

Center for Medicaid and State Operations

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March 10, 2006

SMDL #06-003

Dear State Medicaid Director:

I am writing to ask that you make every effort to cooperate with Medicare Advantage plans in their efforts to identify all dually eligible enrollees. Your assistance will enable these plans to claim the appropriate capitated payment amounts for the care of dually eligible enrollees. We also would expect State Medicaid programs to benefit from exchanging data on dual eligibles with Medicare Advantage plans. For example, we would expect that this exchange of data would lead to increased coordination of benefit payments and enhanced ability to identify qualified Medicare beneficiaries.

In light of the mutual benefits that can be realized, we encourage you to cooperate with Medicare Advantage plans. Specifically, we would encourage State Medicaid agencies to accept and respond to Medicare Advantage plans' "finder files." Finder files are batch eligibility inquiries that a Medicaid State agency can match to its beneficiary rolls. By identifying certain individual identifiers, eligibility dates, and eligibility bases with respect to the Medicaid beneficiaries in the finder file, Medicaid State agencies will enable Medicare Advantage plans to claim the appropriate payment rate for their dual eligible enrollees.

We understand several States are concerned about the permissibility of sharing eligibility data with Medicare Advantage plans under the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule and the Medicaid-specific privacy regulations found at 42 CFR section 431.300 et seq., and that those States are awaiting assurances from CMS prior to sharing these data.

The Department of Health and Human Services' Office for Civil Rights (OCR) recently issued a "Frequently Asked Question" (FAQ) addressing the permissibility under the HIPAA Privacy Rule of a State Medicaid agency and Medicare Advantage plan sharing protected health information in order to identify dually eligible individuals. As explained in the FAQ, "[t]he HIPAA Privacy Rule permits a covered entity to disclose protected health information (PHI) both for its own payment purposes, as well as for the payment purposes of another covered entity that receives the information." Thus, consistent with the terms laid out in OCR's FAQ, State Medicaid agencies may accept and respond to Medicare Advantage plans' finder files in order to identify dual eligible beneficiaries. A copy of OCR's FAQ, which also may be found on the OCR Website at <http://www.hhs.gov/ocr/hipaa/>, is enclosed.

In addition, the CMS has concluded that the Medicaid-specific privacy regulations found at 42 CFR section 431.300 et seq. also allow State Medicaid agencies to respond to Medicare Advantage plan finder file eligibility inquiries, for the purpose of identifying dual eligibles enrolled in the Medicare Advantage plan. Accordingly, we encourage you to work with the Medicare Advantage plans in your State to assist them in identifying all dual eligible individuals enrolled in their plans.

If you have questions on anything discussed in this letter, please contact Ms. Ginni Hain, Director of CMSO's Division of Eligibility, Enrollment, and Outreach, at (410) 786-6036.

Sincerely,

/s/

Dennis G. Smith  
Director

Enclosure

cc:

CMS Regional Administrators

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