

## **GAO Report Assesses CMS' Fraud Prevention System**

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*AHLA Practice Group Alert*

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On November 14, the U.S. Government Accountability Office (GAO) issued a report entitled, "Medicare Fraud Prevention: CMS Has Implemented a Predictive Analytics System, but Needs to Define Measures to Determine Its Effectiveness," which assesses the Centers for Medicare & Medicaid Services' (CMS') implementation of its Fraud Prevention System (FPS). The report was requested by members of the Senate Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security of the Committee on Homeland Security and Government Affairs. The report provides significant insights into the mechanics of CMS' fraud-fighting efforts, and its increasing reliance on data-mining as it focuses on the avoidance of payment for fraudulent claims rather than a "pay-and-chase" approach to preventing fraud, waste, and abuse in the Medicare program.

### **Background of the FPS**

The Small Business Jobs Act of 2010 (pertinent sections of which are codified at 42 U.S.C. Section 1320a-7m) directed CMS to use predictive modeling and other analytics technologies to identify and prevent waste, fraud, and abuse in the Medicare fee-for-service program. The statute required CMS to implement a system that could analyze provider billing and beneficiary utilization patterns to identify potentially fraudulent claims before they were paid. CMS was provided with \$100 million in funds for implementation.

The statute also includes specific time frames for implementation, including requiring CMS to select at least two contractors and that the system be developed and implemented by July 1, 2011, in the ten states identified by CMS as having the highest risk of fraud.

### **GAO's Findings and Recommendations**

In short, GAO recommended that CMS: develop schedules for completing integration of the FPS with current systems; define and report to Congress the quantifiable benefits and measurable performance targets and milestones of the FPS; and conduct a post-implementation review of FPS. Among its findings, GAO concluded that CMS had not yet achieved the functionality needed in the system to suspend payments of high-risk claims until such claims are determined to be valid. While FPS is integrated with many existing CMS systems, it is not yet interfaced with the claims payment system. In its report, GAO also noted that CMS had yet to release the FPS implementation report, which was due to Congress by the end of September 2012. CMS concurred with the GAO's recommendations and indicated that CMS was taking steps to implement them.

### **Overview of the FPS**

CMS developed the FPS, a web-based system that is operated from a contractor's data center and accessed via a secured private network, to capture data on Medicare provider and beneficiary activities. The system is designed to analyze claims data and alert users when the results of analyses suggest fraudulent conduct or warrant administrative action. Instead of limiting implementation to the ten states with the highest fraud risk as required by the statute, CMS chose to implement the system in all the Zone Program Integrity Contractor (ZPIC) geographic zones and covering all states. (CMS explained that it took this approach because its program integrity activities are implemented and managed within ZPIC zones rather than state-based, and the ten highest-risk states were dispersed across multiple ZPIC zones.) In addition, the system was made available to CMS' internal program integrity analysts and to the U.S. Department of Health & Human Services, Office of Inspector General investigators. By July 2012, CMS had released system software and updates which yielded a total of twenty-five predictive analytic models. FPS uses rules-based models (a relatively simple mechanism of counting or identifying types of claims and comparing them to established thresholds); anomaly-detection models (comparing patterns against

peers, for example); and predictive models (which use historical data to identify patterns associated with fraud and apply the data to current claims data). Supporting data comes from existing systems, such as the Common Working File and the Provider Enrollment Chain and Ownership System. As noted above, FPS has not yet been integrated with the shared systems that process the payment of claims, but CMS advised GAO that it expected to complete that step of integration by January 2013.

### **Use of FPS by the ZPICs**

CMS has directed the ZPICs to incorporate the use of FPS and to investigate leads generated by the system. CMS advised GAO that as of April 2012, approximately 10% of ZPIC investigations were initiated as a result of using FPS. CMS is conducting an active FPS training program for ZPIC staff, including training on how to best use the system to ensure that administrative actions, such as revocations of providers' billing privileges, are well supported by the evidence.

CMS also indicated that consistent with the implementation of FPS, it has directed the ZPICs to focus on recommending and initiating administrative actions (especially the revocation of Medicare billing privileges) against providers suspected of fraud. This focus redirects efforts from previous ZPIC priorities of gathering evidence to verify overpayments and developing criminal and civil cases, which requires a time-consuming and multi-stepped investigative process. In particular, CMS program integrity staff noted the time-intensive nature of the work required in reviewing medical records. Information provided by FPS is expected to provide the information necessary for ZPICs to recommend revocations without having to conduct extensive investigations.

### **Conclusion**

The GAO Report demonstrates that CMS is in the active process of implementing its data analytics resources, that its fraud efforts are evolving as a result of the increased availability and analyses of data, and that CMS can be expected to take more and quicker data-driven administrative enforcement actions (particularly the revocation of Medicare billing privileges) as the FPS evolves.

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