Centers for Medicare & Medicaid Services

Center for Medicaid and State Operations

Medicaid Integrity Group

Comprehensive Medicaid Integrity Plan
of the
Medicaid Integrity Program

FY 2007 - 2011

August 2007

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Executive Summary

Section 6034 of the Deficit Reduction Act of 2005 (DRA) established the Medicaid Integrity Program (MIP) in section 1936 of the Social Security Act (the Act). The MIP directed the Secretary to establish a 5-year comprehensive plan to combat fraud, waste, and abuse beginning fiscal year (FY) 2006. The first Comprehensive Medicaid Integrity Plan (CMIP) was released July 2006. With Medicaid fraud, waste, and abuse continuously evolving, the CMIP will be revised and published annually. This second CMIP covers FYs 2007 to 2011. It summarizes the FY 2006 accomplishments, revises and refines the proposed actions described in the initial CMIP, and outlines the Medicaid program integrity activities for FY 2007.

The Centers for Medicare & Medicaid Services (CMS), Medicaid Integrity Group (MIG) is responsible for implementing the MIP. The MIG has identified its two main business operations reflecting the two broad operational responsibilities required in the DRA under this new program.

DRA Operational Responsibilities

- Review the actions of those that provide Medicaid services
- Provide support and assistance to the States to combat Medicaid fraud, waste, and abuse

MIG Business Operations

- Medicaid Integrity Contracting
- State Program Integrity Operations

The MIG will continue taking action on the following tasks: filling remaining MIG staff vacancies; managing strategic contractors that assist MIG in formulating program implementation; procuring Medicaid Integrity Contractors (MICs) to audit providers of Medicaid services; and conducting oversight reviews of, and providing technical support and assistance to, State Medicaid integrity programs.

Specific actions that have been completed, are in process, and will take place in FY 2007 include:

- Continuing communications and collaborations with internal and external stakeholders of MIP;
- Publishing the first annual MIP Report to Congress;
- Developing protocols for reviewing providers, auditing claims, and identifying overpayments;
- Pilot testing information collection regarding State Medicaid integrity programs;
- Conducting test audits of Medicaid providers in order to develop effective and efficient audit protocols;
- Developing a process, in collaboration with the Department of Health and Human Services' Office of Inspector General (OIG), to refer potential cases of fraud and abuse to the OIG;

- Developing an approach to house an information management system for MIG, including a Medicaid Fraud and Abuse Library;
- Developing data mining approaches for the Division of Fraud Research and Detection;
- Designing MIG internal performance assessment measures and performance measures to assess State Medicaid integrity programs;
- Conducting Medicaid integrity program reviews in eight States; and
- Developing an initial set of best practices.

Continuing organizational and structural development of MIP throughout FY 2007 will lead to full program implementation in FY 2008 with the award of the initial MICs. By the close of FY 2008, MIG intends to have an array of tools and best practices with which to promote State program integrity efforts.

Introduction

> ***The fraud control game is dynamic, not static. Fraud control is played against opponents: opponents who think creatively and adapt continuously and who relish devising complex strategies; this means that a set of fraud controls that is perfectly satisfactory today may be of no use at all tomorrow, once the game has progressed a little. – Malcolm K. Sparrow***[1]

The Centers for Medicare & Medicaid Services (CMS), through its Medicaid Integrity Group (MIG), is charged with the implementation and management of the Medicaid Integrity Program (MIP), section 1936 of the Social Security Act (the Act) (enacted as part of the Deficit Reduction Act of 2005 (DRA)). The Comprehensive Medicaid Integrity Plan (CMIP) is an integral requirement of the MIP (see Appendix A). As a result of a host of planning efforts, including extensive ongoing consultations with key and mandated stakeholders per section 1936(d)(2) of the Act, CMS is pleased to present this second CMIP that covers fiscal years (FYs) 2007 through 2011.

The initial CMIP (issued July 2006 and found at http://www.cms.hhs.gov/DeficitReductionAct/Downloads/CMIP%20Initial%20July%202006.pdf) provided a conceptual framework for MIP implementation. It included an overview of MIP's statutory requirements; organizational philosophy, structure, and functions; proposed strategies for success; and a 5-year implementation plan. The updated CMIP describes MIP's FY 2006 accomplishments as well as activities planned and in process for FY 2007. Activities planned for FY 2007 include continuing the hiring process to bring MIG to its full staffing complement, managing the strategic contractors to help MIG formulate its approach to implementing the program, and initiating steps toward procuring Medicaid Integrity auditing services that will be conducted by Medicaid Integrity Contractors (MICs), and conducting State program integrity oversight reviews.

Where applicable, we highlight any proposals described in this version of the CMIP that differ materially from what was proposed in the initial CMIP, and provide the reasons for such changes. We ask the reader to be cognizant that program planning is always subject to change. A philosophy of flexibility underlies our MIP implementation. We apply this philosophy globally; it imbues not just our efforts to combat fraud, waste, and abuse, but also the very manner by which we develop and implement the program, enabling us to make the most effective and efficient decisions so as to be accountable stewards of public funds.

[1] *License to Steal: How Fraud Bleeds America's Health Care System – Updated Edition*, Malcolm K. Sparrow. Westview Press, Boulder, CO, 2000, p. 126.

FY 2006 Accomplishments (February – September 2006)

The MIG was officially established within CMS in June 2006. Prior to its formation, an informal planning and implementation workgroup developed a road map to operationalize the MIP. MIG has built upon those early plans by developing an organizational infrastructure and has begun implementing the critical programs Congress called for in enacting section 1936 of the Act.

The initial CMIP described strategies and philosophies to successfully implement MIP. The strategies included collaboration and coordination; consultation with interested parties; targeting program vulnerabilities; balancing MIP roles; and learning from experience. The philosophies included leadership, accountability, collaboration, and flexibility. CMS and MIG continue to adhere to these strategies and philosophies, applying them to MIP's required activities (e.g., comprehensive planning; Report to Congress; procuring Medicaid Integrity Contractors; rendering support and assistance to States; and State cooperation), to develop the infrastructure underpinning MIP implementation (see Appendix B). This included the identification of MIG's two main business operations:

1. Medicaid Integrity Contracting – Reviewing providers, auditing Medicaid claims, identifying overpayments, and educating providers; and
2. State Program Integrity Operations – Effective support and assistance to States to improve overall Medicaid integrity activities and provide oversight of State Medicaid integrity programs.

As part of MIG's evolving planning in FY 2006, MIG identified and established an infrastructure of core business processes needed to successfully implement its business operations. These business processes are as follows:

1. Planning and program management
2. Ensuring accountability
3. Communication and collaboration
4. Information management and research

The MIP was appropriated $5 million for its first year, which CMS applied toward infrastructure development. Using the framework above, we describe below our implementation accomplishments in FY 2006.

Planning and Program Management

The major activities conducted under the framework of these business processes include organizational and staff planning, development and implementation of administrative procedures, and providing program direction and oversight.

Strategic planning – As mentioned above, the MIG developed the infrastructure underpinning MIP's implementation. For each of the main business operations and core business processes,

MIG identified major activities required to successfully implement the program. One member of the MIG's management team is accountable for the execution of each of these major activities.

Staffing – During FY 2006, MIG hired 12 staff members. At this writing, MIG has hired 28 staff members (35 percent) of its overall allocation of 79 full time equivalents (FTEs). This includes filling all of MIG's management positions. Twenty FTEs were allocated to the Office of Financial Management's (OFM) Program Integrity Group (PI Group) to work on the Medi-Medi and Payment Error Rate Measurement (PERM) projects. Of these 20 allocated positions, six individuals have been hired. One FTE was also allocated to the Office of Acquisition and Grants Management (OAGM) to support MIG's contracting functions and this position has been filled.

Internal operations - MIG developed standard operating procedures and internal control systems for its administrative activities.

Legislative-Regulatory - MIG conducted regulation reviews with the assistance of the Department of Health and Human Services' (HHS) Office of the General Counsel (OGC). These reviews were comprised of comprehensive analyses of both the law and legislative intent of section 1936 of the Act (as well as non-codified portions of the implementing statute, section 6034 of the DRA), including developing an understanding of MIP's place within the existing legal and regulatory scheme of CMS.

Ensuring Accountability

Budget - MIG developed a 5-year program budget as well as MIG expenditure reports.

Communication and Collaboration

Initial CMIP– MIG met with all the parties required by section 1936(d)(2) of the Act, as well as Congressional staff and other key stakeholders to develop and release the initial CMIP on July 18, 2006.

Public awareness – MIG staff presented information on MIP on more than 20 occasions, including events with audiences of more than 1,400. Events included conferences of national and regional associations such as the National Association of State Medicaid Directors (NASMD) and the National Association for Medicaid Program Integrity (NAMPI).

Standing meetings – MIG staff regularly met with colleagues in CMS' PI Group and OAGM, as well as the HHS OIG and OGC.

Information Management and Research

Information management system - MIG staff met with staff from CMS' Office of Information Systems (OIS) to establish an approach to meet enterprise architecture requirements for MIG's information management system. We anticipate that this system will house: 1) program information such as data regarding calculating and tracking return on investment; 2) State

program integrity profiles and State review findings; and 3) information on MIC evaluations and performance measures.

Medicaid Integrity Contracting

State Program Integrity Assessment (SPIA) – This strategic planning and development contract, awarded in August 2006, has assisted CMS in detailing State agencies' efforts to combat fraud, waste, and abuse. SPIA deliverables include surveying the Medicaid integrity landscape, identifying State program integrity profiles, and recommending performance measures and standards by which State performance may be assessed in the future.

Audit Program Development (APD) – This strategic planning and development contract, awarded in September 2006, has assisted CMS in designing a Medicaid Integrity Audit Program (MIAP) and developing audit protocols, methodologies, and standards for MICs.

State Program Integrity Operations

Division of Field Operations (DFO) – The majority of MIG staff will be located in the DFO, and it was determined that field offices will be located in New York City, Atlanta, Chicago, Dallas, and San Francisco.

Guidance to States – DFO staff issued a State Medicaid Director Letter regarding section 1909 of the Act (enacted by section 6031 of the DRA) in August 2006.

FY 2007 Accomplishments and Planned Activities

Planning and Program Management

Strategic planning – Using the goals outlined in Appendix B of this report, MIG will establish internal performance measure specifications by the end of FY 2007 to assess its success in meeting its goals.

Staffing – MIG expects to achieve most of its staffing complement by the end of FY 2007. The most critical positions, filled in June 2007, include the Group Director and Director of the Division of Fraud Research and Detection (DFRD).

Training – MIG plans to hire multi-disciplinary experts with wide-ranging skill sets, from statistical analysis and data mining, auditing and investigation, and law enforcement to Medicaid policy, health care fraud expertise, and Federal procurement and contract management. In order to ensure a baseline knowledge for all staff, MIG will be developing training materials and conducting training seminars for all staff.

Internal operations – MIG has started to implement the standard operating procedures and internal control systems developed for its administrative activities.

Rulemaking – MIG expects to publish a final rule regarding limitation of contractor liability prior to awarding contracts to MICs. The Notice of Proposed Rule Making (NPRM) will be published in FY 2007.

Legislative-Regulatory – MIG is assessing the need for other regulations to support and assist both CMS and States in improving overall program integrity effectiveness.

Ensuring Accountability

Return on Investment (ROI) – With the assistance of a subcommittee of the MIP Advisory Committee (see description in the section immediately below) formed in FY 2007, MIG will develop an approach to calculating program integrity ROI, both for its own efforts and those of States.

Internal performance measures – As noted under the Strategic Planning section above, MIG will complete development of internal performance measure specifications by the end of FY 2007.

Report to Congress – MIG submitted its FY 2006 statutorily mandated report on its use of its appropriation and the effectiveness of its expenditures.

Communication and Collaboration

MIP Advisory Committee – State Medicaid Directors, State Program Integrity Directors, and Medicaid Fraud Control Unit (MFCU) Directors representing 16 States, as well as representatives of the Federal Bureau of Investigation, HHS' OIG, and CMS Regional Offices agreed to serve on an Advisory Committee that met for 3 days in December 2006. MIG used this opportunity to brief members on its SPIA and APD activities to date and obtain their input on future planning efforts. Key issues identified by the Advisory Committee are included in Appendix C of this report. The Advisory Committee reconvened in March 2007 to follow up on strategic activities.

Communications plan – MIG developed a proposed communications plan.

Standing meetings – MIG continues to meet regularly with colleagues in CMS' PI Group and OAGM, and HHS' OIG and OGC.

Fraud and Abuse Referrals – MIG continues to work with the HHS OIG to develop a process by which CMS may refer potential fraud and abuse to the OIG.

Information Management and Research

Information management system - In FY 2007, we continue to conduct activities related to information technology investment selection (i.e., business case analysis, concept of operations, and requirements analysis) to develop a MIP Information Management System.

State profiles – In FY 2007, we plan to start collections of State program integrity profiles and to draft performance measure specifications, including ROI. A case study pilot has been conducted with nine States (see Strategic Contracts below). This differs from what we proposed in the Initial CMIP which stated our intention to collect this information for all States in FY 2007.

State compliance data – In FY 2007, we started developing an approach to track the outcomes of State reviews conducted by DFO staff.

Fraud and abuse library - As stated in the initial CMIP, MIG is committed to conducting initial and ongoing literature reviews and the identification of best practices in Medicaid program integrity. The initial literature reviews have been conducted by the SPIA and APD contractors. On an ongoing basis, DFRD will conduct literature review activities and will be responsible for housing and maintaining a Fraud and Abuse Library. This library will also serve as a repository for all MIG reports.

Central audit repository – MIG also intends to centrally maintain all critical information on Medicaid provider audits to ensure maximum coordination with States and to avoid potential conflicts with other stakeholders' audit activities. The MIG plans to house its MIC reports (e.g., audit findings, performance measures) in this information management system.

Program management data – Other information MIG plans to house in this information management system will include MIG internal performance measures and MIG internal program management data including, for example, issue and correspondence tracking.

Medicaid Integrity Contracting

Support Contracts – In FY 2007, MIG has and will enter into a number of contracts that support MIG's main lines of business. These include, but are not limited to: post-award activities such as evaluations of the APD contractor's protocols; the procurement of logistics contracts to support and assist States through training and other educational programs; and the development of MIG's overall information management system. The MIG also anticipates CMS awarding a contract to assist DFRD in developing approaches to data mining. This activity is particularly important and essential in order to provide a mechanism for the DFRD to identify vulnerabilities to the Medicaid program and to address the ever changing nature of fraud, waste, and abuse.

Strategic Contracts – The SPIA contractor has provided CMS with its recommendations on: 1) an approach for the national collection of key information on State program integrity efforts and 2) performance measures to assess State Medicaid integrity programs. The APD contractor continues to provide CMS with: 1) its recommendation on developing the MIAP and 2) ongoing

support providing technical advice in the development the protocols for the MIC activities of reviewing providers, auditing claims, identifying overpayments, and educating providers.

Medicaid Integrity Contracts – MIG published a Sources Sought/Request for Information on November 22, 2006 regarding our proposed approach to award multiple Indefinite Delivery Indefinite Quantity (IDIQ) contracts to conduct MIC mandated activities. We also developed Statements of Work (SOWs), Request for Proposals (RFPs), and budgets for MIC activities (mentioned above). This differs from the Initial CMIP in that we proposed to write the SOW and award contracts for all mandated activities in FY 2007. Based on the extensive time commitment required to openly and competitively procure the activities, develop audit protocols, and include stakeholder input into the process, we now plan to: 1) conduct test audits in FY 2007 and 2) begin to review proposals in response to the MIC RFPs published in July 2007.

State Program Integrity Operations

Geographic & Functional Assignments – Once the DFO is fully staffed in all five field offices, each office will be primarily responsible for coordinating field operations activities within the States and Territories covered by two of CMS' 10 regions. One or more field office staff will be designated for each State as its primary MIG liaison. These staff will be the primary points of contact for training and other technical assistance to the States. To avoid potential conflicts, staff from other field offices will be assigned to conduct program integrity reviews.

Program Integrity Oversight – DFO has revised and updated existing protocols for conducting State Program Integrity Reviews. Program integrity reviews have been conducted through spring 2007 for the States of Arkansas, Connecticut, Michigan, and Nevada and are scheduled for summer 2007 in Delaware, Virginia, Oregon, and Missouri. The Advisory Committee expressed concerns over ongoing multiple CMS projects and their impact on State operations. As a result of that, we will limit FY 2007 reviews to States which are not participating in the FY 2007 PERM project or that have not been reviewed in the last 2 years. Upon completion of the first four reviews, the protocols have been revised and finalized prior to conducting further reviews. We expect to complete a total of eight reviews in FY 2007.

Technical Assistance – DFO will plan and execute special projects in consultation with the OIG and the States through the course of FY 2007. We are also developing a training plan in consultation with States, NASMD, and NAMPI.

Conference Support – In December 2006, MIG sponsored travel and covered conference expenses for 12 representatives from 7 Medi-Medi States, allowing them to attend the Tenth Annual Medicaid Statistics Data Analysis Conference. The participants learned about state-of-the-art analytic and problem-solving technology and had the opportunity to make valuable contacts.

Medicaid Fraud and Abuse (F&A) Technical Advisory Group (TAG) – MIG sponsored a face-to-face meeting of the Medicaid F&A TAG in June 2007.

Guidance to States – DFO issued a State Medicaid Director letter regarding section 1902(a)(68) of the Act (enacted by section 6032 of the DRA) and conducted two national briefings on CMS' guidance and answered questions regarding implementation of section 1902(a)(68). DFO is also developing State Medicaid Director letters to provide guidance to States on the effect of OIG exclusions and anticipates issuance in FY 2007.

Budget

Congress appropriated $5 million in start-up funding during FY 2006 and appropriated an additional $50 million beginning in each of FYs 2007 & 2008 and $75 million annually in FY 2009 and each year thereafter. The statute provides that these funds "remain available until expended." As such, approximately $2.2 M of unobligated FY 2006 funds was carried forward from the FY 2006 appropriation.

The major expenditure categories for FY 2007 include staffing; administrative costs; training and technical support for states; infrastructure costs; and audit, data mining, and technology improvement activities to support the MIP audit program.

Category	Estimated Spending*
STAFF SALARIES	$5,000,000
STRATEGIC & SUPPORT CONTRACTS	$2,000,000
ADMINISTRATIVE COSTS (e.g., equipment, supplies, etc.)	$1,000,000
TRAINING, LOGISITICS, & TECHNICAL ASSISTANCE	$2,000,000
AUDIT ACTIVITIES	$4,000,000
DATA IMPROVEMENTS/TECHNICAL SUPPORT	$38,159,734
TOTAL	**$52,159,734**

*****As of 8/07

Conclusion

As stated in the initial CMIP, "The Comprehensive Medicaid Integrity Plan for the Medicaid Integrity Program, is, and always will be, a work in progress as no-5-year plan will hold true for that length of time. The CMIP will be revised and re-published annually to take into account the evolving and elusive nature of fraud control."

The MIP has spent FY 2006 and will continue to spend most of FY 2007 implementing the program. We anticipate that by the time the third CMIP is published next year we will have awarded our initial Medicaid Integrity contracts and held a number of meetings and conferences with our stakeholders and partners that facilitate the improvement, coordination, and effectiveness of Medicaid integrity activities nationally.

Appendix A - Medicaid Integrity Program Statutory Responsibilities

Section 1902(a)(68) of the Social Security Act

SEC. 1902. *[42 U.S.C. 1396a]* (a) A State plan for medical assistance must—

(68)[35] provide that any entity that receives or makes annual payments under the State plan of at least $5,000,000, as a condition of receiving such payments, shall—
(A) establish written policies for all employees of the entity (including management), and of any contractor or agent of the entity, that provide detailed information about the False Claims Act established under sections 3729 through 3733 of title 31, United States Code, administrative remedies for false claims and statements established under chapter 38 of title 31, United States Code[36], any State laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in section 1128B(f));
(B) include as part of such written policies, detailed provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse; and
(C) include in any employee handbook for the entity, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and the entity's policies and procedures for detecting and preventing fraud, waste, and abuse; [37]

Section 1909 of the Social Security Act

STATE FALSE CLAIMS ACT REQUIREMENTS FOR INCREASED STATE SHARE OF RECOVERIES[106]

SEC. 1909. *[42 U.S.C. 1396d]* (a) IN GENERAL.—Notwithstanding section 1905(b), if a State has in effect a law relating to false or fraudulent claims that meets the requirements of subsection (b), the Federal medical assistance percentage with respect to any amounts recovered under a State action brought under such law, shall be decreased by 10 percentage points.

(b) REQUIREMENTS.—For purposes of subsection (a), the requirements of this subsection are that the Inspector General of the Department of Health and Human Services, in consultation with the Attorney General, determines that the State has in effect a law that meets the following requirements:

(1) The law establishes liability to the State for false or fraudulent claims described in section 3729 of title 31, United States Code, with respect to any expenditure described in section 1903(a).

(2) The law contains provisions that are at least as effective in rewarding and facilitating qui tam actions for false or fraudulent claims as those described in sections 3730 through 3732 of title 32, United States Code.
(3) The law contains a requirement for filing an action under seal for 60 days with review by the Attorney General.
(4) The law contains a civil penalty that is not less than the amount of the civil penalty authorized under section 3729 of title 31, United States Code.

(c) DEEMED COMPLIANCE.—A State that, as of January 1, 2007, has a law in effect that meets the requirements of subsection (b) shall be deemed to be in compliance with such requirements for so long as the law continues to meet such requirements.

(d) NO PRECULSION OF BROADER LAWS.—Nothing in this section shall be construed as prohibiting a State that has in effect a law that establishes liability to the State for false or fraudulent claims described in section 3729 of title 31, United States Code, with respect to programs in addition to the State program under this title, or with respect to expenditures in addition to expenditures described in section 1903(a), from being considered to be in compliance with the requirements of subsection (a) so long as the law meets such requirements.

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[106] P.L. 109-171, §6031(a), adds this §1909, to be effective January 1, 2007. See Vol. II, P.L. 109-171, §6034(e), with respect to a possible delayed effective date.

Section 1936 of the Social Security Act

MEDICAID INTEGRITY PROGRAM

SEC. 1936.[251] *[42 USC 1396u-6]* (a) IN GENERAL.—There is hereby established the Medicaid Integrity Program (in this section referred to as the "Program") under which the Secretary shall promote the integrity of the program under this title by entering into contracts in accordance with this section with eligible entities to carry out the activities described in subsection (b).

(b) ACTIVITIES DESCRIBED.—Activities described in this subsection are as follows:

(1) Review of the actions of individuals or entities furnishing items or services (whether on a fee-for-service, risk, or other basis) for which payment may be made under a State plan approved under this title (or under any waiver of such plan approved under section 1115) to determine whether fraud, waste, or abuse has occurred, is likely to occur, or whether such actions have any potential for resulting in an expenditure of funds under this title in a manner which is not intended under the provisions of this title.
(2) Audit of claims for payment for items or services furnished, or administrative services rendered, under a State plan under this title, including—
(A) cost reports;
(B) consulting contracts; and
(C) risk contracts under section 1903(m).

(3) Identification of overpayments to individuals or entities receiving Federal funds under this title.
(4) Education of providers of services, managed care entities, beneficiaries, and other individuals with respect to payment integrity and quality of care.

(c) ELIGIBLE ENTITY AND CONTRACTING REQUIREMENTS.—

(1) IN GENERAL.—An entity is eligible to enter into a contract under the Program to carry out any of the activities described in subsection (b) if the entity satisfies the requirements of paragraphs (2) and (3).
(2) ELIGIBILITY REQUIREMENTS.—The requirements of this paragraph are the following:
(A) The entity has demonstrated capability to carry out the activities described in subsection (b).
(B) In carrying out such activities, the entity agrees to cooperate with the Inspector General of the Department of Health and Human Services, the Attorney General, and other law enforcement agencies, as appropriate, in the investigation and deterrence of fraud and abuse in relation to this title and in other cases arising out of such activities.
(C) The entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement.
(D) The entity meets such other requirements as the Secretary may impose.
(3) CONTRACTING REQUIREMENTS.—The entity has contracted with the Secretary in accordance with such procedures as the Secretary shall by regulation establish, except that such procedures shall include the following:
(A) Procedures for identifying, evaluating, and resolving organizational conflicts of interest that are generally applicable to Federal acquisition and procurement.
(B) Competitive procedures to be used—
(i) when entering into new contracts under this section;
(ii) when entering into contracts that may result in the elimination of responsibilities under section 202(b) of the Health Insurance Portability and Accountability Act of 1996; and
(iii) at any other time considered appropriate by the Secretary.
(C) Procedures under which a contract under this section may be renewed without regard to any provision of law requiring competition if the contractor has met or exceeded the performance requirements established in the current contract.
The Secretary may enter into such contracts without regard to final rules having been promulgated.
(4) LIMITATION ON CONTRACTOR LIABILITY.—The Secretary shall by regulation provide for the limitation of a contractor's liability for actions taken to carry out a contract under the Program, and such regulation shall, to the extent the Secretary finds appropriate, employ the same or comparable standards and other substantive and procedural provisions as are contained in section 1157.

(d) COMPREHENSIVE PLAN FOR PROGRAM INTEGRITY.—

(1) 5-YEAR PLAN.—With respect to the 5-fiscal year period beginning with fiscal year 2006, and each such 5-fiscal year period that begins thereafter, the Secretary shall

establish a comprehensive plan for ensuring the integrity of the program established under this title by combating fraud, waste, and abuse.

(2) CONSULTATION.—Each 5-fiscal year plan established under paragraph (1) shall be developed by the Secretary in consultation with the Attorney General, the Director of the Federal Bureau of Investigation, the Comptroller General of the United States, the Inspector General of the Department of Health and Human Services, and State officials with responsibility for controlling provider fraud and abuse under State plans under this title.

(e) APPROPRIATION.—

(1) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to carry out the Medicaid Integrity Program under this section, without further appropriation—

(A) for fiscal year 2006, $5,000,000;

(B) for each of fiscal years 2007 and 2008, $50,000,000; and

(C) for each fiscal year thereafter, $75,000,000.

(2) AVAILABILITY.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

(3) INCREASE IN CMS STAFFING DEVOTED TO PROTECTING MEDICAID PROGRAM INTEGRITY.—From the amounts appropriated under paragraph (1), the Secretary shall increase by 100 the number of full-time equivalent employees whose duties consist solely of protecting the integrity of the Medicaid program established under this section by providing effective support and assistance to States to combat provider fraud and abuse.

(4) ANNUAL REPORT.—Not later than 180 days after the end of each fiscal year (beginning with fiscal year 2006), the Secretary shall submit a report to Congress which identifies—

(A) the use of funds appropriated pursuant to paragraph (1); and

(B) the effectiveness of the use of such funds.

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[251] P.L. 109-171, §6034(a)(2), added this §1936, effective February 8, 2006. See Vol. II, P.L. 109-171, §6034(e), with respect to a possible delayed effective date.

Appendix B - MEDICAID INTEGRITY GROUP FRAMEWORK

PURPOSE STATEMENT

The MIG combats fraud, waste, and abuse in Medicaid.

MAIN BUSINESS OPERATIONS

- Medicaid Integrity Contracting
- State Program Integrity Operations

CORE BUSINESS PROCESSES

- Planning and Program Management
- Ensuring Accountability
- Communication/Collaboration
- Information Management and Research

GOALS

- Ensure the operational and administrative excellence of the MIP.
- Promote the fiscal integrity of Medicaid Program funds.
- Improve, nationally, Medicaid program integrity performance.
- Foster collaboration with internal and external stakeholders of the MIP.
- Demonstrate the effective use of MIP funds.

Appendix C - MIP Advisory Committee Meeting: Key Messages

- Collaboration is key – success will come by working together.
- CMS' efforts should support and complement States' Medicaid Integrity efforts, not be redundant of existing auditing efforts (e.g., regional/national providers, public providers).
- Need to clearly define/determine how to calculate ROI yielded by various actors and strategies (i.e., ROI of MIP generally, and MICs in particular, of the States, of program integrity strategies aimed at managed care versus fee-for-service, and at program integrity strategies focused on pre-payment integrity versus post-payment identification and recovery efforts).
- Coordination of Federal efforts needed (e.g., a federal audit process/tracking of all audits (including States) and data collection (Medical Statistical Information Systems, Medi-Medi, PERM, OIG requests for data).
- Need to provide guidance on how to conduct Medicaid integrity in a managed care health care delivery system.
- States do not want to take on adjudication process for Federal audits.
- Revisit 60-day rule.
- Provider education on Medicaid integrity policies (State policy vs. Federal policy).
- Opportunities for CMS to provide support and assistance to States include:
    - Creating a "level playing field." No one State program is the same.
    - Assisting States in getting additional State funding. Every State lacks resources (e.g., staffing, technology, training) -- provide support via staff training.
    - New opportunities and tools exist to look at program integrity (e.g., getting beyond the "SURS" (State Utilization Review and Subsystem) approach, assisting States with placing a greater emphasis on planning).
    - Clearly defining where one Federal program (e.g., PERM, Medi-Medi, MIP) ends, where the other begins, and how they are related.
    - Convincing State officials of the value of prevention activities. Need to establish acceptable performance measures around the country.
    - Helping States develop more sophisticated approaches to address fraud and abuse in the managed care environment.
    - Allowing for communication of best practices in a more formal, systematic way.
    - Setting the tone for how assessments and reviews are reported now and in the future. If done in correct manner, collaboration can be successful.
    - Stress "improvements" over State "comparisons." Comparisons are misleading. There are political ramifications as many State legislatures are reactive to such comparisons, which can be detrimental to States and their Medicaid agencies down the road. Focus on best practices.
    - Allowing flexibility within the program – this is critical. One size approach will not work for all States. Need to be able to react to "acute" fraud – unplanned for issues.

Appendix D - MIP Implementation FYs 2007 - 2011

FISCAL YEAR 2007 [Implementation and Procurement – $50 Million Appropriated]

PLANNING AND PROGRAM MANAGEMENT:

- Organizational and staff planning (ongoing)
  - Hire staff.
- Continue regulatory review (ongoing)
  - Potential role of SCHIP in MIP.
  - State compliance "… with any requirements determined by the Secretary to be necessary for carrying out the Medicaid Integrity Program established under Section 1936 [of the Social Security Act]."
- Develop regulations (ongoing)
  - Limitation on Contractor Liability provisions under section 1936(c)(3) of the Act – publish NPRM.
  - Contracting Requirements provisions under section 1936(c)(4) of the Act.
- Developing information collection requirements in order to create a MIP information management system (ongoing).

COMMUNICATION AND COLLABORATION:

- Internal Collaboration (ongoing)
  - Coordinate satellite office activities.
  - Coordinate with CMSO's Financial Management Group (FMG) and Finance, Systems, and Budget Group (FSBG).
  - Coordinate with CMS' OFM, Office of Acquisition and Grants Management (OAGM), and Office of Information Services (OIS), and HHS' OIG and OGC.
- External Consultations (ongoing)
  - Development of CMIP with mandated consultees.
  - Finalized SMD letter providing CMS' guidance on section 1902(a)(68) of the Act (section 6032 of the DRA). This provision requires "any entity that receives or makes annual payments under the State plan of at least $5,000,000" to provide education to its employees and contractors on both the Federal and State False Claims Acts. CMS intends to issue guidance on this section after both legal review and consultation with partners.
  - Established MIP Advisory Committee (i.e., comprised of State and Federal stakeholders).
  - Initial Meeting with Advisory Committee held in December 2006.
  - Second Meeting with Advisory Committee held in March 2007.
- External Communication (ongoing)
  - Publish CMIP.
  - Participate in open door forums (ODFs)/audio conferences and presentations on the MIP.
  - Developed a MIP Communications Plan.

ENSURING ACCOUNTABILITY:

- Develop strategy for measuring ROI.
- Release annual Report to Congress (ongoing).
- Develop initial set of MIG internal performance measure specifications (including ROI).

INFORMATION MANAGEMENT AND RESEARCH:

- Conduct requirements analysis for developing a MIP Information Management System.
  - Collect State PI assessment information for 9 pilot States.
  - Create a repository for MIC reports (developing a fraud and abuse library).
- Develop State program integrity training curriculum.
- Consult with OFM and OIS on integrated data repository (IDR) development.
- Collaborate on "Joint PI Data" concept.

MEDICAID INTEGRITY CONTRACTING:

- Issued Sources Sought/Request for Information regarding procuring multiple IDIQ contracts to conduct MIC mandated activities in November 2006.
- Conduct post-award contracting activities (i.e., monitoring and evaluation) of SPIA and MIAP contracts.
- Award logistics contracts to assist CMS in providing support and assistance to States by holding informational meetings with States and training conferences with States.
- Award contract to assist CMS in developing a MIP Information Management system.
- Award contract to conduct test audits of Medicaid providers in the development of and refinement of audit protocols.
- Develop procurement mechanism (e.g., contract, interagency agreement) to assist CMS in developing approach to data mining activities that will ultimately be undertaken by the DFRD.
- Develop SOWs, RFPs, and estimated budgets for MIC activities.
- Evaluate and negotiate proposals for MIC activities.

STATE PROGRAM INTEGRITY OPERATIONS:

- Develop best practices (ongoing).
- Convene national fraud conferences (ongoing).
- Fraud and Abuse TAG held in June 2007.
- Planning joint-sponsored CMS/OIG (Medicaid Program Integrity staff and MFCU staff) meeting.
- Develop process to coordinate audit collections (ongoing).
- Redesigned review protocol for State program integrity reviews.
- Conduct State oversight reviews (ongoing).

FISCAL YEAR 2008 [OPERATIONAL - $50 MILLION]

PLANNING AND PROGRAM MANAGEMENT:

- Organizational and staff planning (ongoing)
  - Hire remaining staff
  - Complete initial MIG staff training.
  - Reassess need for additional/ongoing MIG staff training (ongoing).
- Continue regulatory review (ongoing).
- Develop regulations (ongoing).
  - Publish final rules for Contracting Requirements provisions under section 1936(c)(4) of the Act and Limitation on Contractor Liability provisions under section 1936(c)(3) of the Act.

COMMUNICATION AND COLLABORATION:

- Internal Collaboration (ongoing)
  - Coordinate field office activities.
  - Coordinate with CMSO's FMG and FSBG.
  - Coordinate with CMS' OFM, OAGM, and OIS, and HHS' OIG, and OGC.
- External Consultations (ongoing)
  - Develop CMIP in consultation with mandated stakeholders.
  - Ongoing work with MIP Advisory Committee.
- External Communication (ongoing)
  - Publish CMIP.
  - Participate in ODFs/audio conferences and conduct presentations on the MIP.
  - Update MIP Communications Plan annually.

ENSURING ACCOUNTABILITY:

- Continue to refine strategy for measuring ROI.
- Release annual Report to Congress (RTC).
- Report on initial set of MIG internal performance measures (including ROI) and refine metrics as needed.

INFORMATION MANAGEMENT AND RESEARCH:

- Conduct Information Technology Implementation Phase activities (design and engineer; development; implementation and testing) to develop the MIP Information Management System.
- Conduct State program integrity training (ongoing).
- Serve as repository for MIP reports (ongoing).
- Consult with OFM and OIS on IDR development, including collaborate with OFM on the "One PI Data" concept.
- Conduct data mining and fraud and abuse research.

MEDICAID INTEGRITY CONTRACTING:

- Support Contracts (ongoing)
  - Conduct post-award contracting activities (i.e., monitoring and evaluation) of SPIA and MIAP contracts.
  - Conduct post-award contracting activities of logistics contracts assisting CMS in providing support and assistance to States by holding informational meetings and training conferences with States.
  - Conduct post-award contracting activities of procurement actions in place to assist CMS in developing approach to data mining activities that will ultimately be undertaken by the DFRD.
  - Conduct post-award contracting activities of procurement actions supporting the development of a MIP Information Management system.
  - Conduct pre-award contract activities (e.g., RFP development) for any support contracts which the MIG has identified a need.
- Medicaid Integrity Contracts (ongoing)
  - Continue to develop SOWs/RFPs/budgets for MIC activities (review providers, audit claims, identify overpayments, education providers) not developed in FY 2007. As noted in Section 2 of this document, this differs from the Initial CMIP in that we proposed to write the SOW for all mandated activities in FY 2007.
  - Continue to conduct test audits of Medicaid providers in the development of and refinement of audit protocols.
  - Evaluate and negotiate proposals for MIC activities (reviewing providers, auditing claims, identifying overpayments, educating providers) with bidders.
  - Award MIC Contracts - Our award date for these contracts, and thus the implementation of MIC reviews also differs from what we described in the Initial CMIP. Given our current acquisition plan, we plan to award, and therefore implement, the first MIC contracts in the spring of FY 2008. We anticipate that MIC reviews and audits will begin in FY 2008. We will be making multiple awards of MICs, therefore, the span of the first round of MIC procurements will extend through FY 2009.

STATE PROGRAM INTEGRITY OPERATIONS:

- Provide Support and Assistance to States (ongoing)
  - Develop best practices.
  - Convene annual national fraud conferences.
  - Fraud and Abuse TAG annual meeting.
- Conduct Oversight of States (ongoing)
  - Annually update review protocol for State program integrity reviews.
  - Conduct State oversight reviews.
  - Coordinate audit collections.
  - Incorporate PERM findings annually.

FISCAL YEAR 2009 [FULLY FUNDED - $75 MILLION]

PLANNING AND PROGRAM MANAGEMENT:

- Organizational and staff planning (ongoing)
  - Reassess need for additional/ongoing MIG staff training annually.
  - Reassess Strategic Plan and Tactical Framework (every other year).
- Continue regulatory review (ongoing)

COMMUNICATION AND COLLABORATION:

- Internal Collaboration (ongoing)
  - Coordinate field office activities.
  - Coordinate with CMSO's FMG and FSBG.
  - Coordinate with CMS' OFM, OAGM, and OIS, and HHS' OIG and OGC.
- External Consultations (ongoing)
  - Develop CMIP in consultation with mandated stakeholders.
  - Continue ongoing work with MIP Advisory Committee.
- External Communication (ongoing)
  - Publish CMIP.
  - Participate in ODFs/audio conferences and conduct presentations on the MIP.
  - Update MIP Communications Plan annually.

ENSURING ACCOUNTABILITY:

- Release annual RTC, including reporting on internal MIG performance measures (including ROI).

INFORMATION MANAGEMENT AND RESEARCH:

- Conduct Information Technology Operational Rediness Review Phase activities (operations and maintenance) of the MIP Information Management System. (ongoing).
- Conduct State program integrity training (ongoing).
- Serve as repository for MIP reports (ongoing).
- Consult with OFM and OIS on IDR development, including collaborate with OFM on the "One PI Data" concept.
- Conduct data mining and fraud and abuse research (ongoing).

MEDICAID INTEGRITY CONTRACTING:

- Support Contracts (ongoing).
  - Conduct post-award contracting activities of any support contracts MIG has in place.
  - Conduct pre-award contract activities for any support contracts which the MIG has identified a need.
- Medicaid Integrity Contracts (ongoing)
  - Continue to develop SOWs/RFPs/budgets for MIC activities (review providers, audit claims, identify overpayments, education providers) not developed in FY 2008.
  - Evaluate and negotiate proposals for MIC activities (reviewing providers, auditing claims, identifying overpayments, educating providers) not awarded in FY 2008.
  - Award remaining initial round of MIC Contracts.
  - Conduct post-award activities for all MICs awarded in FY 2008.
  - Issue contract modifications for any revised MIC strategies developed in 2008.

STATE PROGRAM INTEGRITY OPERATIONS:

- Provide Support and Assistance to States (ongoing)
  - Develop best practices.
  - Convene annual national fraud conferences.
  - Fraud and Abuse TAG annual meeting.
- Conduct Oversight of States (ongoing)
  - Annually update review protocol for State program integrity reviews.
  - Conduct State oversight reviews.
  - Coordinate audit collections.
  - Incorporate PERM findings annually.

FISCAL YEAR 2010 [FULLY FUNDED - $75 MILLION]

PLANNING AND PROGRAM MANAGEMENT:

- Organizational and staff planning (ongoing)
  - Reassess need for additional/ongoing MIG staff training (ongoing).
- Continue legislative & regulatory review (ongoing)

COMMUNICATION AND COLLABORATION:

- Internal Collaboration (ongoing)
  - Coordinate field office activities.
  - Coordinate with CMSO's FMG and FSBG.
  - Coordinate with CMS' OFM, OAGM, and OIS, and HHS' OIG, and OGC.
- External Consultations (ongoing)
  - Develop CMIP in consultation with mandated stakeholders.
  - Continue ongoing work with MIP Advisory Committee.
- External Communication (ongoing)
  - Publish CMIP.
  - Participate in ODFs/audio conferences and conduct presentations on the MIP.
  - Update MIP Communications Plan annually.

ENSURING ACCOUNTABILITY:

- Release annual RTC, including reporting on internal MIG performance measures (including ROI).

INFORMATION MANAGEMENT AND RESEARCH:

- Conduct Information Technology Operational Readiness Review Phase activities (operations and maintenance) of the MIP Information Management (ongoing).
- Conduct State program integrity training (ongoing).
- Serve as repository for MIP reports (ongoing).
- Consult with OFM and OIS on IDR development, including collaborate with OFM on the "One PI Data" concept.
- Conduct data mining and fraud and abuse research (ongoing).

MEDICAID INTEGRITY CONTRACTING:

- Support Contracts (ongoing)
  - Conduct post-award contracting activities of any support contracts MIG has in place.
  - Conduct pre-award contract activities for any support contracts which the MIG has identified a need.
- Medicaid Integrity Contracts (ongoing)
  - Conduct post-award activities for all MIC contracts.
  - Issue contract modifications for any revised MIC strategies developed in 2009.

STATE PROGRAM INTEGRITY OPERATIONS:

- Provide Support and Assistance to States (ongoing).
  - Develop best practices.
  - Convene annual national fraud conferences.
  - Fraud and Abuse TAG annual meeting.
- Conduct Oversight of States (ongoing)
  - Annually update review protocol for State program integrity reviews.
  - Conduct State oversight reviews.
  - Coordinate audit collections.
  - Incorporate PERM findings annually.

FISCAL YEAR 2011 [FULLY FUNDED - $75 MILLION]

PLANNING AND PROGRAM MANAGEMENT:

- Organizational and staff planning (ongoing)
  - Reassess need for additional/ongoing MIG staff training annually.
  - Reassess Strategic Plan and Tactical Framework (every other year).
- Continue regulatory review (ongoing)

COMMUNICATION AND COLLABORATION:

- Internal Collaboration (ongoing)
  - Coordinate field office activities.
  - Coordinate with CMSO's FMG and FSBG.
  - Coordinate with CMS' OFM, OAGM, and OIS, and HHS' OIG, and OGC.
- External Consultations (ongoing)
  - Develop CMIP in consultation with mandated stakeholders.
  - Ongoing work with MIP Advisory Committee.
- External Communication (ongoing)
  - Publish CMIP.
  - Participate in ODFs/audio conferences and conduct presentations on the MIP.
  - Update MIP Communications Plan annually.

ENSURING ACCOUNTABILITY:

- Release annual RTC, including reporting on internal MIG performance measures (including ROI).

INFORMATION MANAGEMENT AND RESEARCH:

- MIP Information Management System maintenance (ongoing).
- Conduct State program integrity training (ongoing).
- Serve as repository for MIP reports (ongoing).
- Conduct data mining and fraud and abuse research (ongoing).

MEDICAID INTEGRITY CONTRACTING:

- Support Contracts (ongoing)
  - Conduct post-award contracting activities of any support contracts MIG has in place.
  - Conduct pre-award contract activities for any support contracts which the MIG has identified a need.
- Medicaid Integrity Contracts (ongoing)
  - Conduct post-award activities for all MICs.
  - Issue contract modifications for any revised MIC strategies developed in 2010.
  - Develop Procurement Strategy for next round of MICs. MIG will need to reprocure initial wave of MICs in FY 2013 (based on a maximum of a 5-year contract award including options).

STATE PROGRAM INTEGRITY OPERATIONS:

- Provide Support and Assistance to States (ongoing)
  - Develop best practices.
  - Convene annual national fraud conferences.
  - Conduct Fraud and Abuse TAG annual meeting.
- Conduct Oversight of States (ongoing)
  - Annually update review protocol for State program integrity reviews.
  - Conduct State oversight reviews.
  - Coordinate audit collections.
  - Incorporate PERM findings annually.

Appendix E – List of Acronyms

APD	Audit Program Development
CMIP	Comprehensive Medicaid Integrity Plan
CMS	Centers for Medicare & Medicaid Services (HHS)
CMSO	Center for Medicaid & State Operations (CMSO)
DFO	Division of Field Operations (MIG/CMSO)
DFRD	Division of Fraud Research & Detection (MIG/CMSO)
DRA	Deficit Reduction Act of 2005
F & A	Fraud and Abuse
FMG	Financial Management Group (FMG/CMSO)
FSBG	Finance Systems Budget Group (FSBG/CMSO)
FY	Fiscal Year
IDIQ	Indefinite Delivery Indefinite Quantity
IDR	Integrated Data Repository
MIAP	Medicaid Integrity Audit Program
MIC	Medicaid Integrity Contractors
MIG	Medicaid Integrity Group (CMS)
MIP	Medicaid Integrity Program
NAMPI	National Association for Medicaid Program Integrity
NASMD	National Association of State Medicaid Directors
NASO	National Association of Surveillance Organizations
NPRM	Notice of Proposed Rule Making
OAGM	Office of Acquisitions & Grant Management (CMS)
ODF	Open Door Forum
OFM	Office of Financial Management (CMS)
OGC	Office of the General Counsel (HHS)
OIG	Office of Inspector General (HHS)
OIS	Office of Information Services (CMS)
OMB	Office of Management and Budget
PERM	Payment Error Rate Measurement project
PI	Program Integrity
RFP	Request For Procurement
ROI	Return on Investment
RTC	Report to Congress
SMD	State Medicaid Director
SSA	Social Security Act
SCHIP	State Children’s Health Insurance Program
SOW	Statement of Work
SPIA	State Program Integrity Assessment
TAG	Technical Advisory Group