

Clinical Compliance Brief



September 2010

What you need to know

From the Desk of the Compliance and Privacy Officer:

The Centers for Medicare and Medicaid (CMS) released proposed rules aimed at detecting fraud, waste and abuse of its federal programs earlier in the process – at the point of enrolling new providers and re-enrolling of existing providers into the federal programs. The purpose of these rules is to reduce fraudulent or improper payments made by Medicare and Medicaid.

News Front

Beginning March 23, 2010 newly enrolled providers will need to go through the additional measures outlined in this proposal. Additionally, providers currently enrolled in Medicare, Medicaid and CHIP will have to go through the same measures when validating their enrollment information. The March 23, 2010 implementation date will impact current providers whose 5 year revalidation cycle results in revalidation occurring on or after March 23, 2011 and before March 23, 2012.

Proposed Screening Requirements - Medicare

CMS has developed 3 levels of risk that would be subject to certain screening procedures based on CMS' assessment of fraud, waste and abuse factors that included studies from the Office of Inspector General (OIG) and Government Accounting Office (GAO).

As such, relevant Medicare contractors, such as Medicare Administrative Contractor (MAC), would utilize the screening tools mandated by the particular risk level.

Certain terms are used throughout the proposed rules. Their definitions are below.

- Providers mean health care entities that furnish services primarily payable under Part A of Medicare, such as hospitals, home health agencies, hospices and skilled nursing facilities.
- Suppliers refer to health care entities that furnish services primarily payable under Part B of Medicare, such as physicians/non-physician practitioners, durable medical equipment prosthetics, orthotics and suppliers (DMEPOS), independent diagnostic testing facilities.
- Managing employee means a general manager, business manager, administrator, director or other individual that exercised operational or managerial control over, or who directly or indirectly conducts, the day-to-day operation of the provider or supplier, either under contract or through some other arrangement, whether or not the individual is a W-2 employee of the provider or supplier.
- Owner means any individual or entity that has any partnership interest in, or that has 5% or more direct or indirect ownership of the provider or supplier.

Limited Risk level includes physicians, non-physician practitioners, medical clinics and group practices, ambulatory surgical centers, end-stage renal disease facilities, federally qualified health centers, mammography screening centers, organ procurement organizations. Additionally, a provider or supplier that is publicly traded on the New York Stock Exchange or the National Association of Securities Dealers Automated Quotation System is included in this category.

Moderate Risk level includes non-public, non-government owned or affiliated ambulance service suppliers, community mental health centers, comprehensive outpatient rehabilitation facilities, hospice organizations.

High Risk level includes only home health agencies and durable medical equipment prosthetics, orthotics and suppliers (DMEPOS).

The table below shows the levels of risk and their associated screening requirements.

Type of Screening Required	Risk Level		
	Limited	Moderate	High
Verification of any provider/supplier-specific requirements established by Medicare	X	X	X
Conduct license verifications (may include license checks across States)	X	X	X
Database checks (to verify: SSN, NPI, national practitioner data bank licensure, OIG exclusion, taxpayer identification number, tax delinquency, death of individual practitioner, owner, authorized official, delegated official or supervising physician)	X	X	X
Unscheduled or Unannounced Site Visits		X	X
Criminal Background Check			X
Fingerprinting			X

General Screening Requirements- Medicaid/CHIP

The proposed rule is allowing States to rely on the results of the screening conducted by a Medicare contractor to meet the provider screening requirements under Medicaid and CHIP. Further, State Medicaid agencies may rely on results of the provider screening performed by other State Medicaid programs and CHIP. The proposed rules are not to limit or otherwise preclude the ability of States to engage in provider screening activities beyond those required and to assigning a particular provider type to a higher risk level than the level assigned by Medicare.

The proposed rule establishes termination provisions, requiring States to deny or terminate enrollment of providers for the following circumstances:

- Where any person with an ownership or control interest or who is an agent or managing employee of the provider does not submit timely and accurate disclosure information or fails to cooperate with all required screening methods;
- That are terminated on or after January 1, 2011 by Medicare or any other Medicaid program or CHIP;

- Where the provider or any person with an ownership or control interest or who is an agent or managing employee of provider fails to submit sets of fingerprints within 30 days of a State agency or CMS request;
- States are permitted to deny enrollment to a provider if the provider has falsified any information on the application if CMS or the State cannot verify the identity of the applicant;
- The provider fails to provide access to provider's locations for site visits;
- The provider, or any person with ownership or control interest, or who is an agent or managing employee of the provider has been convicted of a criminal offense related to that person's involvement in Medicare, Medicaid or CHIP in the last ten years.

State agencies may deactivate a Medicaid provider that has not submitted any claims or made any referrals that resulted in a Medicaid claim for a period of 12 consecutive months. If a provider wishes to be reinstated, the provider will undergo the screening process.

For more information, questions or to suggest items for inclusion, please contact:



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