

**INCLUSIVE DATES OF THE MATCH:**

The CMP shall become effective no sooner than 40 days after the report of the Matching Program is sent to OMB and Congress, or 30 days after publication in the **Federal Register**, whichever is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 04-7632 Filed 4-2-04; 8:45 am]

BILLING CODE 4120-03-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### Privacy Act of 1974; Computer Matching Program (Match No. 2003-04)

**AGENCY:** Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS).

**ACTION:** Notice of Computer Matching Program (CMP).

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, this notice announces the establishment of a CMP that CMS plans to conduct with the Pennsylvania Department of Public Welfare (DPW). We have provided background information about the proposed Matching Program in the **SUPPLEMENTARY INFORMATION** section below. Although the Privacy Act requires only that CMS provide an opportunity for interested persons to comment on the proposed Matching Program, CMS invites comments on all portions of this notice. See **EFFECTIVE DATES** section below for comment period.

**EFFECTIVE DATES:** CMS filed a report of the CMP with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on March 23, 2004. We will not disclose any information under a Matching Agreement until 40 days after filing a report to OMB and Congress or 30 days after publication. We may defer implementation of this Matching Program if we receive comments that persuade us to defer implementation.

**ADDRESSES:** The public should address comments to: Director, Division of Privacy Compliance Data Development (DPCDD), Enterprise Databases Group, Office of Information Services, CMS,

Mailstop N2-04-27, 7500 Security Boulevard, Baltimore, Maryland 21244-1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.-3 p.m., eastern daylight time.

#### FOR FURTHER INFORMATION CONTACT:

Phillip Kauzlarich, Health Insurance Specialist, Centers for Medicare & Medicaid Services, Office of Financial Management, Program Integrity Group, Mail-stop C3-02-16, 7500 Security Boulevard, Baltimore Maryland 21244-1850. The telephone number is (410) 786-7170 and e-mail is [pkauzlarich@cms.hhs.gov](mailto:pkauzlarich@cms.hhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Description of the Matching Program

###### A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100-503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 100-508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, state, or local government records. It requires Federal agencies involved in computer matching programs to:

1. Negotiate written agreements with the other agencies participating in the matching programs;
2. Obtain the Data Integrity Board approval of the match agreements;
3. Furnish detailed reports about matching programs to Congress and OMB;
4. Notify applicants and beneficiaries that the records are subject to matching; and,
5. Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

###### B. CMS Computer Matches Subject to the Privacy Act

CMS has taken action to ensure that all CMPs that this Agency participates in comply with the requirements of the Privacy Act of 1974, as amended.

Dated: March 23, 2004.

**Dennis Smith,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

#### Computer Match No. 2003-04

##### NAME:

"Computer Matching Agreement Between the Centers for Medicare & Medicaid Services (CMS) and the Commonwealth of Pennsylvania, Department of Public Welfare (DPW) for Disclosure of Medicare and Medicaid Information."

##### SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive

##### PARTICIPATING AGENCIES:

The Centers for Medicare & Medicaid Services, and Commonwealth of Pennsylvania, Department of Public Welfare

##### AUTHORITY FOR CONDUCTING MATCHING PROGRAM:

This CMA is executed to comply with the Privacy Act of 1974 5 U.S.C. 552a, (as amended by Pub. L. 100-503, the Computer Matching and Privacy Protection Act (CMPPA) of 1988), the Office of Management and Budget (OMB) Circular A-130, titled "Management of Federal Information Resources" at 65 FR 77677 (December 12, 2000), and OMB guidelines pertaining to computer matching at 54 FR 25818 (June 19, 1989).

This Agreement provides for information matching fully consistent with the authority of the Secretary of the Department of Health and Human Services (Secretary). Section 1816 of the Social Security Act (the Act) permits the Secretary to contract with fiscal intermediaries "to make such audits of the records of providers as may be necessary to insure that proper payments are made under this part," and "to perform such other functions as are necessary to carry out this subsection." (42 U.S.C. 1395h(a)).

Section 1842 of the Act provides that the Secretary may contract with entities known as carriers to "make such audits of the records of providers of services as may be necessary to assure that proper payments are made" (42 U.S.C. 1395u(a)(1)(C)); "assist in the application of safeguards against unnecessary utilization of services furnished by providers of services and other persons to individuals entitled to benefits" (42 U.S.C. 1395u(a)(2)(B)); and "otherwise assist \* \* \* in discharging administrative duties necessary to carry out the purposes of this part" (42 U.S.C. 1395u(a)(4)).

Furthermore, section 1874(b) of the Act authorizes the Secretary to "contract with any person, agency, or institution to secure on a reimbursable basis such special data, actuarial information, and other information as may be necessary in the carrying out of his functions" under this title (42 U.S.C. 1395kk(b)).

Section 1893 of the Act establishes the Medicare Integrity Program, under which the Secretary may contract with eligible entities to conduct a variety of program safeguard activities, including fraud review employing equipment and software technologies that surpass the existing capabilities of Fiscal Intermediaries and carriers (42 U.S.C. 1395ddd). The contracting entities are called Program Safeguards Contractors (PSC).

DPW is charged with the administration of the Medicaid program in Pennsylvania and is the single state agency for such purpose. 62 Purdon's Statutes (P.S.) § 201(1); 55 Pennsylvania (Pa.) Code § 101.1(e). In Pennsylvania, DPW provides qualifying individuals with health care and related remedial or preventive services, including both Medicaid services and services authorized under state law that are not provided under Federal law. The program to provide all such services is known as the Medical Assistance (MA) Program.

DPW's disclosure of the MA Program data pursuant to this Agreement is for purposes directly connected with the administration of the MA Program, in compliance with 62 P.S. § 404, 55 Pa. Code §§ 105.1 *et seq.*, 42 U.S.C. 1396a(a)(7), 42 CFR 431.300 *et seq.*, and 45 CFR 205.50–205.60. Those purposes include the investigation, prosecution or criminal or civil proceeding conducted in connection with the administration of the MA Program. (55 Pa. Code § 105.3(b)(2)).

#### **PURPOSE(S) OF THE MATCHING PROGRAM:**

The purpose of this Agreement is to establish the conditions, safeguards, and procedures under which the Centers for Medicare & Medicaid Services (CMS) will conduct a computer matching program with the Commonwealth of Pennsylvania, Department of Public Welfare (DPW), to study claims, billing, and eligibility information to detect suspected instances of Medicare and Medicaid fraud and abuse (F&A) in the Commonwealth of Pennsylvania. CMS and DPW will provide Electronic Data Systems (EDS), a CMS contractor (hereinafter referred to as the "Custodian"), with Medicare and Medicaid records pertaining to eligibility, claims, and billing which the Custodian will match in order to merge

the information into a single database. Utilizing fraud detection software, the information will then be used to identify patterns of aberrant practices requiring further investigation. The following are examples of the type of aberrant practices that may constitute F&A by practitioners, providers, and suppliers in the Commonwealth of Pennsylvania expected to be identified in this matching program: (1) Billing for provision of more than 24 hours of services in one day; (2) providing treatment and services in ways more statistically significant than similar practitioner groups; and (3) up-coding and billing for services more expensive than those actually performed.

#### **CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCH:**

This CMP will enhance the ability of CMS and DPW to detect F&A by matching claims data, eligibility, and practitioner, provider, and supplier enrollment records of Medicare beneficiaries, practitioners, providers, and suppliers in the Commonwealth of Pennsylvania against records of Pennsylvania Medicaid beneficiaries, practitioners, providers, and suppliers in the Commonwealth of Pennsylvania.

#### **DESCRIPTION OF RECORDS TO BE USED IN THE MATCHING PROGRAM:**

The data for DPW are maintained in the following data files:

The data the Pennsylvania Fraud and Abuse Detection System (FADS) receives consists of a number of data tables that contain the different data element requirements for the operation of the system. These tables are grouped into "universes" of data. In Phase I the FADS universes are: Claims Analysis, Provider, Recipient, Reference, and Code Tables. In Phase II they are: Claims Analysis, Provider, Recipient, Reference, Financial, and Managed Care.

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[FR Doc. 04–7633 Filed 4–2–04; 8:45 am]

**BILLING CODE 4120–03–P**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Administration for Children and Families**

#### **Community Food and Nutrition Program—Discretionary Grants; Office of Community Services**

*Announcement Type:* Initial.

*Funding Opportunity Number:* HHS–2004–ACF–OCS–EN–0007.

*CFDA Number:* 93.571.

*Due Date for Applications:* Due date for receipt of applications is June 4, 2004.

#### **I. Funding Opportunity Description**

The Community Services Block Grant (CSBG) Act, as amended, authorizes the Secretary of Health and Human Services to make funds available under several programs to support program activities that will result in direct benefits targeted to low-income people. This program announcement covers the grant authority found at Section 681 of the Community Services Block Grant Act, (The Act) (Pub. L. 97–35) as amended by the Community Opportunities, Accountability, and Training and Educational Services Act of 1998 (Pub. L. 105–285), Community Food and Nutrition Program. The Act authorizes the Secretary to award grants on a competitive basis to eligible entities for community-based, local and statewide and national programs including programs benefiting Indians (as defined in section 677(e) of the CSBG Act) and migrant farm workers.

The main objective of the CFNP is to link low-income people to food and nutrition programs. Grant funds are provided to: (1) Coordinate private and public food assistance resources, wherever the grant recipient involved determines such coordination to be inadequate, to better serve low-income populations; (2) assist low-income communities to identify potential sponsors of child nutrition programs and to initiate such programs in underserved or unserved areas; and (3) develop innovative approaches at the State and local level to meet the nutrition needs of low-income individuals. The OCS views this program as a capacity building program, rather than a food delivery program.

The Office of Community Services encourages eligible applicants with programs addressing obesity to submit applications. Eligible applicants with programs benefiting Native Americans and migrant or seasonal farm workers are also encouraged to submit applications. Faith-based and