

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**MEDICARE'S PROGRAM
SAFEGUARD CONTRACTORS:
PERFORMANCE EVALUATION
REPORTS**



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E X E C U T I V E S U M M A R Y

OBJECTIVES

To determine (1) the extent and type of information provided in performance evaluation reports about program safeguard contractors' (PSC) results related to detecting and deterring fraud and abuse, and (2) whether the performance evaluation reports are issued on time.

BACKGROUND

The Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), section 202 authorized the Centers for Medicare & Medicaid Services (CMS) to contract with entities to fulfill program integrity functions for the Medicare program and required a competitive process for awarding contracts. CMS entered into the first contract under this authority in 1999. Entities awarded such contracts are called PSCs. Once under contract, PSCs are then awarded task orders to carry out specific duties.

There are two major types of PSC task orders: one for full service benefit integrity work and another for specific projects. A benefit integrity task order includes the full range of fraud and abuse detection and deterrence work (hereinafter fraud and abuse work or activities) previously performed by specific carriers and/or fiscal intermediaries. As of July 2003, CMS completed the transfer of all fraud and abuse work from carriers and fiscal intermediaries to PSCs, with the exception of fraud and abuse work performed by three regional medical equipment carriers. CMS expects the transition of fraud and abuse work from the three medical equipment carriers to be completed by March 1, 2006.

This report focuses on benefit integrity task orders. From November 1999 to November 2004, CMS allocated \$261.4 million for a total of 17 benefit integrity task orders. These task orders were awarded to seven PSCs, and each of these task orders has been renewed from one to four times.

Since the first benefit integrity task order was awarded, CMS has used four different methods of evaluating PSC performance.

We requested from CMS its most current performance evaluation report for each of the 17 benefit integrity task orders. We reviewed these evaluation reports to determine whether they contained information about PSC achievements in relation to nine standard activities PSCs perform to detect and deter fraud and abuse. The nine activities are

described in three guiding documents for PSCs: the benefit integrity task order, the “PSC Umbrella Statement of Work,” and the “Medicare Program Integrity Manual.” We determined whether these nine activities were addressed in the evaluation reports in terms of “results” or “process and procedures.” The nine activities are:

1. Fraud Case Development
2. National/Regional Data Analysis
3. Law Enforcement Support
4. Medical Review to Support Fraud and Abuse Cases
5. Civil Monetary Penalties and Other Administrative Actions
6. Submit Proposed Fraud Alerts
7. Fraud Prevention/Detection Education
8. Fraud Complaint Processing
9. Incentive Reward Program

We also requested data from CMS to determine the timeliness of the evaluation process for the period November 1999 to November 2004.

FINDINGS

Performance evaluation reports provided limited quantitative data about program safeguard contractors’ achievements at detecting and deterring fraud and abuse. Of the 17 performance evaluation reports we reviewed, several did not contain results, quantitative or qualitative, for 1 or more of the 9 fraud and abuse activities. Eight performance evaluation reports did not address results regarding Medical Review to Support Fraud and Abuse Cases. In addition, nine reports did not address results regarding Fraud Complaint Processing, and nine reports did not address results regarding Fraud Prevention/Detection Education.

The majority of results-oriented comments did not address outcomes of fraud and abuse work, but instead were standardized phrases addressing the quality of the work (e.g., “case files appear complete, timely, and appropriate”).

Fifteen of 118 results-oriented comments (13 percent) were quantitative. These 15 comments were spread across 8 of the 17 evaluation reports we reviewed. Thus, evaluation reports provided limited quantitative data measuring PSC efforts or achievements related to detecting and deterring

fraud and abuse. For example, only one evaluation report contained the number of open and pending proactive fraud cases, only one contained the amount of money saved as a result of PSC initiatives, and only one included the number of requests for support received from law enforcement agencies. Almost half of the quantitative comments regarding PSC performance (6 of 15) were negative.

Sixteen of seventeen reports did not contain information on all required fraud and abuse detection and deterrence activities. Only 1 of 17 evaluation reports contained information on all of the standard fraud and abuse activities required by the associated task order. The remaining 16 evaluation reports did not contain any information on 2 to 7 required activities. Two activities, Submit Proposed Fraud Alerts and Incentive Reward Program, were not addressed in any evaluation report for task orders requiring these activities.

Seventy-two percent of evaluation reports were issued on time. Since the first benefit integrity task order was awarded in 1999, 72 percent of all final evaluation reports (23 of 32) met the reporting timeframes set forth in the then governing “PSC Umbrella Statement of Work.” Twenty-eight percent of the final reports (9 of 32) did not. The “PSC Umbrella Statement of Work” that governed these 32 final reports required that final performance evaluation reports would be issued 2 months after the task order performance period ends. Of the nine final reports that were issued late, seven were from 20 days to 6 months late, one was almost 19 months late, and one was 38 months late.

Only 5 of 32 final reports were issued 3 months before the task order ended. It is at this point in time—3 months before the performance period ends—that CMS is required to notify the PSC whether CMS intends to renew the contract. CMS issued revisions to the “PSC Umbrella Statement of Work” in 2004. The revisions state that CMS’s final evaluation reports of PSC performance will be issued 3 months before the task order performance period ends.

The unavailability of milestone dates for the production of evaluation reports prevented us from identifying where delays occurred in the evaluation process. Once evaluation reports are finalized, the online evaluation system used by CMS deletes the dates of earlier milestones, such as issuance dates of draft reports. Based on data CMS provided, it appears that CMS does not have a systematic means to track evaluation events other than this online system. Thus CMS is limited in its ability to retrospectively determine where delays occurred.

RECOMMENDATIONS

The primary responsibility for detecting and deterring fraud and abuse in the Medicare program was transferred from carriers and fiscal intermediaries to PSCs. To determine how well PSCs are performing, CMS utilizes the contractor performance evaluation as an important tool.

However, performance evaluation reports contained minimal information about PSC efforts to detect and deter fraud and abuse. Because these reports are limited in their description of the results PSCs may be achieving, they provide limited information on which to base task order renewal decisions.

To improve the evaluation process, we recommend that CMS:

Address program safeguard contractor results in their performance evaluation reports. CMS should describe PSC results in identifying and preventing fraud and abuse in the evaluation reports to demonstrate the adequacy of PSC performance. Using quantitative as well as qualitative data to describe results would provide a more comprehensive picture of PSC performance and provide valuable data for making renewal decisions. If, for example, certain PSC activities are saving money for the Medicare program, the activity and the amount of money saved should be included in the performance evaluation reports.

Provide information about required program safeguard contractor activities in performance evaluation reports. The activities CMS specifically lists in the benefit integrity task orders and that PSCs are required to perform should be evaluated in the performance evaluation reports. The primary responsibility of PSCs is to detect and deter fraud and abuse; therefore, the performance evaluation reports should include information on whether fraud and abuse detection and deterrence activities were performed and how effectively they were performed.

Take steps to ensure that all draft and final performance evaluation reports are issued in accordance with the current timetable. CMS should aim to issue 100 percent of the performance evaluation reports on time. Moreover, by following the timetable in the current revised “PSC Umbrella Statement of Work,” evaluation reports would be available for CMS when the task order renewal notice is due. This would allow CMS to make more informed decisions when renewing a task order with a contractor.

Establish a means to track and save evaluation milestone dates.

The online system CMS uses for PSC evaluations only holds evaluation milestone dates temporarily. A system that tracks and saves all milestone dates would help CMS identify where delays occur so that improvements can be made to the performance evaluation process.

AGENCY COMMENTS

CMS concurred with Office of Inspector General (OIG) recommendations to: (1) ensure that all draft and final performance evaluation reports are issued in accordance with the current timetable; and (2) establish a means to track and save evaluation milestone dates.

CMS concurred only in part with the OIG recommendation to address results in PSC performance evaluation reports. CMS believes that quantifying PSC output could create perverse incentives and undermine the value of a PSC's work. CMS stated that it has been cautioned by prosecutors that cases could be jeopardized if the entity assessing the facts of the investigation were rewarded for sheer volume of case referrals or required to meet a quota of case referrals. CMS, therefore, looks to the timeliness of PSC performance, the thoroughness of PSC work, and PSC responsiveness to law enforcement agencies to determine PSC effectiveness in fraud fighting. However, CMS stated that the current OIG study underscored the benefits that could be gained by capturing units of work that PSCs perform. CMS stated that it has already begun moving forward on the OIG recommendation by improving the means by which it gathers information about the outcome of PSC activities and will collect an array of quantitative and qualitative measurements.

CMS concurred in part with OIG's recommendation to provide information about required PSC activities in performance evaluation reports. CMS stated that every aspect of PSC performance should be scrupulously reviewed and evaluated. However, it stated that resources limit the level and intensity of scrutiny that can reasonably be applied to PSCs and it will focus performance evaluations on the primary PSC activities. Furthermore, CMS will reevaluate the listing of activities required in the PSC Statement of Work in order to emphasize the most crucial activities.

OFFICE OF INSPECTOR GENERAL RESPONSE

OIG is pleased that our review helped underscore the benefits that could be gained by a more complete review of PSC performance, and we appreciate that CMS is already moving forward on our recommendations. While OIG understands CMS's concerns about creating perverse incentives, we are not advocating that a system of numeric quotas be implemented. Rather, OIG is recommending that evaluation reports include the level of activity and results that PSCs have achieved in combating fraud in the Medicare program. OIG continues to believe that these types of measures are necessary to accurately assess the effectiveness of the PSC's fraud-fighting efforts.

CMS commented that resources sometimes limit the level and intensity of scrutiny CMS can give to all PSC activities. While this is understandable, OIG believes that activities listed in PSC task orders should be addressed in performance evaluation reports.

OIG looks forward to working with CMS in its continuing efforts to improve the PSC review process.

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OBJECTIVES

To determine (1) the extent and type of information provided in performance evaluation reports about program safeguard contractors' (PSC) results related to detecting and deterring fraud and abuse, and (2) whether the performance evaluation reports are issued on time.

BACKGROUND

The first PSC was established in 1999. As of November 2004, the Centers for Medicare & Medicaid Services (CMS) had allocated \$261.4 million for a total of 17 benefit integrity task orders. These task orders were awarded to seven PSCs. To date, the Office of Inspector General (OIG) has not reviewed the performance of PSCs in general nor PSC performance of benefit integrity task orders in particular. In this report, we focus on PSC performance evaluation reports of benefit integrity task orders.

Establishment of Program Safeguard Contractors

The Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), section 202, authorized CMS to contract with entities to fulfill program integrity functions for the Medicare program and required a competitive process for awarding contracts. CMS entered into the first contract under this authority in 1999. Entities awarded such contracts are called PSCs. Once under an umbrella contract, PSCs are then awarded task orders to carry out specific duties.

Task Orders and Transfer of Fraud and Abuse Detection/Deterrence Work

There are two major types of PSC task orders: one for full service benefit integrity work and another for specific projects.¹ A benefit integrity task order includes the full range of fraud and abuse detection and deterrence work (hereinafter fraud and abuse work or activities) previously performed by specific carriers and/or fiscal intermediaries. As of July 2003, CMS had completed the transfer of all fraud and abuse work from carriers and fiscal intermediaries to PSCs, with the exception of fraud and abuse work performed by three regional medical equipment carriers. CMS expects the transition of fraud and abuse work from the three medical equipment carriers to be completed by March 1, 2006.

¹ An example of a specific project is "generate program safeguard edits." There are also specialty PSC task orders, which address specialized work such as the Comprehensive Error Rate Testing Program.

In addition to the work transferred from carriers and fiscal intermediaries, benefit integrity task orders may also include the requirement to match Medicare and Medicaid data to identify potential fraud and abuse.

Benefit integrity task orders are renewable, and as of November 2004, each of these task orders had been renewed from one to four times.

Documents Outlining Program Safeguard Activities

Three documents govern PSC operations and describe various fraud and abuse activities required of PSCs. These documents are the individual benefit integrity task orders, the “PSC Umbrella Statement of Work,” and the “Medicare Program Integrity Manual.”

Purpose of Performance Evaluation

The Federal Acquisition Regulation establishes policies for all competitively bid Federal contracts including program safeguard contracts. Pursuant to 48 CFR 42.1502(a), CMS is required to evaluate PSC performance.

Moreover, the “PSC Umbrella Statement of Work” states that CMS conducts performance evaluations of PSCs to assess the contractor’s overall performance, determine whether to renew the task orders, and/or determine whether to renew the umbrella contract.

According to CMS staff, in the absence of a final report, the decision to renew a task order can be made when the performance evaluation report is in draft form because at that point there is no additional information to be gathered.

Evaluation Methods

Since November 1999, when the first benefit integrity task order was awarded to a PSC, CMS has used four methods of evaluating PSC performance.

For the first performance evaluation method, CMS utilized a Government task leader to evaluate the task order performance period based on their oversight of the PSC and the PSC’s periodic deliverables. A Government task leader is a CMS employee responsible for overseeing the implementation of the task order once it is awarded.

The second method of evaluating PSC performance utilized a team approach whereby CMS Government task leaders and subject matter experts (e.g., a benefit integrity, medical review) conducted the

evaluation using a review and rating instrument called the Balanced Scorecard.

With the third evaluation method, used in 2004, CMS had outside auditors conducting the performance evaluations using an auditing tool known as “Statement on Auditing Standards (SAS) No. 70,” or SAS 70. The auditors reported their findings to CMS. Then CMS staff used a review and rating tool called the “Record of Evaluation” to combine the SAS 70 findings with additional findings of CMS staff based on their oversight of PSCs.

In 2005, CMS used a fourth performance evaluation method and had CMS staff from central office and regional offices conducting these evaluations. According to a CMS representative, the 2005 evaluation protocol was designed to review and measure PSC effectiveness, efficiency, outcomes, and innovation.

National Institutes of Health Contractor Performance System

Regardless of the evaluation method used to assess PCS performance, CMS has always used the online National Institutes of Health (NIH) Contractor Performance System to report out PSC evaluation findings. The NIH Contractor Performance System is used by various Federal agencies for evaluating contractors. PSC evaluation data are entered into the system by CMS staff in the Program Integrity Group and the Office of Acquisitions and Grants Management (formerly Acquisitions and Grants Group). PSCs may enter comments on the draft evaluation report in the Contractor Comments section of the system.

Related Office of Inspector General Reports

OIG has long been concerned about contractor performance related to the detection and deterrence of fraud and abuse in the Medicare program. Our previous studies have found that medical equipment carriers did not provide data needed to determine the effectiveness of their fraud units; that some fiscal intermediary fraud units produced few, if any, significant results; and that few carrier fraud units were successful in meeting all outcome criteria. Brief summaries of our reports on contractor performance are provided in Appendix A.

Government Accountability Office Report

In May 2001, Government Accountability Office (GAO) issued a report, “Medicare: Opportunities and Challenges in Contracting for Program Safeguards (GAO-01-616),” in response to a congressional request. GAO was asked to (1) describe CMS’s progress in implementing its PSC contracting authority and (2) assess whether CMS could improve its

management of PSCs to ensure their most effective use. GAO found that CMS lacked a long term strategy for incorporating PSCs into the Medicare program. In addition, CMS had “not established clear, measurable performance criteria to assess the PSCs’ performance on individual task orders.”

METHODOLOGY

We spoke with CMS central office staff about the establishment of PSCs and the performance evaluation process for benefit integrity task orders. CMS provided us with the original “PSC Umbrella Statement of Work” (effective May 1999) and its two revisions (effective March 2004 and May 2004). They also provided the April 2004 revision of the “Medicare Program Integrity Manual,” which became effective for all PSCs in July 2004, and copies of benefit integrity task orders.

Evaluation Reports Collected

To determine how evaluation reports address fraud and abuse activities, we collected the most current evaluation reports from CMS’s central office, as of November 5, 2004, for each benefit integrity task order. These 17 reports are the official reports in the NIH Contractor Performance System. A list of these reports is provided in Appendix B.

Analysis of Evaluation Reports

Identifying a Standard Set of Fraud and Abuse Activities. We looked for a standard set of fraud and abuse activities, i.e., activities that were common to current benefit integrity task orders and that would also be relevant for future benefit integrity task orders. We reviewed all benefit integrity task orders, all versions of the “PSC Umbrella Statement of Work,” and the “Medicare Program Integrity Manual.”

A table of 9 activities PSCs should perform to detect and deter fraud and abuse was included in 12 of 17 benefit integrity task orders. These nine activities became our analysis criteria. They are:

1. Fraud Case Development
2. National/Regional Data Analysis
3. Law Enforcement Support
4. Medical Review to Support Fraud and Abuse Cases
5. Civil Monetary Penalties and Other Administrative Actions
6. Submit Proposed Fraud Alerts

7. Fraud Prevention/Detection Education
8. Fraud Complaint Processing
9. Incentive Reward Program

The five task orders that did not contain a table of these nine activities did, however, require most of them. The task orders either referred to the activity in the text or referenced the “PSC Umbrella Statement of Work,” which required the activity. These five task orders did not mention the Incentive Reward Program, but this activity is described as a PSC responsibility in revisions of the “PSC Umbrella Statement of Work” and in the “Medicare Program Integrity Manual.” We determined that a task order did not require an activity if the task order explicitly stated it was not required, or if the activity was not addressed as a PSC activity in both the task order and applicable version of the “PSC Umbrella Statement of Work.”

Prior to conducting this study, we presented CMS our rationale for using this set of activities as analysis criteria. CMS explained that while the table of nine activities lists “Civil Monetary Penalties,” PSCs are responsible for “Civil Monetary Penalties and Other Administrative Actions.” Based on this, when we identified three task orders that excluded responsibility for civil monetary penalties but required other administrative actions, we counted these task orders as requiring the activity, “Civil Monetary Penalties and Other Administrative Actions.”

Analyzing Text in Evaluation Reports. We categorized text in the evaluation reports to quantify and describe the types of comments that addressed the nine fraud and abuse activities. The evaluation reports that addressed activities did so in the following ways: positive, negative, brief mention, extensive comments, results information, and/or process and procedures information. We did not categorize text that was unrelated to the fraud and abuse activities.

In accordance with the analysis plan we shared with CMS, we assigned evaluation report comments to two categories, and further divided the first category as follows:

1. Results
 - a. Qualitative comments
 - b. Quantitative comments
2. Process and procedures

By results, we mean accomplishments in detecting and deterring fraud and abuse. By qualitative comment, we mean the comment consisted of words only, e.g., “PSC’s data analysis resulted in case referrals to law enforcement.” By quantitative comment, we mean the comment included numeric information, e.g., “Of the 12 cases referred to law enforcement, 7 were opened via proactive data analysis.” The table in Appendix C shows the types of comments that we counted as results in the 17 evaluation reports we reviewed. These 17 reports contained from 0 to 16 results comments, for a total of 119 results comments.

By process and procedures, we mean the day-to-day operations, tools, and methods of conducting fraud and abuse detection and deterrence work. The table in Appendix D shows the types of comments that we counted as process and procedures in the 17 evaluation reports we reviewed. These 17 reports contained from 0 to 15 comments related to process and procedures, for a total of 94 process and procedures comments.

Limitation of Evaluation Report Analysis. We did not request information from CMS that would (1) corroborate information in the performance evaluation reports, or (2) provide additional information about PSC achievements.

Task Order and Evaluation Report Data Collected

We also requested data from CMS’s central office that would enable us to determine:

- the funds allocated to benefit integrity task orders,
- the number of task orders renewed,
- the number of task order performance periods that were evaluated,
- the evaluation method used for each task order,
- the timeliness of the evaluation reports, and
- where delays in the evaluation process occurred (if any).

The data we reviewed covered the period November 22, 1999, (start date of the oldest benefit integrity task order awarded to a PSC) to November 5, 2004. This time period included renewals for the 17 task orders, resulting in a total of 44 task order performance periods.

While we asked CMS to clarify and verify some of the data they provided, we did not perform an independent validation of all the data.

“Task order performance period” or simply “performance period” are the terms we use to represent a discrete task order performance period. A task order may have more than one performance period depending on how many times it was renewed.

“Evaluation period” is the term we use to represent the time period of PSC performance that was evaluated by CMS. Evaluation periods rarely match performance periods, as shown in the table, “Task Order Performance Period Versus Evaluation Period,” in Appendix E. One reason for this is that CMS must provide the PSC advance notice of the Government’s intention to renew or not renew the task order. Therefore, the evaluation is performed far enough in advance of the end of the performance period. In some cases, an evaluation may cover all or part of the previous performance period and part of the current performance period. In one unusual case, an 18-month performance period was divided into three evaluation periods.

Basis of Timeliness Calculation for Evaluation Reports

“PSC Umbrella Statement of Work.” Of the 40 report-issuance dates CMS provided, 32 were for final reports and 8 were for draft reports. To determine whether reports were issued on time, we calculated the difference between the report issue dates and the deadlines set forth in the applicable “PSC Umbrella Statement of Work.” Of the 40 report-issuance dates CMS provided, 39 were for task orders under the original “PSC Umbrella Statement of Work,” and 1 was for a task order under the May 2004 revision.

Three-Month Renewal Notice. As a secondary measure of report timeliness, we determined whether reports were issued by the time the renewal notice was due. CMS is required to notify the PSC 3 months before the end of the performance period as to whether CMS intends to renew the task order. We performed this calculation for the 32 final report dates and 8 draft report dates we received from CMS.

Inspection Standards

This inspection was conducted in accordance with the “Quality Standards for Inspections” issued by the President’s Council on Integrity and Efficiency and the Executive Council on Integrity and Efficiency.

► FINDINGS

Performance evaluation reports provided limited quantitative data about program safeguard contractors' achievements related to detecting and deterring fraud and abuse

Of the 17 evaluation reports we reviewed, several did not contain results, quantitative or qualitative, for 1 or more of the 9 fraud and abuse activities. Eight performance evaluation reports did not address results regarding

Medical Review to Support Fraud and Abuse Cases. In addition, nine reports did not address results regarding Fraud Complaint Processing, and nine reports did not address results regarding Fraud Prevention/Detection Education.

The majority of results-oriented comments (62 of 119) did not address outcomes of fraud and abuse work, but instead were standardized phrases addressing the quality of the work (e.g., “case files appear complete, timely, and appropriate”).

Fifteen of 119 results-oriented comments (12 percent) were quantitative. These 15 quantitative comments were spread across 8 evaluation reports. Thus, the evaluation reports provided limited quantitative data measuring PSC efforts or achievements related to detecting and deterring fraud and abuse. For example, only one evaluation report mentioned the number of open and pending proactive fraud cases, only one mentioned the amount of money saved as a result of PSC initiatives and the matching of Medicare and Medicaid data, and only one mentioned the number of requests received from law enforcement agencies.

Almost half of the quantitative comments regarding PSC performance (6 of 15) were negative. Five of six negative comments pointed out a lack of detection and deterrence activity, such as no PSC-initiated referrals to law enforcement in a jurisdiction that has a history of fraud and abuse. The remaining comment described failures to respond to law enforcement requests for support in a timely manner.

Table 1 identifies the number of evaluation reports that addressed PSC results quantitatively for each standard fraud and abuse activity.

Table 1: Evaluation Reports Addressing Results Quantitatively	
Fraud and Abuse Detection and Deterrence Activity	Number of Evaluation Reports with Quantitative Results Per Activity¹
Fraud Case Development	3
Civil Monetary Penalties and Other Administrative Actions	2
Law Enforcement Support	2
Fraud Prevention/Detection Education	1
National/Regional Data Analysis	1
Fraud Complaint Processing	1
Medical Review to Support Fraud and Abuse Cases	0
Submit Proposed Fraud Alerts	0
Incentive Reward Program	0

¹The quantitative results were in eight reports. The numbers in this column are not mutually exclusive.

Source: OIG analysis of comments in evaluation reports of benefit integrity task orders, 2005.

Sixteen of seventeen reports did not contain information on all required fraud and abuse detection and deterrence activities

Only one evaluation report contained information on all of the standard fraud and abuse activities

required by the associated task order. The remaining 16 evaluation reports did not contain any information on 2 to 7 required activities. These 16 reports had neither results nor process and procedure information for these activities. Two activities, Submit Proposed Fraud Alerts and Incentive Reward Program, were not addressed in any evaluation report for task orders requiring these activities. Six of seventeen evaluation reports did not address Fraud Complaint Processing, and 7 of 15 evaluation reports did not address Medical Review to Support Fraud and Abuse Cases. The activity that was addressed in most evaluation reports was National/Regional Data Analysis (16 of 17), followed by Fraud Case Development (15 of 17).

Based on our review of all 17 benefit integrity task orders, we found that they require PSCs to perform from 7 to 9 of the 9 standard fraud and abuse activities. Table 2 shows the number of standard fraud and abuse activities required by each task order and the number of these activities addressed in each evaluation report.

FINDINGS

For a list of the specific fraud and abuse activities required in each task order and addressed in each evaluation report that we reviewed, see Appendix F.

Table 2: Fraud and Abuse Detection/Deterrence Activities Addressed in Evaluation Reports

Task Order Identifier	Number of Activities Required	Number of Activities Evaluated
A	7	7
B	9	7
C	9	7
D	9	7
E	9	6
F	9	6
G	9	6
H	9	6
I	8	5
J	9	5
K	9	4
L	9	4
M	9	4
N	7	3
O	7	3
P	8	2
Q ¹	9	2

¹This evaluation covered only 2 weeks that the PSC was fully operational and 5 months that the PSC was in transition.

Source: OIG analysis of comments in evaluation reports of benefit integrity task orders, 2005.

Seventy-two percent of evaluation reports were issued on time

Since the first benefit integrity task order was awarded in 1999, 72 percent of all final evaluation reports (23 of 32) have been issued on time. Twenty-eight percent (9 of 32) were issued late. The “PSC Umbrella Statement of Work” that governed these 32 final reports stated that final performance evaluation reports would be issued 2 months after the end of the task order performance period. Of the nine final reports that were issued late, seven were from 20 days to 6 months late, one was almost 19 months late, and one was 38 months late. Appendix G contains information on the timeliness of each evaluation report for which CMS provided issue dates. It also lists the benefit integrity task

F I N D I N G S

order performance periods for which the report issue dates were not available.

While almost three-quarters of evaluation reports were issued on time, only 5 of these 32 reports were issued at least 3 months before the task order performance period ended. It is at this time—3 months before the performance period ends—that CMS is required to notify the PSC whether CMS intends to renew the contract.

CMS staff members stated that they can use draft evaluation reports to make task order renewal decisions. However, CMS was only able to provide us with draft report dates for eight draft reports. Of these eight draft reports, two were issued at least 3 months before the end of the task order performance period.

CMS issued revisions to the “PSC Umbrella Statement of Work” in 2004. The revisions state that CMS’s final evaluation reports of PSC performance will be issued 3 months before the task order performance period ends. This new time schedule for issuing final reports coincides with the time schedule for sending a renewal notice to the PSC.

The unavailability of milestone dates in the evaluation process prevented us from identifying where reporting delays occur

Few performance evaluation milestone dates, other than most final report dates, were available from CMS. Once evaluation reports are finalized, the online evaluation system used by CMS deletes the dates of earlier events. Examples of earlier events include the issuance of draft reports to PSCs and the receipt of comments on draft reports from PSCs. Based on data CMS provided, it appears CMS does not have a systematic means to track evaluation events other than the online system. Thus, CMS is limited in its ability to retrospectively determine where delays in the evaluation report process occur.

► R E C O M M E N D A T I O N S

The primary responsibility for detecting and deterring fraud and abuse in the Medicare program was transferred from carriers and fiscal intermediaries to PSCs. To determine how well PSCs are performing, CMS utilizes the contractor performance evaluation as an important tool.

However, performance evaluation reports contained minimal information about PSC efforts to detect and deter fraud and abuse. Because these reports are limited in their description of the results PSCs may be achieving, they provide limited information on which to base task order renewal decisions.

To improve the evaluation process, we recommend that CMS:

Address program safeguard contractor results in their performance evaluation reports. CMS should describe PSC results in identifying and preventing fraud and abuse in the evaluation reports to demonstrate the adequacy of PSC performance. Using quantitative as well as qualitative data to describe results would provide a more comprehensive picture of PSC performance and provide valuable data for making renewal decisions. If, for example, certain PSC activities are saving money for the Medicare program, the activity and the amount of money saved should be included in the performance evaluation reports.

Provide information about required program safeguard contractor activities in performance evaluation reports. The activities CMS specifically lists in the benefit integrity task orders and that PSCs are required to perform should be evaluated in the performance evaluation reports. The primary responsibility of PSCs is to detect and deter fraud and abuse; therefore, the performance evaluation reports should include information on whether fraud and abuse detection and deterrence activities were performed and how effectively they were performed.

Take steps to ensure that all draft and final performance evaluation reports are issued in accordance with the current timetable. CMS should aim to issue 100 percent of the performance evaluation reports on time. Moreover, by following the timetable in the current revised “PSC Umbrella Statement of Work,” evaluation reports would be available for CMS when the task order renewal notice is due. This would allow CMS to make more informed decisions when renewing a task order with a contractor.

Establish a means to track and save evaluation milestone dates.

The online system CMS uses for PSC evaluations only holds evaluation milestone dates temporarily. A system that tracks and saves all milestone dates would help CMS identify where delays occur so that improvements can be made to the performance evaluation process.

AGENCY COMMENTS

CMS concurred with OIG recommendations to: (1) ensure that all draft and final performance evaluation reports are issued in accordance with the current timetable; and (2) establish a means to track and save evaluation milestone dates.

CMS concurred only in part with the OIG recommendation to address results in PSC performance evaluation reports. CMS believes that quantifying PSC output could create perverse incentives and undermine the value of a PSC's work. CMS stated that it has been cautioned by prosecutors that cases could be jeopardized if the entity assessing the facts of the investigation were rewarded for sheer volume of case referrals or required to meet a quota of case referrals. CMS, therefore, looks to the timeliness of PSC performance, the thoroughness of PSC work, and PSC responsiveness to law enforcement agencies to determine PSC effectiveness in fraud fighting. However, CMS stated that the current OIG study underscored the benefits that could be gained by capturing units of work that PSCs perform. CMS stated that it has already begun moving forward on the OIG recommendation by improving the means by which it gathers information about the outcome of PSC activities and will collect an array of quantitative and qualitative measurements.

CMS concurred in part with OIG's recommendation to provide information about required PSC activities in performance evaluation reports. CMS stated that every aspect of PSC performance should be scrupulously reviewed and evaluated. However, it stated that resources limit the level and intensity of scrutiny that can reasonably be applied to PSCs and it will focus performance evaluations on the primary PSC activities. Furthermore, CMS will reevaluate the listing of activities required in the PSC Statement of Work in order to emphasize the most crucial activities. The full text of CMS's comments are in Appendix H.

OFFICE OF INSPECTOR GENERAL RESPONSE

OIG is pleased that our review helped underscore the benefits that could be gained by a more complete review of PSC performance, and we appreciate that CMS is already moving forward on our recommendations. While OIG understands CMS's concerns about creating perverse incentives, we are not advocating that a system of numeric quotas be implemented. Rather, OIG is recommending that evaluation reports include the level of activity and results that PSCs have achieved in combating fraud in the Medicare program. OIG continues to believe that these types of measures are necessary to accurately assess the effectiveness of the PSC's fraud-fighting efforts.

CMS commented that resources sometimes limit the level and intensity of scrutiny CMS can give to all PSC activities. While this is understandable, OIG believes that activities listed in PSC task orders should be addressed in performance evaluation reports.

OIG looks forward to working with CMS in its continuing efforts to improve the PSC review process.

Related Office of Inspector General Reports

The following is a brief description of OIG reports about contractors responsible for detecting and deterring fraud and abuse in the Medicare program:

February 2000, "Durable Medical Equipment Regional Carriers: Meeting HCFA's Objectives" (OEI-04-97-00330). We found that durable medical equipment regional carriers (DMERC) were addressing fraud in individual cases, but a lack of information precluded us from determining the overall effectiveness of their fraud units. DMERCs did not provide needed data to document the quality and results of their efforts.

November 1998, "Fiscal Intermediary Fraud Units" (OEI-03-97-00350). We found that fiscal intermediary fraud units differed substantially in the number of complaints and cases handled. Some units produced few, if any, significant results.

November 1996, "Carrier Fraud Units" (OEI-05-94-00470). We compared carrier performance in five outcome areas: accuracy of complaint disposition; case documentation; assessing financial damage; internal proactive safeguards; and external proactive safeguards. We found that few carriers were successful in meeting all outcome criteria.

August 1995, "Monitoring Medicare Contractor Performance: A New Approach" (OEI-01-93-00160). We found that the new monitoring approach (instituted in 1994), which used qualitative assessment, gathered useful information. In addition, the use of teams from outside the local regional office to conduct the reviews enhanced the reviews. We also found that CMS had not yet made full use of information gathered in the reviews to further contractors' ability to safeguard Medicare payments.

August 1988, "Medicare Carriers' Performance of Program Integrity Functions" (OAI-04-88-00710). We found that certain CMS policies and/or procedures regarding program integrity were outdated, that allocation of carrier resources away from traditional program integrity processes was a concern, that carriers were properly accounting for costs and savings for program integrity functions, and that improvements were needed in OIG systems for providing feedback on status and disposition of fraud cases referred by the carriers.

► A P P E N D I X ~ B

This table contains the 17 performance evaluation reports we reviewed. The information in this table appears in descending order by final report issue date.

Performance Evaluation Reports Reviewed (n=17)				
Task Order Identifier	Task Order Performance Period	Funds Allocated	Additional Allocation for Medi-Medi Project¹	Final Report Issue Date²
J	11/01/03 - 10/31/04	\$4,408,499		11/05/04
E	01/01/04 - 12/31/04	\$5,386,795	\$2,170,312	10/21/04
A	01/01/04 - 12/31/04	\$6,892,628		10/20/04
L	03/05/04 - 10/31/04	\$1,278,635	\$1,067,232	10/15/04
B	01/01/04 - 12/31/04	\$2,960,903	\$1,090,280	10/15/04
C	01/01/04 - 12/31/04	\$2,092,031		10/15/04
K	12/01/03 - 11/30/04	\$7,643,157		10/15/04
F	01/01/04 - 12/31/04	\$4,707,594		10/14/04
H	12/01/03 - 11/30/04	\$8,238,693		10/13/04
P	01/01/04 - 06/30/04	\$2,557,795		09/18/04
M	11/01/03 - 10/31/04	\$6,812,554	\$1,182,466	09/16/04
D	11/01/03 - 10/31/04	\$3,705,267	\$1,251,969	09/16/04
I	11/01/03 - 10/31/04	\$9,766,300	\$1,250,000	09/08/04
O	11/07/02 - 11/30/03	\$6,083,042		01/26/04
Q	08/01/02 - 11/30/03	\$7,733,315	\$1,244,435	10/29/03
G	06/01/02 - 12/31/03	\$11,751,340	\$1,244,435	06/10/03
N	08/03/01 - 08/02/02	\$6,192,838		10/30/02
Totals		\$98,211,386	\$10,501,129	

¹Medi-Medi is a project that matches Medicare and Medicaid data, and it is required of certain PSCs.

²These were the most current final reports as of November 5, 2004.

Source: Centers for Medicare & Medicaid Services, Program Integrity Group and Office of Acquisitions and Grants Management.

➤ **A P P E N D I X ~ C**

This table shows the types of comments that we counted as “results” in the 17 performance evaluation reports we reviewed. Comments could be positive or negative and are organized under the nine standard fraud and abuse detection and deterrence activities. The check marks indicate whether the comments in the reports we reviewed were qualitative or quantitative.

Evaluation Comments Addressing Results		
	QUALITATIVE	QUANTITATIVE
1. FRAUD CASE DEVELOPMENT		
Case development – quality	√	
Case development – timeliness	√	
Case referrals	√	√
Proactive cases open/pending		√
Performance problem	√	
Project to reduce time cases are in production.		√
2. NATIONAL/REGIONAL DATA ANALYSIS		
Data analysis – quality	√	
Data analysis – timeliness	√	
Performance problem	√	
Savings from data analysis		√
Use of data analysis results	√	
3. LAW ENFORCEMENT SUPPORT		
Requests for support from law enforcement agency		√
Performance problem		√
Support to law enforcement – outcomes	√	
Support to law enforcement – quality	√	
Support to law enforcement – timeliness	√	√
4. MEDICAL REVIEW TO SUPPORT FRAUD AND ABUSE CASES		
Medical review determinations – quality	√	
Medical review determinations – timeliness	√	
5. CIVIL MONETARY PENALTIES AND OTHER ADMINISTRATIVE ACTIONS		
Administrative actions – appropriateness	√	
Administrative actions – timeliness	√	
Administrative enforcement of civil monetary penalties		√
Exclusion of providers		√
Suspensions		√
Overpayment actions	√	
Performance problem	√	
Proactive data analysis action	√	
Prepayment and postpayment medical review initiated	√	
Sanctions recommended	√	
Savings from administrative action	√	
Settlement agreements	√	
Suspensions initiated	√	
Vulnerability recommendations	√	
6. SUBMIT PROPOSED FRAUD ALERTS		
No comments on this activity in any report we reviewed		

Evaluation Comments Addressing Results		
7. FRAUD PREVENTION/DETECTION EDUCATION		
Affiliated contractor education		√
CMS education	√	
Law enforcement education	√	
Provider education	√	
PSC education		√
Training	√	
8. FRAUD COMPLAINT PROCESSING		
Complaint acknowledgments	√	
Complaint processing – quality	√	
Complaint processing – timeliness	√	
Complaint referrals	√	
Reduction of pending beneficiary complaints	√	
Reduction of pending complaints (source of complaints not specified)		√
9. INCENTIVE REWARD PROGRAM		
No comments on this activity in any report we reviewed		

Source: Office of Inspector General analysis of comments in evaluation reports of benefit integrity task orders, 2005.

► **A P P E N D I X ~ D**

This table shows the types of comments that we counted as “process and procedures” in the 17 performance evaluation reports we reviewed. Comments could be positive or negative and are organized under the nine standard fraud and abuse detection and deterrence activities.

Evaluation Comments Addressing Process and Procedures
1. FRAUD CASE DEVELOPMENT
Case documentation
Case audit trail
Case procedures
Case referral packages to law enforcement agencies
Case tracking system
Cost control
Cost report
Feedback from law enforcement regarding cases
Fraud Investigation Database – cases unassigned
Fraud Investigation Database – updates (quality and timeliness)
Fraud Investigation Database – training
Following up referrals timely
Interaction with CMS regarding cases
Interaction with law enforcement regarding cases
Performance problem
Quality control
2. NATIONAL/REGIONAL DATA ANALYSIS
Analysis methods
Analysis tools
Data obtained, uploaded, maintained
Development of data matching methodology for Medicare-Medicaid project
Interaction with affiliated contractor regarding data analysis
Management performance regarding data analysis
Performance problem
Suggestions for PSC Analysis, Reporting, and Tracking System
3. LAW ENFORCEMENT SUPPORT
Audit trail of law enforcement requests for support
Cost control
Cost report
Feedback from law enforcement
Interaction with CMS regarding law enforcement support
Interaction with law enforcement regarding support requests
Procedures for responding to support requests
4. MEDICAL REVIEW TO SUPPORT FRAUD AND ABUSE CASES
Follows guidelines/regulations regarding medical review
Interaction with affiliated contractor regarding medical review
5. CIVIL MONETARY PENALTIES AND OTHER ADMINISTRATIVE ACTIONS
Coordination with affiliated contractor regarding administrative action
Coordination with CMS regarding administrative action
Procedures regarding administrative action
6. SUBMIT PROPOSED FRAUD ALERTS
No comments on this activity in any report we reviewed
7. FRAUD PREVENTION/DETECTION EDUCATION
No comments on this activity in any report we reviewed

Evaluation Comments Addressing Process and Procedures	
8. FRAUD COMPLAINT PROCESSING	
Complaint audit trail	
Complaint procedures	
Complaint tracking system	
Cost control	
Interaction with affiliated contractor regarding complaints	
Interaction with CMS regarding complaints	
9. INCENTIVE REWARD PROGRAM	
No comments on this activity in any report we reviewed	

Source: Office of Inspector General analysis of comments in evaluation reports of benefit integrity task orders, 2005.

► A P P E N D I X ~ E

This table contains all task order performance periods for the period 1999-2004. The information appears in ascending order by performance period end date. It compares the task order performance period with the evaluation period. The 17 performance evaluation reports we reviewed are associated with task order identifiers A – Q.

Task Order Performance Period Versus Evaluation Period, 1999-2004		
Task Order Identifier	Performance Period	Evaluation Period
R	11/22/99 - 11/21/00	11/24/99 - 11/23/00
S	07/14/00 - 07/13/01	07/14/00 - 07/13/01
T	11/07/00 - 11/06/01	Not Applicable ¹
U	11/22/00 - 11/21/01	No Evaluation
V	07/14/01 - 07/13/02	07/14/01 - 03/31/02
N	08/03/01 - 08/02/02	08/03/01 - 06/24/02
W	11/07/01 - 11/06/02	11/07/00 - 07/16/02
X	11/22/01 - 11/21/02	11/01/01 - 05/30/02
Y	12/21/01 - 12/20/02	12/21/01 - 09/23/02
Z	07/14/02 - 10/31/03	01/01/02 - 12/31/02
AA	10/17/02 - 10/31/03	10/17/02 - 03/31/03
BB	04/01/03 - 10/31/03	Not Applicable ¹
CC	09/27/02 - 10/31/03	09/27/02 - 03/31/03
DD	08/01/02 - 11/30/03	08/01/02 - 01/31/03
O	11/07/02 - 11/30/03	07/17/02 - 04/30/03
Q	08/01/02 - 11/30/03	08/01/02 - 02/01/03
EE ²	05/16/02 - 11/30/03	5/15/02 - 12/16/02
EE ²	05/16/02 - 11/30/03	12/17/02 - 02/28/03
EE ²	05/16/02 - 11/30/03	03/01/03 - 11/17/03
FF	12/21/02 - 12/31/03	09/24/02 - 06/30/03
GG	6/25/02 - 12/31/03	6/25/02 - 12/31/02
HH	12/20/02 - 12/31/03	12/20/02 - 05/31/03
II	11/22/02 - 12/31/03	05/31/02 - 05/31/03
JJ	05/16/02 - 12/31/03	05/16/02 - 10/31/02
KK	12/20/02 - 12/31/03	Not Applicable ¹
G	06/01/02 - 12/31/03	06/01/02 - 01/15/03

¹This task order performance period was evaluated with a subsequent performance period.

²This task order had three evaluations conducted during the performance period. Consequently, this table has 46 lines of data for 44 individual task order performance periods.

A P P E N D I X ~ E

Task Order Performance Period Versus Evaluation Period, 1999-2004		
Task Order Identifier	Performance Period	Evaluation Period
LL	08/03/02 - 01/09/04	02/01/02 - 01/31/03
MM	03/05/03 - 03/04/04	03/05/03 - 12/31/03
P	01/01/04 - 06/30/04	07/01/03 - 01/31/04
L	03/05/04 - 10/31/04	01/01/04 - 06/30/04
I	11/01/03 - 10/31/04	01/01/03 - 04/30/04
M	11/01/03 - 10/31/04	04/01/03 - 04/30/04
D	11/01/03 - 10/31/04	04/01/03 - 04/30/04
J	11/01/03 - 10/31/04	04/01/03 - 04/30/04
K	12/01/03 - 11/30/04	02/01/03 - 05/31/04
NN	12/01/03 - 11/30/04	05/01/03 - 05/31/04
OO	12/01/03 - 11/30/04	02/02/03 - 05/31/04
H	12/01/03 - 11/30/04	11/18/03 - 05/31/04
PP	07/01/04 - 12/31/04	02/01/04 - 06/30/04
B	01/01/04 - 12/31/04	01/01/03 - 06/30/04
C	01/01/04 - 12/31/04	06/01/03 - 06/30/04
QQ	01/10/04 - 12/31/04	02/01/03 - 06/30/04
A	01/01/04 - 12/31/04	06/01/03 - 06/30/04
E	01/01/04 - 12/31/04	11/1/02 - 6/30/04
F	01/01/04 - 12/31/04	03/15/03 - 06/30/04
RR	01/01/04 - 12/31/04	01/16/03 - 06/30/04

Source: Centers for Medicare & Medicaid, Program Integrity Group and Office of Acquisitions and Grants Management.

➤ A P P E N D I X ~ F

This table quantifies the specific fraud and abuse activities required in benefit integrity task orders and addressed in the 17 performance evaluation reports we reviewed.

Fraud and Abuse Detection/Deterrence Activities Addressed in Evaluation Reports												
Task Order Identifier	National/Regional Data Analysis	Fraud Case Development	Law Enforcement Support	Civil Monetary Penalties and Other Administrative Actions	Fraud Complaint Processing	Medical Review to Support Fraud and Abuse Cases	Fraud Prevention/Detection Education	Submit Proposed Fraud Alerts	Incentive Reward Program	Number of Activities Required Under Task Order ²	Number of Activities Addressed in Evaluation Report	Percentage of Activities Addressed in Evaluation Report
A	✓	✓	✓	✓	✓	✓	✓	N/A	N/A	7	7	100%
B	✓	✓	✓	✓	✓	✓	✓			9	7	78%
C	✓	✓	✓	✓	✓	✓	✓			9	7	78%
D	✓	✓	✓	✓	✓	✓	✓			9	7	78%
E	✓	✓	✓	✓	✓		✓			9	6	67%
F	✓	✓	✓	✓	✓	✓				9	6	67%
G	✓	✓	✓	✓	✓	✓				9	6	67%
H	✓	✓	✓	✓	✓	✓				9	6	67%
I	✓	✓	✓	✓			✓		N/A	8	5	63%
J	✓	✓	✓	✓	✓					9	5	56%
K	✓	✓	✓		✓					9	4	44%
L	✓	✓	✓	✓						9	4	44%
M	✓	✓	✓	✓						9	4	44%
N	✓	✓				N/A	✓		N/A	7	3	43%
O	✓	✓				N/A	✓		N/A	7	3	43%
P	✓		✓						N/A	8	2	25%
Q ¹					✓	✓				9	2	22%
Totals	16	15	14	12	11	8	8	0	0			

¹This evaluation covered only 2 weeks that the PSC was fully operational and 5 months that the PSC was in transition.

²We determined that a task order did not require an activity if the task order stated that it was not required, or if the activity was not addressed as a PSC activity anywhere in the task order and "PSC Umbrella Statement of Work."

Source: Office of Inspector General analysis of comments in evaluation reports of benefit integrity task orders, 2005.

► A P P E N D I X ~ G

This table contains information on the timeliness of each performance evaluation report for which the Centers for Medicare & Medicaid Services provided issue dates. It also lists the benefit integrity task orders for which report issue dates were not applicable or not available.

Timeliness of Performance Evaluation Reports, 1999-2004					
Task Order Identifier	Performance Period End Date	Draft Report Issue Date	Timeliness¹ of Draft Report	Final Report Issue Date	Timeliness¹ of Final Report
R	11/21/2000	Not Available		03/10/2004	38.17 months late
Y	12/20/2002	Not Available		09/02/2004	18.73 months late
EE ³	11/30/2003	Not Available		07/20/2004	5.77 months late
X	11/21/2002	Not Available		07/02/2003	5.43 months late
S	07/13/2001	Not Available		01/08/2002	3.97 months late
W	11/06/2002	Not Available		02/24/2003	1.67 months late
N	08/02/2002	Not Available		10/30/2002	0.97 months late
CC	10/31/2003	Not Available		01/23/2004	0.80 months late
P	06/30/2004	Not Available		09/18/2004	0.67 months late
O	11/30/2003	Not Available		01/26/2004	0.10 months early
J	10/31/2004	07/01/2004	5.07 months early	11/05/2004	1.83 months early
L	10/31/2004	Not Available		10/15/2004	2.53 months early
II	12/31/2003	Not Available		12/04/2003	2.90 months early
Q	11/30/2003	Not Available		10/29/2003	3.07 months early
D	10/31/2004	Not Available		09/16/2004	3.50 months early
M	10/31/2004	Not Available		09/16/2004	3.50 months early
K	11/30/2004	Not Available		10/15/2004	3.53 months early
H	11/30/2004	Not Available		10/13/2004	3.60 months early
I	10/31/2004	Not Available		09/08/2004	3.77 months early
HH	12/31/2003	Not Available		10/22/2003	4.33 months early
FF	12/31/2003	Not Available		10/22/2003	4.33 months early
E	12/31/2004	09/09/2004	4.77 months early	10/21/2004	4.37 months early
A	12/31/2004	Not Available		10/20/2004	4.40 months early
B	12/31/2004	Not Available		10/15/2004	4.57 months early
C	12/31/2004	Not Available		10/15/2004	4.57 months early
F	12/31/2004	Not Available		10/14/2004	4.60 months early

Timeliness of Performance Evaluation Reports, 1999-2004					
Task Order Identifier	Performance Period End Date	Draft Report Issue Date	Timeliness¹ of Draft Report	Final Report Issue Date	Timeliness¹ of Final Report
AA	10/31/2003	Not Available		08/07/2003	4.83 months early
Z	10/31/2003	Not Available		07/29/2003	5.13 months early
G	12/31/2003	Not Available		06/10/2003	8.80 months early
JJ	12/31/2003	Not Available		05/19/2003	9.53 months early
EE ³	11/30/2003	Not Available		04/07/2003	9.90 months early
GG	12/31/2003	Not Available		03/21/2003	11.50 months early
T	11/06/2001	Not Applicable ²		Not Applicable ²	
U	11/21/2001	No Evaluation		No Evaluation	
V	07/13/2002	Not Available		Not Available	
BB	10/31/2003	Not Applicable ²		Not Applicable ²	
EE ³	11/30/2003	03/11/2004	2.40 months late	Not Available	
DD	11/30/2003	Not Available		Not Available	
KK	12/31/2003	Not Applicable ²		Not Applicable ²	
LL	01/09/2004	Not Available		Not Available	
MM	03/04/2004	01/14/2004	2.67 months early	Not Available	
OO	11/30/2004	10/19/2004	2.40 months early	Not Available	
NN	11/30/2004	09/09/2004	3.73 months early	Not Available	
PP	12/31/2004	10/21/2004	2.13 months late	Not Available	
QQ	12/31/2004	10/05/2004	3.90 months early	Not Available	
RR	12/31/2004	Not Available		Not Available	

¹Timeliness calculation is based on timeframes set forth in the applicable "Program Safeguard Contractor Umbrella Statement of Work."

²This task order performance period was evaluated with a subsequent performance period.

³This task order had three evaluations conducted during the performance period. Consequently, this table has 46 lines of data for 44 individual task order performance periods.

Source: Office of Inspector General analysis of dates that evaluation reports were issued, 2005.

▶ A P P E N D I X ~ H



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

DATE: JAN - 6 2006

TO: Daniel R. Levinson
Inspector General
Office of Inspector General

FROM: Mark B. McClellan, M.D., Ph.D. 
Administrator
Centers for Medicare & Medicaid Services

SUBJECT: Office of Inspector General (OIG) Draft Report: *Medicare's Program Safeguard Contractors: Performance Evaluation Reports*, (OEI-03-04-00050)

RECEIVED
 2006 JAN 10 PM 3:05
 OFFICE OF INSPECTOR
 GENERAL

Thank you for the opportunity to comment on the subject audit report. The Centers for Medicare & Medicaid Services (CMS) appreciates the contributions of the OIG toward our goal of protecting the Medicare trust funds from fraud, waste, and abuse. OIG has provided valuable input in the past to assist CMS in improving its oversight of the Medicare program. In its current study, OIG has focused on the process CMS uses to assess program safeguard contractor (PSC) performance within the contract cycle. CMS and OIG have continued to work closely in efforts to ensure that Medicare payments are appropriate, and CMS appreciates the partnership and guidance of the OIG in these efforts. We also appreciate the OIG's succinct portrayal of the dilemma CMS faces when evaluating PSC performance and reporting on PSC effectiveness. Moreover, we welcome the opportunity to expound upon the process we follow in making contract renewal determinations. Our response to the recommendations follows.

OIG Recommendation

The CMS should address PSC results in their performance evaluation reports.

CMS Response

We agree in part with the recommendation. In searching for quantitative measures of PSC performance, OIG has underscored the challenge we confront in our effort to demonstrate the effectiveness of our integrity program. A conventional measure of effectiveness of a contractor's work is the quantity of its output measured against the cost of achieving that output. In the PSC program, however, quantifying output can create perverse incentives and undermine the value of a PSC's work. In general, PSCs are tasked with identifying

Page 2 – Daniel R. Levinson

potentially fraudulent providers and supporting the efforts of law enforcement and CMS in pursuing civil, criminal, and administrative remedies for fraud.

A PSC primarily focuses on data analysis (including creating data extracts/reports to support law enforcement), investigating allegations of fraud, and detecting and referring potential fraud cases to law enforcement. Although each of these activities can be quantified, the value of a quantifiable measure varies. The number of data extracts created for law enforcement is an objective number which is captured in a PSC's workload report. When proactive data analysis is quantified, however, a PSC's ability to produce valid and reliable data analysis is hampered. If a PSC is measured on the number of data algorithms it runs, or the number of providers its data analysis identifies as potentially fraudulent, the validity of its findings is called into question. Similarly, if PSC performance were measured by the number of cases referred to law enforcement, the soundness of those case referrals would become suspect.

The CMS has long struggled with the balance that must be maintained between good stewardship of Medicare integrity program funds expended to counter fraud and the need to demonstrate effectiveness of our fraud-fighting efforts. We have been cautioned by prosecutors that cases could be jeopardized if the entity tasked with assembling the facts underlying a prosecution were rewarded for the sheer volume of case referrals or required to meet a quota of case referrals. To overcome that concern, we have looked to the timeliness of PSC performance, the thoroughness of its work, and solicited input from local law enforcement agencies that work first-hand with the PSC regarding the PSC's responsiveness and other aspects of the relationship between the PSC and our law enforcement partners. In practice, we reward PSCs on the basis of the quality of cases they develop, measured by whether referred cases are accepted by law enforcement (or declined for reasons other than quality). A PSC receives the same reward whether it refers 1 case or 50, if none of the cases are declined for lack of quality.

A major obstacle to gauging whether CMS is getting valuable results for the money it spends on integrity efforts is the difficulty in tracking funds recouped from erroneous payments based on fraud. In its study, OIG identified only one PSC evaluation that referenced the amount of money saved due to PSC initiatives. Each reference to an amount of money saved is a snapshot in time. Currently, PSCs report the dollars they identify as overpayments and that they refer for recoupment. Following referral, however, the PSC has no control over recovery of an overpayment, because recovery activities are undertaken by a carrier or fiscal intermediary. If a provider has gone out of business or filed for bankruptcy court protection, the actual amount recovered could be quite different than the amount referred. Similarly, a PSC can calculate the amount of improper payments obtained through allegedly fraudulent claims. While that amount would be accurate on the date the case is referred for prosecution, the actual recovery will depend on the amount proven at trial, possible compromise during settlement negotiations, and, ultimately, results of any appeal noted by the provider.

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The current OIG study has underscored the benefits that could be gained from more precisely capturing units of work that PSCs perform. We have already begun moving forward on this recommendation by improving the means by which we gather information about the outcome of PSC activities. While the OIG study was being conducted, a joint workgroup was initiated with CMS staff and PSC representatives to augment and refine the benefit integrity reporting template. Although it previously captured information such as overpayments referred to the affiliated contractors (fiscal intermediaries and carriers), the new template enhances this information with a vast array of other quantitative and subtly qualitative metrics such as:

- **Payment Suspension Target Accuracy:** The rate of payments made from suspense accounts provides an indication as to how well payment suspension resources are allocated; i.e., a high rate of payment from suspense accounts can indicate poor selection of candidates for payment suspension.
- **Automated Edit Effectiveness and Maintenance:** The dollars denied as a result of auto-deny edits, after being adjusted for the rate of denials that are overturned on appeal, indicates effectiveness of the edits.
- **Pre- and Post-Payment Medical Review (MR) Target Accuracy:** The rate of payments awarded following appeal of MR determinations made by the PSC provides an indication of how well MR resources are allocated.

OIG Recommendation

The CMS should provide information about required PSC activities in performance evaluation reports.

CMS Response

We agree in part with the recommendation. CMS agrees that every aspect of a PSC's performance should be scrupulously reviewed and evaluated. Resources, however, limit the level and intensity of scrutiny that can reasonably be applied to PSCs. CMS has, and will continue, to focus its performance evaluation reviews on the primary activities of the PSC, as described previously. As a PSC performs other less prominent functions (e.g., submission of fraud alerts) the PSC's government task leader (GTL) addresses any issues that arise. Furthermore, as discussed above, CMS is already working to find more precise measures of PSC performance and anticipate that these measures will cover PSC activities more broadly. We will also reevaluate the enumeration of activities required in the PSC statement of work in order to emphasize the most crucial activities.

OIG Recommendation

The CMS should take steps to ensure that all draft and final performance evaluations reports are issued in accordance with the current timetable.

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CMS Response

We concur with the recommendation. OIG’s perspective on our performance evaluation process has highlighted the shortcomings of the labels we apply to various stages of the PSC evaluation process. CMS has consistently and vigilantly applied the requirements of both the contract and the proposed Medicare integrity program rule regarding annual contract renewal – only PSCs with acceptable performance levels receive contract renewals. While OIG was able to review the ultimate findings regarding each PSC’s performance and the entries in the National Institutes of Health (NIH) database recording those findings, time and resources did not permit OIG to observe the real-time activities of a PSC performance evaluation team (PET).

The PSC performance evaluation process is dynamic, beginning with individual PET members performing their reviews and discussing their respective portions of the record of evaluation (ROE) with fellow team members. When the PET has reached consensus, the PET leader prepares a narrative, cleared by the PET members, to be included in the NIH database. The scores and narrative are presented to the PSC performance evaluation project lead (a Program Integrity Group senior technical advisor) and the PSC project officer. Occasionally, the PET is asked to revisit its findings to resolve inconsistencies between numerical scores and narrative. In those instances, the process repeats.

When the PSC project officer and performance evaluation project lead are satisfied that the ROE, the narrative for the NIH database, and the numerical scores accurately reflect the performance of the PSC, the PSC’s GTL enters the narrative into the NIH database for the contracting officer’s review. The CMS contracting officer reviews the NIH database narrative, discusses any recommended changes with the PET team, and consensus is reached on outcome of the performance evaluation. **At this point, the substantive evaluation of the PSC has reached its ultimate conclusion and the decision whether to renew without competition can be made.**¹ The contracting officer then “releases” the NIH database to the PSC for review. If the PSC disagrees with the evaluation, it may submit rebuttal comments which are then reviewed by the PET and the contracting officer.² When appropriate, an adjustment to the evaluation score or narrative is made in the NIH database. At this point,

¹ If the performance evaluation results approach a score which would prohibit renewal without competition (e.g., a score of “poor”), the internal CMS process is accelerated. Consideration is given to whether a PSC’s comments could realistically demonstrate performance that would overcome a decision to non-renew. If CMS is confident that the evaluation results will remain below the requisite level for renewal without competition, CMS may proceed prior to responding to a PSC’s comments and/or labeling the evaluation “final” in the NIH database.

² The contracting officer, in consultation with the PET, makes a recommendation to the individual one level above the contracting officer as to whether the evaluation narrative or score should be revised.

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the evaluation is termed “finalized” in the NIH database. We will reevaluate our use of the word “finalized” in the performance evaluation criteria and the contract renewal process timetable.

OIG Recommendation

The CMS should establish a means to track and save evaluation milestone dates.

CMS Response

We concur with the recommendation. CMS agrees that a system to enhance the tracking of evaluation milestone dates would be beneficial. Currently, the tracking feature of the NIH database is used, because the Department of Health and Human Services’ policies require use of the NIH database. We are, however, in the process of modifying the reporting system used for PSCs, titled the CMS Accounting, Reporting and Tracking System (CMS ARTS), to capture and track milestone dates that are not captured by the NIH database. For example, the CMS ARTS will track the names of the PET members, the date the review occurred, the date the substantive evaluation concluded, and the date the contract specialist received approval to label the evaluation “final” in the NIH database.

Conclusion

Again, thank you for the opportunity to comment on the report. CMS appreciates the OIG’s feedback on how to improve the PSC performance evaluation process in light of the dilemma CMS faces in its efforts to reward performance without creating perverse incentives.



A C K N O W L E D G M E N T S

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