2. On page 67784, § 1.409(a)(9)–1 is corrected as set out in the following table:

<table>
<thead>
<tr>
<th>Section</th>
<th>Location</th>
<th>Incorrect language</th>
<th>Corrected language</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.409(a)(9)–1</td>
<td>Q&amp;A D–7, column 1, paragraph (a) of A., line 4.</td>
<td>“(b)(4) of D–5A of this section for”:</td>
<td>“(b)(4) of D–5 of this section for”:</td>
</tr>
<tr>
<td>1.409(a)(9)–1</td>
<td>Q&amp;A D–7, column 1, paragraph (a) introductory text of A., last line of the paragraph.</td>
<td>“(2) of this D–7A.”</td>
<td>“(2) of this D–7.”</td>
</tr>
<tr>
<td>1.409(a)(9)–1</td>
<td>Q&amp;A D–7, column 1, paragraph (a)(2)(ii) of A., line 5.</td>
<td>“(a)(3) of D–5A of this section are”.</td>
<td>“(a)(3) of D–5 of this section are”.</td>
</tr>
<tr>
<td>1.409(a)(9)–1</td>
<td>Q&amp;A D–7, column 1, paragraph (b)(1) of A., second line from the bottom of the column.</td>
<td>“paragraph (b)(1), (2), and (3) of D–5A of”.</td>
<td>“paragraph (b)(1), (2) and (3) of D–5 of”</td>
</tr>
<tr>
<td>1.409(a)(9)–1</td>
<td>Q&amp;A D–7, column 2, paragraph (c)(1) of A., line 6.</td>
<td>“(a)(1), (a)(2), or (b) of this D–7A, a plan”</td>
<td>“(a)(1), (a)(2), or (b) of this D–7, a plan”</td>
</tr>
<tr>
<td>1.409(a)(9)–1</td>
<td>Q&amp;A D–7, column 2, paragraph (c)(1) of A., line 10 from the bottom of the paragraph.</td>
<td>“requirements of paragraph (b) of D–5A”.</td>
<td>“requirements of paragraph (b) of D–5”</td>
</tr>
</tbody>
</table>

Cynthia E. Grigsby,  
Chief, Regulations Unit, Assistant Chief Counsel (Corporate).  
[FR Doc. 98–7671 Filed 3–24–98; 8:45 am]  
BILLING CODE 4830–01–P
August 1995 proposals. The changes since the proposals are addressed in the preamble discussions on the relevant sections of part 70 (e.g. § 70.2).

Please send comments directly to Docket A-93-50 at the address previously provided and specify that they are in response to this document. Comments will be forwarded from the Air Docket to the Operating Permits Group of EPA.


Richard D. Wilson,
Acting Assistant Administrator for Air and Radiation.

[FR Doc. 98-7765 Filed 3-24-98; 8:45 am]

BILLING CODE 6560±50±P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Parts 1003, 1005 and 1006

RIN 0991±AA90

Health Care Programs: Fraud and Abuse; Revised OIG Civil Money Penalties Resulting From the Health Insurance Portability and Accountability Act of 1996

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would revise the OIG’s civil money penalty (CMP) authorities, in conjunction with new and revised provisions set forth in the Health Insurance Portability and Accountability Act of 1996. Among other provisions, this proposed rulemaking would codify new CMPs for: Excluded individuals retaining ownership or control interest in an entity; upcoding and claims for medically unnecessary services; offering inducements to beneficiaries; and false certification of eligibility for home health services. This rule would also codify a number of technical and conforming changes consistent with the OIG’s existing sanction authorities.

DATES: To assure consideration, public comments must be delivered to the address provided below by no later than 5 p.m. on May 26, 1998.

ADDRESSES: Pleas mail or deliver your written comments to the following address: Office of Inspector General, Department of Health and Human Services, Attention: OIG-25-P, Room 5527 Cohen Building, 330 Independence Avenue, S.W., Washington, D.C. 20201.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code OIG-25-P.

Comments will be available for public inspection April 8, 1998 in Room 5524 of the Office of Inspector General at 330 Independence Avenue, S.W., Washington, D.C., on Monday through Friday of each week from 8 a.m. to 4:30 p.m., (202) 619±0089.

FOR FURTHER INFORMATION CONTACT: Joel Schaefer, (202) 619±0089, OIG Regulations Officer.

SUPPLEMENTARY INFORMATION:

I. Background

A. Overview of the OIG Civil Money Penalty Authorities

In 1981, Congress enacted the civil money penalty (CMP) statute, section 1128A of the Social Security Act (the Act) (42 U.S.C. 1320a±7a), as one of several administrative remedies to combat increases in health care fraud and abuse. The CMP law authorized the Secretary and the Inspector General to impose CMPs, assessment and program exclusions on individuals and entities whose wrongdoing caused injury to Department programs or their beneficiaries. The statutory penalty and assessment amounts under section 1128A generally provided for a penalty of no more than $2,000 for each item or service at issue, and an assessment in lieu of damages of no more than twice the amount claimed.

Since 1981, Congress has greatly expanded the CMP provisions to apply to numerous types of fraudulent and abusive activities related to Medicare and State health care programs. Specifically, new statutory provisions provided the Secretary and the OIG with the authority to sanction such improper practices as: (1) Hospitals paying physicians to reduce or limit services provided to program beneficiaries; (2) health maintenance organizations (HMOs) failing to provide medically necessary items and services; (3) individuals and entities engaging in certain misleading or fraudulent practices with respect to the marketing and selling of supplemental (Medigap) insurance policies; and (4) hospitals failing to examine and treat, or to properly transfer, emergency room patients (patient dumping).

In 1987, the Medicare and Medicaid Patient and Program Protection Act (MMPPPA), Public Law 100±93, was enacted to improve the ability of the Department “to protect the Medicare and Medicaid programs from fraud and abuse, and to protect the beneficiaries of these programs from incompetent practitioners and from inappropriate and inadequate care.” The MMPPPA significantly revised and expanded the OIG’s CMP and exclusion sanction authorities. Final OIG regulations addressing amendments to out exclusion and CMP authorities resulting from Public Law 100±93 were published in the Federal Register on January 29, 1992 (57 FR 3298).

B. The Health Insurance Portability and Accountability Act of 1996

In the first significant amendments to the OIG’s sanction authorities since the MMPPPA, the Health Insurance Portability and Accountability Act (HIPAA) of 1996, Public Law 104±191, sets forth a number of important improvements to the OIG’s authorities intended to curtail and eliminate health care fraud and abuse. With regard to the sanction authorities, HIPAA expanded the scope of certain basic fraud authorities by extending the application of current CMP provisions beyond those funded by the Department to include all Federal health care programs. The HIPAA also significantly revised and strengthened the OIG’s existing CMP authorities pertaining to violations under Medicare and the State health care programs.

Among other provisions related to our CMP authority, HIPAA (1) increases the maximum penalty amounts per false claim from $2,000 to $10,000; (2) allows CMPs to be assessed for incorrect coding, medically unnecessary services, and persons offering remuneration to induce a program beneficiary to order services; (3) establishes a new CMP for the false certification of eligibility for Medicare-covered home health services.

While the majority of these revisions to the OIG’s CMP authorities under section 1128A of the Act are effective on January 1, 1997,1 these provisions do not allow the Department some policy discretion in their implementation. As a result, we are developing this proposed rulemaking to address these HIPAA penalty provisions, along with other technical revisions and conforming policy changes to the OIG’s sanction authorities codified in 42 CFR parts 1003, 1005, and 1006.

1 Section 232 of HIPAA applies to certifications made on or after August 21, 1996, the enactment date of the statute.