opinion, all DDSs should have this best practice in place.

¹⁵ POMS DI 39569.004D.1.

¹⁶ POMS DI 39569.004D.2.

¹⁷ POMS DI 39569.007C.1(b).

¹⁸ POMS DI 39569.007C.1 and 39569.007C.2.

CONCLUSIONS AND RECOMMENDATIONS

To ensure the integrity of disability determinations under the DI and SSI programs, federal regulations require SSA to establish effective procedures for precluding the use of SMPs to perform consultative examinations. DDS adherence to these procedures is critical to ensure that consultative examinations used in evaluating claimants' disabilities are obtained only from those medical providers who are not sanctioned.

We recommend that SSA:

1. Establish a SMP list to be used by DDSs that identifies all SMPs.
2. Instruct DDSs to:
 - (a) review the SMP list for SMPs practicing in communities near and across the borders of neighboring States.
 - (b) check treating physician status on the SMP list when they perform CEs.
 - (c) verify medical licenses of CE providers with the State Medical Board.
 - (d) submit the names of new CE providers to the SSA RO for the FSMB credentials check.
3. Provide DDSs with instructions for identifying SMPs employed by clinics and other medical businesses from which CEs are purchased.


AGENCY COMMENTS

In response to our draft report, SSA agreed with our second and third recommendations. In response to our first recommendation, SSA stated that the HHS-OIG SMP list was the source of the GSA list and the discrepancies we identified were most likely the result of differences in the time periods covered by the two lists. SSA also stated that creating a third list would result in duplication of efforts. (See Appendix C for the full text of SSA's comments.)

OIG RESPONSE

We do not concur with SSA's conclusion that the discrepancies between the HHS-OIG list and the GSA list were the result of timing differences. The two SMPs appearing on GSA's list—but not the HHS-OIG list—were sanctioned in May 1995 and June 1996, respectively. Therefore, these two SMPs should have appeared on the HHS-OIG list for the time period we reviewed (October 1, 1997 through December 1998). However, we agree with SSA that creating a third list may result in duplication of efforts. If SSA does

not create its own list, then SSA should periodically compare the HHS-OIG list and the GSA list to ensure that all SMPs appearing on the GSA list are included on the HHS-OIG list used by DDSs to identify SMPs.

A handwritten signature in black ink, appearing to read "James G. Huse, Jr.", with a stylized flourish at the end.

James G. Huse, Jr.

Appendices

APPENDIX A – Acronyms

APPENDIX B – Sample Methodology and Matching Procedures

APPENDIX C – Agency Comments

APPENDIX D – OIG Contacts and Staff Acknowledgments

Acronyms

CE	Consultative Examination
CFR	Code of Federal Regulations
DDS	Disability Determination Services
DI	Disability Insurance
EIN	Employer Identification Number
FSMB	Federation of State Medical Boards
GSA	General Services Administration
HHS-OIG	Department of Health and Human Services, Office of Inspector General
HMO	Health Maintenance Organization
MER	Medical Evidence of Record
OD	Office of Disability
POMS	Program Operations Manual System
RO	Regional Office
SMP	Sanctioned Medical Provider
SSA	Social Security Administration
SSI	Supplemental Security Income
SSN	Social Security number

Sample Methodology and Matching Procedures

SAMPLE METHODOLOGY

To test the effectiveness of the procedures Disability Determination Services (DDS) have in place to identify sanctioned medical providers (SMP), we randomly selected 10 DDSs to provide us with electronic data on consultative examination (CE) and medical evidence of record (MER) payments issued during the period of October 1, 1997 through December 31, 1998. The 10 DDSs were Arizona, Delaware, Illinois, Massachusetts, New York, North Carolina, South Dakota, Tennessee, Virginia, and Wisconsin.

DDSs in the States of Iowa and Utah were substituted for DDSs in the States of New York and Tennessee because of the latter States' participation in recent Social Security Administration (SSA), Office of the Inspector General audits. We also experienced difficulties in obtaining data for the review. The South Dakota DDS was dropped from the review because it could not provide electronic data files. The Arizona DDS was dropped because it could not electronically provide all data elements required for the audit. These two DDSs were replaced with DDSs in the States of Oklahoma and Kansas.

Accordingly, we obtained electronic data on CE and MER payments from the Delaware, Illinois, Iowa, Kansas, Massachusetts, North Carolina, Oklahoma, Utah, Virginia, and Wisconsin DDSs. We also received supporting information on the vendor—name, addresses, Social Security number (SSN) when available, employer identification number (EIN), and vendor number—and on the claimant—name and SSN.

We validated the completeness of the data files received from the 10 DDSs by comparing the CE and MER payment amounts in the electronic data files to the amounts reported to SSA by the DDSs in the Report of Obligations (Form SSA-4513). The validation procedures disclosed that the files received from the Massachusetts and Virginia DDSs did not contain all CE payments issued during our audit period. So, we dropped the Massachusetts and Virginia DDSs from the data-matching portion of our review. Therefore, data-matching analysis was performed for eight DDSs.

MATCHING PROCEDURES

The table below shows the number of MER and CE payment records received from the eight DDSs included in the matching analysis portion of our review.

State DDS	Number of MER Records	Number of CE Records
Delaware	22,719	6,516
Illinois	263,576	263,778
Iowa	75,590	25,490
Kansas	65,646	40,852
North Carolina	407,555	118,587
Oklahoma	83,516	55,025
Utah	34,602	34,340
Wisconsin	122,185	20,677

We obtained an electronic file of SMPs from the Department of Health and Human Services, Office of Inspector General (HHS-OIG).¹ The HHS-OIG SMP list was cumulative from October 1, 1997 through February 20, 1999, and included the physician's name and/or business name, specialty, address, date of birth, SSN, type of sanction, and date of sanction. The HHS-OIG SMP list contained 15,213 records. Although HHS-OIG maintains an on-line searchable database and another database of downloadable files by month of "excluded individuals/entities" at its Internet website,² it was necessary to request the SMP list to obtain SSNs.

We also used the General Services Administration's (GSA) excluded parties list, entitled "List of Parties Excluded from Federal Procurement and Nonprocurement Programs"³ in our matching analysis. The GSA SMP list is published both in hard copy and electronically at an Internet website.⁴ The GSA SMP list is a compilation of parties (individuals and businesses) from a total of 54 Federal agencies, including HHS, who are excluded, debarred or suspended for unethical or illegal practices in various businesses including health care. On September 7, 1999, we downloaded two GSA SMP lists from GSA's Internet website, the nonprocurement list (9,878 records) and the reciprocal list (17,882 records), for use in our review.

First Stage Matching Procedures: The first 7 letters of DDS vendors' surnames and first names, and the first 20 letters of vendors' business names were electronically matched to the HHS-OIG and GSA SMP lists in the DDS State and its contiguous States. For example, the contiguous States of the Iowa DDS would be Minnesota,

¹ For this report we refer to this as the HHS-OIG SMP list.

² HHS-OIG website is located at: <http://www.dhhs.gov/progorg/oig/cumsan/main.htm>

³ For this report we refer to this as the GSA SMP list.

⁴ GSA website is located at: <http://epls.www.arnet.gov>

Wisconsin, Illinois, Missouri, Nebraska, and South Dakota. The first-stage analysis goes beyond what the DDS is required to do by Program Operations Manual System (POMS). POMS instructs the DDS to identify SMPs in the State plus communities in contiguous States that are near the State's borders.

The results of the first-stage analysis were analyzed to determine if a SMP vendor was a "match" or a "no match." A "match" involved combinations of the same name, address, SSN, EIN, date of birth, and medical specialty on the DDS file with the HHS-OIG SMP list and/or the GSA SMP list.

Second Stage Matching Procedure: This matching procedure was performed when less than 99.0 percent of the DDS's CE or MER records identified payments to medical providers located in the State and contiguous States. The purpose of this procedure was to account for vendors outside the contiguous States, especially those who provided multiple CE and MER. For each DDS, the procedure involved matching the names of DDS vendors who provided 25 or more CEs or MER to the HHS-OIG and GSA SMPs lists for vendors outside the contiguous States. The matching procedure and the determination of a "match" or "no match" was the same as in the first-stage analysis.

We also used the following sources to assist in our matching procedures:

- HHS-OIG on-line searchable database for current addresses, medical specialties, and specific sanction dates of SMPs;
- GSA's monthly hard-copy volumes for aliases,⁵ other involved parties and other addresses used by SMPs;
- SSA's mainframe databases for verifying EINs and employment addresses.

⁵ The five GSA excluded parties volumes were dated: June 13, 1997; November 9, 1998; March 12, 1999; April 12, 1999; and June 11, 1999.

Agency Comments

COMMENTS OF THE SOCIAL SECURITY ADMINISTRATION (SSA) ON THE OFFICE OF THE INSPECTOR GENERAL (OIG) DRAFT REPORT, “USE OF SANCTIONED MEDICAL PROVIDERS BY STATE DISABILITY DETERMINATION SERVICES” A-07-99-24006

We appreciate the opportunity to comment on the draft report. Following are our comments on the recommendations.

Recommendation 1

Establish a sanctioned medical provider (SMP) list to be used by Disability Determination Services (DDS) that identifies all SMPs.

SSA Comment

We believe that we are already doing this. We investigated the differences between the General Services Administration (GSA) list and the HHS/OIG list that were discussed in your report. When we contacted GSA, we confirmed that the HHS/OIG list was the source for the information on health care providers on the GSA list, and they were at a loss to explain the apparent discrepancies. As noted in the draft report, the HHS/OIG listing was a cumulative listing for October 1, 1997 to December 31, 1998 while the GSA listing was downloaded in September 1999. The discrepancies most likely were a result of the time periods covered by the two listings.

If SSA were to establish a third list, another set of possibilities for inconsistencies would be created. In addition, since any new list of SMPs must be based primarily on the HHS/OIG data, establishing such a list would result in a duplication of the HHS/OIG effort.

Recommendation 2

Instruct DDSs to: a) review the SMP list for SMPs practicing in communities near and across the borders of neighboring States; b) check treating physician status on the SMP list when they perform consultative examinations (CE); c) verify medical licenses of CE providers with the State Medical Board; and d) submit the names of new CE providers to the SSA Regional Office for the Federation of State Medical Boards (FSMB) credentials check.

SSA Comment

We agree. We will update the Program Operations Manual System (POMS) instructions to mandate use of the nationwide list prior to the employment of any CE provider. The POMS will also be updated to clarify that DDSs must check the LEIE and the FSMB lists for all CE providers, which includes treating sources. The Office of Disability and Income Security Programs expects the intercomponent review draft (IRD) of the POMS guidelines to be completed in fiscal year 2001.

Recommendation 3

Provide DDSs with instructions for identifying SMPs employed by clinics and other medical businesses from which CEs are purchased.

SSA Comment

We agree. Sections 1128 and 1156 of the Social Security Act clearly indicate that no U.S. funds can be used to employ sanctioned individuals. We will update POMS to provide instructions that mandate DDSs to check the LEIE for all medical personnel who conduct CEs. This will be included in the IRD discussed above.

OIG Contacts and Staff Acknowledgments

OIG Contacts

Rona Rustigian, Acting Director, Disability Program Audit Division, (617) 565-1819

Mark Bailey, Deputy Director, (816) 936-5591

Acknowledgments

In addition to those named above:

Carol Cockrell, Program Analyst

Kenneth Bennett, Auditor

Richard Reed, Auditor

For additional copies of this report, please contact the Office of the Inspector General's Public Affairs Specialist at (410) 966-5998. Refer to Common Identification Number A-07-99-24006.

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