



An Open Letter to Health Care Providers

April 15, 2008

Since the inception of the Office of Inspector General (OIG) Provider Self-Disclosure Protocol (SDP) in 1998, OIG has encouraged the health care provider community to help ensure the integrity of the Federal health care programs by voluntarily disclosing self-discovered evidence of potential fraud. In this spirit of collaboration, we have responded to the provider community's suggestions in the past for ways to improve the SDP. In my 2006 Open Letter, for example, I encouraged providers to disclose improper arrangements under the physician self-referral (Stark) law (42 U.S.C. § 1395nn) and committed to settling liability under OIG's authorities generally for an amount near the lower end of the damages continuum, i.e., a multiplier of the value of the financial benefit conferred.

The SDP has been an important component of our shared commitment to promote integrity in the Federal health care programs through effective compliance programs. To date, OIG has returned approximately \$120 million to the Medicare Trust Fund through the SDP and participating providers have avoided the costs and disruptions often associated with a Government-directed investigation. However, we have identified additional opportunities to improve the SDP process. This Open Letter discusses certain refinements and clarifications to OIG's policies that we believe will increase the efficiency of the SDP and benefit providers who self-disclose.

To improve the disclosure process, we have concluded that the initial submission must contain the following information: (1) a complete description of the conduct being disclosed; (2) a description of the provider's internal investigation or a commitment regarding when it will be completed; (3) an estimate of the damages to the Federal health care programs and the methodology used to calculate that figure or a commitment regarding when the provider will complete such estimate; and (4) a statement of the laws potentially violated by the conduct. This information must be included in addition to the Basic Information described in the SDP. The provider must be in a position to complete the investigation and damages assessment within 3 months after acceptance into the SDP.

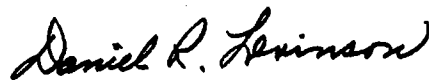
In addition, we have found from experience that the success of the SDP is contingent on OIG responding to the self-disclosure promptly and making resolution of the matter a priority. To that end, we have streamlined our internal process for resolving these cases. In turn, we expect full cooperation from disclosing providers during the verification of the matter disclosed. As I advised in my prior Open Letter, we will remove providers from participation in the SDP unless they disclose in good faith and timely respond to OIG's requests for additional information.

The efficiency of the SDP also depends on the provider's good faith determination that the matter implicates potential fraud against the Federal health care programs, rather than merely an overpayment. The SDP is intended to facilitate resolution of matters that potentially violate Federal criminal law, civil law, or administrative laws for which exclusion or civil monetary penalties are authorized. Disclosures that are characterized as mere billing errors or overpayments are not appropriately addressed by the SDP and should be submitted directly by the provider to the appropriate claims-processing entity, such as the Medicare contractor.

A provider's submission of a complete and informative disclosure, quick response to OIG's requests for further information, and performance of an accurate audit are indications that the provider has adopted effective compliance measures. Accordingly, when we negotiate the resolution of OIG's applicable administrative monetary and permissive exclusion authorities in exchange for an appropriate monetary payment, we generally will not require the provider to enter into a Corporate Integrity Agreement or Certification of Compliance Agreement. We believe that this presumption in favor of not requiring a compliance agreement appropriately recognizes the provider's commitment to integrity and also advances our goal of expediting the resolution of self-disclosures.

These refinements to OIG's SDP process are intended to provide an opportunity for providers to work with OIG to more efficiently and fairly resolve matters appropriately disclosed under the SDP. I believe that this approach benefits both disclosing providers and the Government and furthers our efforts to strengthen the integrity of the Federal health care programs. I look forward to continuing our mutual efforts to promote compliance.

Sincerely,

A handwritten signature in black ink that reads "Daniel R. Levinson". The signature is written in a cursive style with a large initial 'D' and 'L'.

Daniel R. Levinson
Inspector General