




AUG - 5 2008

TO: David Frank
Director, Medicaid Integrity Program
Centers for Medicare & Medicaid Services

FROM: 
Stuart Wright
Deputy Inspector General for Evaluation and Inspections

SUBJECT: Memorandum Report: State Medicaid Agency Referrals to the Office of Inspector General Exclusions Program, OEI-01-06-00301

This memorandum report presents the findings of our recent work to determine the extent to which final actions taken by State Medicaid Agencies in 2004 and 2005 were received by the Office of Inspector General (OIG). OIG's exclusions program relies in part on referrals of individuals and entities (hereafter referred to as providers) sanctioned by State Medicaid agencies. We hope that you find this information useful.

BACKGROUND

Section 1128(b)(5) of the Social Security Act (the Act) specifies that providers who are suspended or excluded from participation or otherwise sanctioned for reasons bearing on professional competence, professional performance, or financial integrity (hereafter referred to as final actions) by State Medicaid agencies are subject to a permissive exclusion by OIG. When State Medicaid agencies take final actions against providers, they are required to promptly report the providers to OIG.¹ Furthermore, State Medicaid agencies must notify OIG whenever State or local courts convict providers of offenses related to participation in the Medicaid program, unless the Medicaid Fraud Control Unit (MFCU) has already done so.²

State Medicaid agencies and other entities, such as MFCUs and State licensure boards, refer providers with final actions to OIG. Upon receiving a referral, OIG staff enter biographical information on the provider into a database (hereafter referred to as the exclusions database), which may include the provider's name, address, tax identification number, date of birth (for individuals), type of provider/business, and the source of the referral. OIG staff then review the referral to determine whether to pursue an exclusion case based on the Federal criteria for exclusion. When OIG excludes a provider, it sends

¹ Social Security Act § 1902(a)(41) and 42 CFR § 1002.3(b)(3).

² 42 CFR § 1002.230.

a notification letter to the Medicaid agency in the State in which the excluded provider resides. In some instances, OIG notifies additional States if the provider is believed to be licensed or doing business outside of the State in which he or she resides. OIG also maintains the List of Excluded Individuals/Entities (LEIE), a publicly accessible database available on the OIG Web site, which contains information on all providers currently excluded. OIG updates the LEIE on a monthly basis.

In addition, staff from OIG conduct outreach to the agencies that refer providers with final actions. This outreach typically fosters relationships with the referring agencies and informs them about OIG's exclusion authorities.

METHODOLOGY

Our review matched data from the exclusions database with information on providers with final actions taken by State Medicaid agencies in 2004 and 2005. In addition, we surveyed State Medicaid agency officials. From November 2006 to April 2007, we sent our request for data (outlined further in the next section) and our survey to the directors of the Medicaid agencies in the 50 States and the District of Columbia (hereafter referred to as States). We requested that both the data request and the survey be completed by the director or a designee knowledgeable about provider enrollment/disenrollment who can provide the State's perspective. We received 44 responses to the data request, for a response rate of 86 percent. We received 47 responses to the survey, for a response rate of 92 percent.

Match of Providers With Final Actions to the Exclusions Database

We requested that State Medicaid agencies submit information on all providers with final actions taken between January 1, 2004, and December 31, 2005, that should be referred to OIG under section 1128(b)(5) of the Act and 42 CFR § 1001.601.³ Requested information included the provider's name, address, tax identification number, type of profession/business, date of birth (for individuals), type of action taken against the provider, and date of the action. Where appropriate, we contacted State Medicaid agencies and OIG's exclusions staff to clarify the types of final actions we received.

We matched the State data with data from the exclusions database entered on or after January 1, 2002. Our date range for the data from the exclusions database preceded the date range of the State data because other agencies may have referred a provider to OIG before a State Medicaid agency took a final action against the provider. We counted a provider sent by State Medicaid agencies as a match when the provider's name and

³ We further defined these final actions in the data request as program suspensions, program exclusions, other actions that limit the ability of an individual or entity/business to participate in a State Medicaid program regardless of what such an action is called and situations in which an individual or entity/business voluntarily withdraws from a State's Medicaid program to avoid a formal sanction.

designated OIG region matched the exclusions database.⁴ Where appropriate, we also used one or more of the following variables: tax identification number, date of birth, and city and State. Finally, we also visually reviewed certain provider records to verify close matches (such as transposed digits). Attachment A provides a breakdown of respondents by State with their match rates.

Survey of State Medicaid Agencies

Our survey collected data on agency staff who make referrals, OIG communication with State Medicaid agencies about referring providers with final actions, and barriers to referrals. It included open-ended questions on factors that impede referrals and additional outreach desired by the States. Before sending the survey, we solicited comments about the survey’s content from OIG staff who work with the exclusions program. We incorporated their input in the final survey.

Limitations

The findings presented are based on self-reported data that we received from State Medicaid agencies. We did not independently verify the accuracy of the information we received on providers with final actions, nor did we verify whether we received a complete list of providers with final actions taken during our timeframe.

Standards

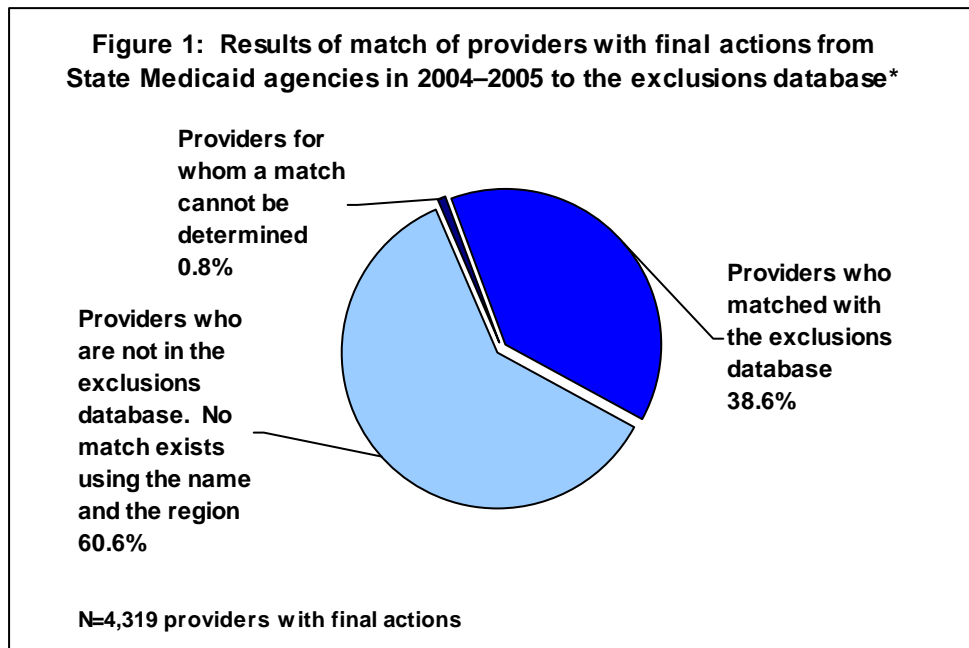
We conducted this study in accordance with the “Quality Standards for Inspections” issued by the President’s Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency.

RESULTS

About Two-Thirds of Providers With Final Actions Imposed by State Medicaid Agencies in 2004 and 2005 Were Not Found in the Exclusions Database

State Medicaid agencies reported taking 4,319 final actions against providers in 2004 and 2005. Of these, 61 percent were not found in the exclusions database. See Figure 1 on page 4 for a breakdown of the results of the match.

⁴ States are assigned to regional offices operated by OIG.



* See Methodology section for the definition of the types of matches.

Source: OIG analysis of data from State Medicaid agencies and the exclusions database, 2007–2008.

Match Rates Varied Widely Across States

Eleven States had a match rate of less than 25 percent, while 9 States had a match rate greater than 75 percent. The match rates of the States ranged from 0 to 100 percent, with a median rate of 43 percent.⁵ About half of the States with a low match rate took few final actions against providers. Of the 11 States with match rates of 25 percent or less, 6 States took final actions against fewer than 10 providers, with 4 of these States taking action against 2 or fewer providers (see Attachment A for match rates by State).

The eight States that took final actions against more than 100 providers had a slightly higher median match rate of 48 percent, yet these States still had a large variation in their match rates. Alabama, Louisiana, and Texas had the highest match rates of these eight States, with rates of 94 percent, 85 percent, and 81 percent, respectively. However, the two States that took final actions against the largest number of providers, New York and Florida, had two of the lowest match rates: 21 percent and 9 percent, respectively.

We found no general patterns either from the data match or from the match results and responses to our survey. For instance, although 34 out of the 47 Medicaid agency officials reported that they have an identified point of contact within OIG for questions concerning referrals, we found no consistency between States having both a high match

⁵ Although we received responses to our data request from 44 States, our match rate includes only the 38 States that reported taking one or more final actions against providers in 2004 and 2005.

rate and an OIG point of contact. Furthermore, we found no association between those States that cited barriers to reporting final actions and low match rates. Finally, we also found no consistency between the number of providers with final actions sent by States and their match rates.

Officials from State Medicaid agencies conveyed uncertainty about the types of information to send with referrals, the types of final actions to refer to OIG, and the outcome of the referrals that they make. We asked State Medicaid agency officials about factors that may present barriers to referring providers with final actions to OIG. Officials from 22 out of 47 State Medicaid agencies cited unclear guidance and instructions from OIG regarding the documentation to send with referrals as a barrier. As stated by one State Medicaid official, “If a referral is made, we don’t know the documentation requirements.” Additionally, about half of State Medicaid officials indicated that they would like to have additional guidance about the referral process. As one State Medicaid official responded, “It would be handy to have a little ‘cheat sheet’ that clearly stated ‘refer these cases’ ‘with this info.’”

Moreover, officials from 19 out of 47 State Medicaid agencies cited uncertainty about the final actions that need to be referred to OIG as a barrier. Some of these officials were unsure which actions taken by the State Medicaid agency are required to be referred to OIG. Six State Medicaid officials commented that they were unaware that they were supposed to report final actions to OIG. According to one State Medicaid agency official, “The agency has not referred actions to OIG as we did not believe our process met OIG’s definition of a termination.”

Furthermore, State officials reported that they receive little feedback on the providers with final actions that they refer to OIG. Of the 47 State Medicaid agencies, 12 officials reported that OIG informs the agency of the outcome of the provider referral “a little of the time” or “never,” and 19 reported “don’t know.” Just five States reported receiving this information “all of the time.” As previously mentioned, information on providers excluded by OIG is available to States. When OIG excludes a provider, it sends a notification letter to the Medicaid agency in the State in which the excluded provider resides. In some instances, OIG notifies additional States if the provider is believed to be licensed or doing business outside of the State in which he or she resides. It also adds the provider to the LEIE. OIG does not provide written notice on referrals on which it takes no action.

Despite the barriers, State Medicaid agencies rate recent outreach from OIG as helpful and would welcome more information about exclusions processes. On our survey, 16 out of 47 State Medicaid officials reported that OIG provided them with information concerning the Federal exclusions program in the past 2 years. In most cases, this information covered Federal exclusion authorities, the effect of Federal exclusions, and when to refer a provider to OIG. Furthermore, about half of the State Medicaid officials

reported that the agency had discussions in the past 2 years with OIG concerning referrals of providers with final actions. All of the States that had these discussions reported that the information they received was helpful.

In addition, several officials whose agencies received outreach commented positively on their working relationships with OIG. One official commented that “The current relationship between the State Medicaid agency and the OIG is very positive. Communication between the OIG and the State Medicaid agency is frequent and useful regarding the exclusion of providers.”

State Medicaid officials who neither received information nor had discussions with OIG concerning exclusions provided several suggestions for the kind of outreach that they would like to receive. These ideas include providing a detailed explanation of State agency obligations, written instructions on documentation to send, and contact information for OIG exclusions staff. Other suggestions included formalized training for State Medicaid agency staff, as well as information on how to discuss the exclusions program with providers. Additionally, two officials reported that the information about exclusions should be provided to the States’ Offices of Inspector General and not to the Medicaid agency.

Officials from most State Medicaid agencies that had either low match rates or that were unable to supply data for this study expressed interest in working more closely with OIG regarding referrals. One official noted that the Medicaid agency “will better communicate with our investigative partners to collect the necessary documents in support of the convictions to substantiate our claim for both provider termination from the Medicaid program and notification to your office.” Another official commented that “The agency is committed to assisting in the identification and reporting of providers who are excluded from participation in State and Federal Health Care programs. We look forward to receiving additional information on the mechanisms we should employ to assist the OIG.” Finally, one State official reported that by responding to our study, it became apparent to the agency that “no coordinated effort existed . . . to make referrals.” In response, the agency recently established an interdepartmental memorandum of understanding to “outline all of the functions touching fraud and abuse including the process to make referrals up to the Federal OIG.”

CONCLUSION

Our results show that opportunities exist for both OIG and State Medicaid agencies to increase the number of referrals of providers with final actions. Just one-third of the providers with final actions taken by State Medicaid agencies in 2004 and 2005 were found in the exclusions database. Additionally, officials from State Medicaid agencies reported uncertainty about referral procedures. It is likely that increased outreach by OIG to State Medicaid agencies to provide information about these procedures would be

beneficial. Moreover, increasing outreach could foster improved working relationships between OIG and State Medicaid agencies, increase the number of referrals from State Medicaid agencies, and strengthen OIG's ability to identify potential fraud through State Medicaid agencies.

This report is being issued directly in final form because it contains no recommendations. If you have comments or questions about this report, please provide them within 60 days. Please refer to report number OEI-01-06-00301 in all correspondence.

ATTACHMENT

Match Rates of Final Action Data and the Exclusions Database Data by State

cc: State Medicaid Directors

Attachment: Match Rates of Final Action Data and the Exclusions Database by State							
State	Number of providers that matched the exclusions database	Percentage of providers that matched the exclusions database	Number of providers that did not match the exclusions database	Percentage of providers that did not match the exclusions database	Number of providers for which we could not determine a match	Percentage of providers for which we could not determine a match	Total number of providers with final actions collected for this evaluation
Alabama	161	93.6%	11	6.4%	0	0.0%	172
Alaska ¹	—	—	—	—	—	—	—
Arizona ²	—	—	—	—	—	—	—
Arkansas	0	0.0%	2	100.0%	0	0.0%	2
California ³	—	—	—	—	—	—	—
Colorado	10	33.3%	20	66.7%	0	0.0%	30
Connecticut	4	30.8%	8	61.5%	1	7.7%	13
Delaware	1	50.0%	1	50.0%	0	0.0%	2
District of Columbia	2	10.5%	16	84.2%	1	5.3%	19
Florida	75	8.7%	786	91.0%	3	0.4%	864
Georgia	14	51.9%	13	48.1%	0	0.0%	27
Hawaii ⁴	—	—	—	—	—	—	—
Idaho	16	84.2%	3	15.8%	0	0.0%	19
Illinois	24	47.1%	26	51.0%	1	2.0%	51
Indiana	10	40.0%	15	60.0%	0	0.0%	25
Iowa	11	26.2%	29	69.1%	2	4.8%	42
Kansas	4	33.3%	8	66.7%	0	0.0%	12
Kentucky	45	56.3%	35	43.8%	0	0.0%	80
Louisiana	138	85.2%	23	14.2%	1	0.6%	162
Maine	59	79.7%	14	18.9%	1	1.4%	74
Maryland	74	54.8%	61	45.2%	0	0.0%	135
Massachusetts	0	0.0%	2	100.0%	0	0.0%	2
Michigan ³	—	—	—	—	—	—	—
Minnesota	9	25.7%	26	74.3%	0	0.0%	35
Mississippi	4	100.0%	0	0.0%	0	0.0%	4
Missouri	54	62.8%	31	36.1%	1	1.2%	86
Montana	5	62.5%	3	37.5%	0	0.0%	8
Nebraska	1	12.5%	7	87.5%	0	0.0%	8
Nevada	1	16.7%	5	83.3%	0	0.0%	6
New Hampshire ¹	—	—	—	—	—	—	—
New Jersey	32	68.1%	14	29.8%	1	2.1%	47
New Mexico ¹	—	—	—	—	—	—	—
New York	280	20.8%	1,061	78.7%	7	0.5%	1,348
North Carolina	20	12.1%	146	88.0%	0	0.0%	166
North Dakota ¹	—	—	—	—	—	—	—
Ohio	73	41.0%	103	57.9%	2	1.1%	178
Oklahoma	0	0.0%	16	100.0%	0	0.0%	16
Oregon ¹	—	—	—	—	—	—	—
Pennsylvania	29	90.6%	3	9.4%	0	0.0%	32
Rhode Island	0	0.0%	1	100.0%	0	0.0%	1
South Carolina	36	94.7%	2	5.3%	0	0.0%	38
South Dakota ²	—	—	—	—	—	—	—
Tennessee ³	—	—	—	—	—	—	—
Texas	438	81.0%	94	17.4%	9	1.7%	541
Utah	5	83.3%	1	16.7%	0	0.0%	6
Vermont ¹	—	—	—	—	—	—	—
Virginia	9	39.1%	12	52.2%	2	8.7%	23
Washington	12	66.7%	6	33.3%	0	0.0%	18
West Virginia ⁴	—	—	—	—	—	—	—
Wisconsin	11	44.0%	13	52.0%	1	4.0%	25
Wyoming	0	0.0%	2	100.0%	0	0.0%	2
Total	1,667	38.6%	2,619	60.6%	33	0.8%	4,319

¹ The State Medicaid agency reported taking no final actions against providers in 2004 and 2005. However, the agency completed the survey.

² The State Medicaid agency reported that it does not take final actions against providers and thus did not complete the survey or data request.

³ The State Medicaid agency submitted incomplete data that we were unable to use for our analysis. However, the agency completed the survey.

⁴ The State Medicaid agency did not respond to either the survey or the data request.