

BILLING CODE 6560-50-C

III. Alternative Test Methods

Alternative test methods may be used upon obtaining the written approval of the EPA.

[FR Doc. 99-32760 Filed 12-20-99; 8:45 am]

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Office of Inspector General**

**42 CFR Part 1001**

RIN 0991-AA91

**Federal Health Care Program: Fraud and Abuse; Statutory Exception to the Anti-Kickback Statute for Shared Risk Arrangements; Correction**

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

**ACTION:** Interim final rule with comment period; correction amendment.

**SUMMARY:** This document contains corrections to the interim final regulations which were published in the **Federal Register** on Friday, November 19, 1999 (64 FR 63504). These regulations established two new safe harbors from the anti-kickback statute (section 1128B(b) of the Social Security Act) to provide protection for certain managed care arrangements. A number of inadvertent errors appeared in both the preamble and in the text of the regulations that warrant clarification or revision. As a result, we are setting forth these revisions in order to assure the technical correctness of that document and the regulations.

**EFFECTIVE DATE:** December 21, 1999.

**FOR FURTHER INFORMATION CONTACT:** Joel Schaer, (202) 619-0089, OIG Regulations Officer.

**SUPPLEMENTARY INFORMATION:** The HHS Office of Inspector General (OIG) issued interim final regulations on November 19, 1999 (64 FR 63504) that set forth two new safe harbors from the anti-kickback statute to provide protection for certain managed care arrangements. In that interim final rule, a number of inadvertent errors appeared in the preamble and in 42 CFR part 1001 which are now being corrected.

In the preamble on page 63505, second column, an extra bullet point was inserted before the words "Underwriters/National Association of Life Underwriters." As corrected, the eleventh bullet point appearing in column two should read as "Independent Insurance Agents of America/National Association of Health

Underwriters/National Association of Life Underwriters."

On page 63507 of the preamble, in the third column, second paragraph, the reference to "paragraph (1)(i)(A)(IV)" should be corrected to read as "paragraph (1)(i)(A)(4)." Similarly, in the third paragraph on this page, the reference to "§ 1001.952(t)(1)(i)(A)(IV)" should be corrected to read as "§ 1001.952(t)(i)(A)(4)."

In the first column on page 63508, in the second full paragraph, line 15, the words "or cost" should be inserted after the words "programs on a fee-for-service."

On page 63511, in the first column, the first line of the first full paragraph, the regulatory reference "§ 1001.965(u)(2)(i)(B)" should be corrected to read as "§ 1001.952(u)(1)(i)(B)." In addition, in the third full paragraph in column one on the same page, on the fourth and fifth lines, the parenthetical phrase "(paragraphs (u)(1)(i)(C)(I)-(III))" is revised to read as "(paragraphs (u)(1)(i)(C)(1)-(3))." Lastly, in the last paragraph in column one, the parenthetical reference "(paragraph (u)(1)(i)(C)(IV))" should be corrected to read as "(paragraph (u)(1)(i)(C)(4))."

In addition, we are correcting the regulatory text that was set forth in § 1001.952(t). In the regulations text on page 63513, § 1001.952(t)(1)(i)(B) is amended by adding the words "or cost" after the words "fee-for-service." In addition, in § 1001.952(t)(1)(ii)(B), we are (1) adding the words "for or" after the phrase "receives remuneration in return" and (2) are adding the words "or cost" after the words "fee-for-service." These words were inadvertent omitted in the November 19, 1999 interim final rule.

**List of Subjects in 42 CFR Part 1001**

Administrative practice and procedure, Fraud, Grant programs—health, Health facilities, Health professions, Maternal and child health, Medicaid, Medicare, Social Security.

Accordingly, 42 CFR part 1001 is corrected by making the following correcting amendments:

**PART 1001—PROGRAM INTEGRITY—MEDICARE AND STATE HEALTH CARE PROGRAMS**

1. The authority citation for part 1001 continues to read as follows:

**Authority:** 42 U.S.C. 1302, 1320a-7, 1320a-7b, 1395u(j), 1395y(d), 1395y(e), 1395cc(b)(2)(D), (E) and (F), and 1395hh; and sec. 2455, Pub. L. 103-355, 108 Stat. 3327 (31 U.S.C. 6101 note).

2. Section 1001.952 is amended by republishing the introductory text, and by revising paragraphs (t)(1)(i)(B) and (t)(1)(ii)(B) to read as follows:

**§ 1001.952 Exceptions.**

The following payment practices shall not be treated as a criminal offense under section 1128B of the Act and shall not serve as the basis for an exclusion:

\* \* \* \* \*

(t) *Price reductions offered to eligible managed care organizations.* \* \* \*

(1) \* \* \*

(i) \* \* \*

(B) In establishing the terms of the agreement, neither party gives or receives remuneration in return for or to induce the provision or acceptance of business (other than business covered by the agreement) for which payment may be made in whole or in part by a Federal health care program on a fee-for-service or cost basis.

\* \* \* \* \*

(ii) \* \* \*

(B) In establishing the terms of the agreement, neither party gives or receives remuneration in return for or to induce the provision or acceptance of business (other than business covered by the agreement) for which payment may be made in whole or in part by a Federal health care program on a fee-for-service or cost basis.

\* \* \* \* \*

Dated: December 14, 1999.

**Joel Schaer,**

*OIG Regulations Officer.*

[FR Doc. 99-32940 Filed 12-20-99; 8:45 am]

BILLING CODE 4152-01-P

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

**44 CFR Part 64**

[Docket No. FEMA-7725]

**Suspension of Community Eligibility**

**AGENCY:** Federal Emergency Management Agency, FEMA.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain