May 14, 2020

TO: All Medicaid Fraud Control Unit Directors

FROM: Suzanne Murrin
Deputy Inspector General
  for Evaluation and Inspections

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SUBJECT: State Fraud Policy Transmittal No. 2020-2
Elements of and Process for Submitting and Renewing a Data Mining
Application

The purpose of this transmittal is to describe (1) the elements of a complete application to the
Office of Inspector General (OIG) to conduct data mining and (2) the process for submitting a
data mining application and a renewal application. This transmittal updates and replaces State
Fraud Policy Transmittal 2016-1 by requesting additional information pertaining to data mining
techniques and data access and security to be included in data mining applications.

Background

Federal regulations at 42 CFR § 1007.20, amended in 2013, permit a Medicaid Fraud Control
Unit (MFCU or Unit) to receive Federal matching funds to identify fraud through the screening
and analysis of data, known as data mining, after submitting a written request and receiving OIG
approval. To determine whether to approve Unit data mining programs, OIG has identified the
following additional elements to be included in data mining applications: (a) a description of the
analytical techniques that will be used, (b) assurance that the Unit has the ability to access
relevant data systems, and (c) assurance that the Unit is operating with adequate information
security measures.

This transmittal describes (1) the elements of an application that are necessary to receive OIG
approval and (2) the process for submitting an application and a renewal application.

Elements of a Complete Data Mining Application

Methods of Coordination. A data mining application should:

- Identify procedures that will be in place to coordinate data mining activities with the State Medicaid Agency (SMA). Procedures will address how duplication of effort will be avoided.
- Identify the position titles of the staff who will serve as the primary points of contact for data mining at the MFCU and the SMA.
- Include proposed language for an amended memorandum of understanding (MOU) between the MFCU and the SMA.
- Describe the SMA's level of support for the data mining application. This should include information on the SMA's role in determining the methods of coordination contained in the application and information on the SMA's awareness of the proposed MOU language. Ideally, the application should include a letter in support of the application from an appropriate SMA manager, such as the director of program integrity.

Staffing and Training. The application should:

- identify the staff who will conduct data mining;
- provide the contact information, titles, and offices of such staff, as well as their job descriptions; and
- describe the specialized training in data mining techniques that the MFCU staff engaged in data mining will receive or have received.

Data Mining Techniques. The application should provide a description of how the Unit will conduct data mining. The description should:

- describe the Unit's intended use of data mining tools and
- describe the Unit's intended use of data and data sources.

Data Access and Data Security. The application should:

- describe the Unit's ability to obtain access to Medicaid Management Information System data, managed care data, and any other intended data sources; and
- describe the security measures in place for the data that the Unit will use in data mining, such as the results of data mining activities.

Reporting. The application should describe how the Unit will collect, track, and report on:

- all costs expended that year attributed to data mining activities under section 1007.20;
- the amount of staff time devoted to data mining activities;
- the number of cases generated from those activities;
- the outcome and status of those cases, including the expected and actual monetary recoveries (both the Federal and non-Federal share); and
- any other relevant indicators of the return on investment from data mining activities.

Budget Implications. The application should describe the anticipated costs of implementing data mining, including staff time and equipment and/or other costs.

Process for Submitting a Data Mining Application

Interested MFCUs should submit their application electronically to both the director of the Medicaid Fraud Policy and Oversight Division and to their assigned oversight analyst. OIG will acknowledge receipt of the application. Under 42 CFR § 1007.20(a)(4)(i), OIG has 90 days from receipt to review a written request; consult with the Centers for Medicare & Medicaid Services (CMS); and approve or deny the application. The regulations provide that if OIG fails to respond within 90 days, the request shall be considered approved.

OIG may request additional information in writing if any elements described in this guidance are missing from the application or if our analysis or consultation with CMS requires additional information or clarification. The regulation provides that OIG will have 90 days from receipt of the additional information to approve or deny the request.

Process and Content for Renewal of Data Mining Approval

For those MFCUs approved to conduct data mining, the approval is valid for a 3-year period from the date of the initial approval (see 42 CFR § 1007.20(a)(4)(iii)). Approved MFCUs that wish to maintain eligibility for conducting data mining activities should electronically submit a written request to the director of the Medicaid Fraud Policy and Oversight Division and to their assigned program analyst, requesting renewal for an additional 3-year period. The request also should include a copy of the current agreement with the SMA. The MFCU should submit the request at least 45 days prior to the scheduled expiration date of the initial data mining approval. OIG will acknowledge receipt of the request.

The request for renewal should inform OIG of any significant changes to the Unit's data mining program since the submission of the initial data mining application, as well as any anticipated changes regarding data mining over the upcoming 3-year period. Specifically, the letter should describe any changes to the MFCU's methods of coordination with the SMA, including updates to the MOU agreement with the SMA; changes to data mining staffing and training practices; changes to the MFCU's data mining techniques; changes to the Unit's data sources and data security; and changes in budget implications (including the estimated costs of staff time and equipment). MFCUs should include with their renewal requests their current agreement with the SMA, whether or not it has changed since the initial approval.

OIG, in consultation with CMS, will review the renewal request as well as the information on data mining activities reported in the Unit's annual recertification reapplications. OIG may request additional information from the Unit if needed for its decision regarding the request for approval. Once OIG has reviewed the renewal request and other information, OIG will promptly notify the MFCU by letter of its decision to approve or deny the request.

Approved MFCUs that wish to extend their data mining approval beyond the current approval period should continue to submit requests at 3-year intervals, consistent with this transmittal.

If you have any questions, please contact Richard Stern, Director, Medicaid Fraud Policy and Oversight Division, at (202) 619-0480.