

external partnerships to advance the science, practice and workforce for eliminating health disparities inside/outside CDC; (6) maintains critical linkages with federal partners including the Office of the Secretary, Department of Health and Human Services, and represents CDC on related scientific and policy committees; (7) establishes external advisory capacity and internal advisory and action capacity; (8) improves support of efforts to improve minority health and achieve health equity in the U.S. by collaborating with CDC's National Centers and other entities; (9) synthesizes, disseminates, and encourages use of scientific evidence regarding effective interventions to achieve health disparities elimination outcomes; (10) analyzes trends in and determinants of health disparities to provide decision support to CDC's Executive Leadership in allocating CDC resources to agency-wide programs for surveillance, research, intervention and evaluation; (11) positions CDC to address relevant provisions in the 2010 Patient Protection and Affordable Care Act that address health disparities; (12) strengthens CDC's global health work to achieve equity; (13) supports CDC's response to public health emergencies in vulnerable populations; and (14) ensures administrative effectiveness and efficiency of agency-wide efforts to achieve health equity.

II. Delegation of Authority: All delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegation, provided they are consistent with this reorganization.

Authority: 44 U.S.C. 3101.

Dated: July 27, 2011.

Carlton Duncan,

Acting Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2011-19739 Filed 8-3-11; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of Modified or Altered System

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

ACTION: Notice of Modified or Altered System of Records (SOR).

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to modify or alter a SOR titled, "Medicare Advantage Prescription Drug (MARx) System, No. 09-70-4001," last modified at 70 FR 60530 (October 18, 2005). CMS proposes to broaden the data collected and stored by this system as part of a redesign and modernization of the MARx System. On December 8, 2003, Congress passed the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108-173). MMA amended the Social Security Act (the Act) by adding the Medicare Part D Program under Title XVIII and mandated that CMS establish a voluntary Medicare prescription drug benefit program effective January 1, 2006. Under the Medicare Part D benefit, the Act allows Medicare payment to plans that contract with CMS to provide qualified Part D prescription drug coverage as described in 42 Code of Federal Regulations (CFR) 423.401. The MARx System processes all enrollment/disenrollment transactions associated with the Part D program.

The modified MARx System will accept and store Health Plan-supplied beneficiary residence addresses on an initial Part C and/or Part D enrollment or a subsequent record update transaction from the Plan. The main source of beneficiary residence address is the Social Security Administration (SSA). The address SSA provides, however, may not be the beneficiary's residence address. Beneficiary addresses are initially provided by SSA from the beneficiary's enrollment in Part A and/or Part B, and frequently reflect an address of a representative payee or a Post Office (P.O.) Box, not the residence of the beneficiary. This limits the effectiveness of geographically-sensitive Plan payment decisions. Plans have more accurate beneficiary address information, which is updated on a case-by-case basis. CMS wishes to allow this data to be transmitted in initial enrollment and subsequent record update transactions from the Plans, and additionally translated into valid residence address State and County Codes for subsequent use in service area determination. Support for Plan-supplied residence address will improve the accurate application of geographically sensitive rates in Plan payment calculation. The Plan-supplied beneficiary residence address will be updated and saved with the beneficiary's enrollment data in the MARx System. The residence address provided by the Plan will only apply to

periods when the beneficiary is enrolled in that Plan.

We propose to modify existing routine use number 1 that permits disclosure to agency contractors and consultants to include disclosure to CMS grantees who perform a task for the agency. CMS grantees, charges with completing projects or activities that require CMS data to carry out that activity, are classified separate from CMS contractors and/or consultants. The modified routine use will remain as routine use number 1. We will delete routine use number 7 authorizing disclosure to support constituent requests made to a congressional representative. If an authorization for the disclosure has been obtained from the data subject, then no routine use is needed.

We will broaden the scope of published routine uses number 8 and 9, authorizing disclosures to combat fraud and abuse in the Medicare and Medicaid programs to include combating "waste" which refers to specific beneficiary/recipient practices that result in unnecessary cost to all Federally-funded health benefit programs. We will add a new routine use authorizing disclosure of individually identifiable information to assist in efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in these systems of records.

We are modifying the language in the remaining routine uses to provide a proper explanation as to the need for the routine use and to provide clarity to CMS's intention to disclose individual-specific information contained in this system. The routine uses will then be prioritized and reordered according to their usage. We will also take the opportunity to update language in the administrative sections to correspond with language used in other CMS SORs. We propose to assign a new CMS identification number to this system to simplify the obsolete and confusing numbering system originally designed to identify the Bureau, Office, or Center that maintained information in the Health Care Financing Administration systems of records. The new assigned identifying number for this system should read: System No. 09-70-0588.

The primary purpose of the SOR is to maintain a master file of Medicare Advantage (MA) and Medicare Advantage Prescription Drug (MA-PD) plan members for accounting and payment control; expedite the exchange of data with MA and MA-PD; control the posting of pro-rata amounts to the Part B deductible of currently enrolled

MA members; and track participation of the prescription drug benefits provided under prescription drug plans (PDPs) and Medicare employer plans.

Information in this system is disclosed to: (1) Support regulatory, reimbursement, and policy functions performed by a contractor, consultant, or CMS grantee contracted by the Agency; (2) support another Federal or State agency, agency of a state government, an agency established by state law, or its fiscal agent; (3) assist providers and suppliers of service directly or dealing through contractors, fiscal intermediaries (FI) or carriers for the administration of Title XVIII Medicaid state agency; (4) assist third party contacts in situations where the party to be contacted has, or is expected to have information relating to the individual's capacity to manage his or her affairs; (5) assist insurance companies, third party administrators, employers, self-insurers, managed care organizations, and other supplemental insurers; (6) facilitate research on the quality and effectiveness of care provided, as well as payment-related projects; (7) support litigation involving the Agency; (8) combat fraud and abuse in certain health benefits programs, and (9) assist in a response to a suspected or confirmed breach of the security or confidentiality of information. CMS has provided background information about the modified system 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 routine uses, CMS invites comments on all portions of this notice. See "Effective Dates" section for comment period.

DATES: Effective Dates: CMS filed a modified or altered system report 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 July 28, 2011. To ensure that all parties have adequate time in which to comment, the modified or altered SOR, including routine uses, will become effective 40 days from the publication of the notice, or from the date it was submitted to OMB and the Congress, whichever is later, unless CMS receives comments that require alterations to this notice.

ADDRESSES: The public should address comments to: CMS Privacy Officer, Division of Information Security & Privacy Management (DISPM), CMS, Room N1-24-08, 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: Ronald Graham, Director, Division of MA & Part D Application Analysis, Information Services Design and Development Group, Office of Information Services, CMS, Room N3-18-07, 7500 Security Boulevard, Baltimore, Maryland 21244-1850. The telephone number is 410-786-1513.

SUPPLEMENTARY INFORMATION: CMS will redesign and modernize the MARx System to simplify the data model, modernize the design to build independent component services, and align the system processes to the business cycle. Taking a business-centric approach to the design of this system will better meet customer and CMS needs while reducing maintenance costs. This will provide CMS with a more flexible system able to respond to changing and evolving programmatic needs with greater immediacy than is possible today with the legacy MARx design.

The redesign and modernization of the MARx System will provide enhanced Medicare Part C and Part D functionality to improve processing efficiencies and better support current and future business needs to: (1) Receive, validate and disseminate data for beneficiary membership in Part C and Part D Plans; (2) Calculate and disseminate beneficiary premium amounts, including dissemination to premium withholding agencies; and (3) Calculate and disseminate Plan payment amounts.

I. Description of the Modified System of Records

A. Statutory and Regulatory Basis for the System

Authority for maintenance of the system is given under Section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108-173) amended the Title XVIII of the Social Security Act. Authority for maintenance of the system is also given under the provisions of §§ 1833(a)(1)(A), 1860, 1866, and 1876 of Title XVIII of the Act (42 U.S.C. 1395(A)(1)(a), 1395cc, and 1395mm).

B. Collection and Maintenance of Data in the System

The system includes information on recipients of Medicare hospital insurance (Part A), Medicare medical

insurance (Part B), and recipients of the Prescription Drug Benefits Program (Part D) enrolled in the Medicare Advantage (MA) Program (Part C). The system also includes information about a beneficiary's entitlement to Medicare benefits and enrollment in Medicare Programs, prescription drug coverage and supplementary medical claims information. The system collects identifying information such as beneficiary name, health insurance claim number (HICN), social security number, and other demographic information such as residence address.

II. Agency Policies, Procedures, and Restrictions on Routine Uses

A. The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a "routine use." The government will only release MARx information that can be associated with an individual as provided for under "Section III. Proposed Routine Use Disclosures of Data in the System." Both identifiable and non-identifiable data may be disclosed under a routine use.

CMS will only collect the minimum personal data necessary to achieve the purpose of MARx. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from the SOR will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason data is being collected; e.g., maintain a master file of MA and MA-PD plan members for accounting and payment control; expedite the exchange of data with MA and MA-PD; control the posting of pro-rata amounts to the Part B deductible of currently enrolled MA members; and track participation of the prescription drug benefits provided under private prescription drug plans and Medicare employer plans.
2. Determines that the purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

- a. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

b. There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

b. Remove or destroy at the earliest time all patient-identifiable information; and

c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data are valid and reliable.

III. Proposed Routine Use Disclosures of Data in the System

A. Entities Who May Receive Disclosures Under Routine Use

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the MARx without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. CMS is not proposing to establish any new or modify any of the following existing routine use disclosures of information maintained in the system as part of the redesign and modernization of the MARx System:

1. To Agency contractors, consultants, or CMS grantees that have been contracted by the Agency to assist in accomplishment of a CMS function relating to the purposes for this system and who need access to the records in order to assist CMS.

CMS contemplates disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing a CMS function relating to purposes for this system.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor, consultant, or CMS grantees whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor, consultant, or CMS grantees from using

or disclosing the information for any purpose other than that described in the contract and requires the contractor, consultant, or CMS grantees to return or destroy all information at the completion of the contract.

2. To another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or

c. Assist Federal/state Medicaid programs within the state.

Other Federal or state agencies in their administration of a Federal health program may require MARx information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

Disclosure under this routine use shall be used by state Medicaid agencies pursuant to agreements with the HHS for determining Medicaid and Medicare eligibility, for quality control studies, for determining eligibility of recipients of assistance under Titles IV, XVIII, and XIX of the Act, and for the administration of the Medicaid program. Data will be released to the state only on those individuals who are patients under the services of a Medicaid program within the state or who are residents of that state.

CMS also contemplates disclosing information under this routine use in situations in which state auditing agencies require MARx information for auditing state Medicaid eligibility considerations. CMS may enter into an agreement with state auditing agencies to assist in accomplishing functions relating to purposes for this system to providers and suppliers of services directly or through fiscal intermediaries or carriers for the administration of Title XVIII of the Act.

3. To assist providers and suppliers of services directly or through fiscal intermediaries or carriers for the administration of Title XVIII of the Act.

Providers and suppliers of services require MARx information in order to establish the validity of evidence or to verify the accuracy of information presented by the individual, as it concerns the individual's entitlement to benefits under the Medicare program, including proper reimbursement for services provided.

4. To third party contacts in situations where the party to be contacted has, or is expected to have information relating to the individual's capacity to manage his or her affairs or to his or her eligibility for, or an entitlement to, benefits under the Medicare program and,

a. The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exists: The individual is confined to a mental institution, a court of competent jurisdiction has appointed a guardian to manage the affairs of that individual, a court of competent jurisdiction has declared the individual to be mentally incompetent, or the individual's attending physician has certified that the individual is not sufficiently mentally competent to manage his or her own affairs or to provide the information being sought, the individual cannot read or write, cannot afford the cost of obtaining the information, a language barrier exist, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

b. The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: The individual's entitlement to benefits under the Medicare program, the amount of reimbursement, and in cases in which the evidence is being reviewed as a result of suspected fraud and abuse, program integrity, quality appraisal, or evaluation and measurement of activities.

Third party contacts require MARx information in order to provide support for the individual's entitlement to benefits under the Medicare program; to establish the validity of evidence or to verify the accuracy of information presented by the individual, and assist in the monitoring of Medicare claims information of beneficiaries, including proper reimbursement of services provided.

5. To insurance companies, third party administrators (TPA), employers, self-insurers, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, group health plans (*i.e.*, health maintenance organizations (HMOs) or a competitive medical plan with a Medicare contract, or a Medicare-approved health care prepayment plan (HCPP)), directly or through a contractor, and other groups providing protection for their enrollees. Information to be disclosed shall be

limited to Medicare entitlement data. In order to receive the information, they must agree to:

a. Certify that the individual about whom the information is being provided is one of its insured or employees, or is insured and/or employed by another entity for whom they serve as a TPA;

b. Utilize the information solely for the purpose of processing the identified individual's insurance claims; and

c. Safeguard the confidentiality of the data and prevent unauthorized access.

Other insurers, TPAs, HMOs, and HCPPs may require MARx information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

6. To an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, the restoration or maintenance of health, or payment-related projects.

MARx data will provide for research, evaluation, and epidemiological projects, a broader, longitudinal, national perspective of the status of Medicare beneficiaries. CMS anticipates that many researchers will have legitimate requests to use these data in projects that could ultimately improve the care provided to Medicare beneficiaries and the policy that governs the care.

7. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The Agency or any component thereof, or

b. Any employee of the Agency in his or her official capacity, or

c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

Whenever CMS is involved in litigation, or occasionally when another party is involved in litigation and CMS's policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court, or adjudicatory body involved.

8. To a CMS contractor (including, but not limited to FIs and carriers) that assists in the administration of a CMS-administered health benefits program,

or to a CMS grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

CMS contemplates disclosing information under this routine use only in situations in which CMS may enter into a contract or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud and abuse.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or CMS grantee whatever information is necessary for the contractor or CMS grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or CMS grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or CMS grantee to return or destroy all information.

9. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

Other agencies may require MARx information for the purpose of combating fraud and abuse in such Federally-funded programs.

10. To appropriate Federal agencies, Department officials and Agency contractors that need access to identifiable information to provide assistance to the Department's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information. In order to receive the information, CMS must:

a. Determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. Determines that the purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form,

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) There is reasonable probability that the objective for the use would be accomplished;

c. Requires the recipient of the information to:

(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the disclosure, and

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual, or

(b) When required by law;

d. Secures a written statement attesting to the information recipient's understanding of and willingness to abide by these provisions and complete a Data Use Agreement (CMS Form 0235) in accordance with current CMS policies.

Other Federal agencies and contractors may require MARx information for the purpose of assisting in a respond to a suspected or confirmed breach of the security or confidentiality of information.

B. Additional Circumstances Affecting Routine Use Disclosures

This system contains Protected Health Information as defined by HHS regulation "Standards for Privacy of Individually Identifiable Health Information" (45 CFR parts 160 and 164, 65 FR 82462 (12-28-00), Subparts A and E. The protected health information is collected from the Plan during the enrollment process and passed onto the Medicare Beneficiary Database. These elements include the Beneficiary Name, Sex, Date of Birth, and Health Insurance Claim Number. Disclosures of Protected Health Information authorized by these routine uses may only be made if, and as, permitted or required by the "Standards for Privacy of Individually Identifiable Health Information."

In addition, our policy will be to prohibit release even of data not directly identifiable, except pursuant to one of the routine uses or if required by law, if CMS determines there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the

enrollees could, because of the small size, use this information to deduce the identity of the beneficiary).

IV. Safeguards

CMS has safeguards in place for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations include but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A-130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: All pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

V. Effects of the Modified System on Individual Rights

CMS proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate information only as prescribed therein. CMS will only disclose the minimum personal data necessary to achieve the purpose of MARx. Disclosure of information from the system will be approved only to the extent necessary to accomplish the purpose of the disclosure. CMS has assigned a higher level of security clearance for the information maintained in this system in an effort to provide added security and protection of data in this system.

CMS will take precautionary measures to minimize the risks of

unauthorized access to the records and the potential harm to individual privacy or other personal or property rights. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure from the proposed system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act.

CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of the disclosure of information relating to individuals.

Dated: July 28, 2011.

Michelle Snyder,

Deputy Chief Operating Officer, Centers for Medicare & Medicaid Services.

SYSTEM NO. 09-70-0588

SYSTEM NAME:

"Medicare Advantage Prescription Drug (MARx)" System HHS/CMS/CM.

SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive.

SYSTEM LOCATION:

CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244-1850.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system includes information on recipients of Medicare hospital insurance (Part A) and Medicare medical insurance (Part B), and recipients of the Prescription Drug Benefits Program (Part D) enrolled in the Medicare Advantage (MA) Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes information about a beneficiary's entitlement to Medicare benefits and enrollment in Medicare Programs, prescription drug coverage and supplementary medical claims information. The system contains identifying information such as beneficiary name, health insurance claim number, social security number, and other demographic information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is given under Section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108-173), which amended the Title XVIII of the Social Security Act. Authority for maintenance of the system is also given under the provisions of §§ 1833(a)(1)(A), 1860D-1 to D-43, 1866, and 1876 of Title XVIII of the Act (42 U.S.C. 1395(A)(1)(a), 1395w-101 to 1395w-153, 1395cc, and 1395mm).

PURPOSE(S) OF THE SYSTEM:

The primary purpose of the SOR is to maintain a master file of Medicare Advantage (MA) and Medicare Advantage Prescription Drug (MA-PD) plan members for accounting and payment control; expedite the exchange of data with MA and MA-PD; control the posting of pro-rata amounts to the Part B deductible of currently enrolled MA members; and track participation of the prescription drug benefits provided under prescription drug plans (PDPs) and Medicare employer plans. Information in this system is disclosed to: (1) Support regulatory, reimbursement, and policy functions performed by a contractor, consultant, or CMS grantee contracted by the Agency; (2) support another Federal or State agency, agency of a state government, an agency established by state law, or its fiscal agent; (3) assist providers and suppliers of service directly or dealing through contractors, fiscal intermediaries (FI) or carriers for the administration of Title XVIII (4) assist third party contacts in situations where the party to be contacted has, or is expected to have information relating to the individual's capacity to manage his or her affairs; (5) assist insurance companies, third party administrators, employers, self-insurers, managed care organizations, and other supplemental insurers; (6) facilitate research on the quality and effectiveness of care provided, as well as payment-related projects; (7) support litigation involving the Agency; (8) combat fraud, waste, and abuse in certain health benefits programs, and (9) assist in a response to a suspected or confirmed breach of the security or confidentiality of information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

B. Entities Who May Receive Disclosures Under Routine Use.

These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the MARx without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected.

1. To Agency contractors, consultants, or CMS grantees that have been contracted by the Agency to assist in

accomplishment of a CMS function relating to the purposes for this system and who need access to the records in order to assist CMS.

5. To another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or

c. Assist Federal/state Medicaid programs within the state.

6. To assist providers and suppliers of services directly or through fiscal intermediaries or carriers for the administration of Title XVIII of the Act.

7. To third party contacts in situations where the party to be contacted has, or is expected to have information relating to the individual's capacity to manage his or her affairs or to his or her eligibility for, or an entitlement to, benefits under the Medicare program and,

b. The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exists: The individual is confined to a mental institution, a court of competent jurisdiction has appointed a guardian to manage the affairs of that individual, a court of competent jurisdiction has declared the individual to be mentally incompetent, or the individual's attending physician has certified that the individual is not sufficiently mentally competent to manage his or her own affairs or to provide the information being sought, the individual cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

d. The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: The individual's entitlement to benefits under the Medicare program, the amount of reimbursement, and in cases in which the evidence is being reviewed as a result of suspected fraud and abuse, program integrity, quality appraisal, or evaluation and measurement of activities.

6. To insurance companies, third party administrators (TPA), employers,

self-insurers, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, group health plans (*i.e.*, health maintenance organizations (HMOs) or a competitive medical plan with a Medicare contract, or a Medicare-approved health care prepayment plan (HCPP)), directly or through a contractor, and other groups providing protection for their enrollees. Information to be disclosed shall be limited to Medicare entitlement data. In order to receive the information, they must agree to:

e. Certify that the individual about whom the information is being provided is one of its insured or employees, or is insured and/or employed by another entity for whom they serve as a TPA;

f. Utilize the information solely for the purpose of processing the identified individual's insurance claims; and

g. Safeguard the confidentiality of the data and prevent unauthorized access.

11. To an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, the restoration or maintenance of health, or payment-related projects.

12. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The Agency or any component thereof, or

b. Any employee of the Agency in his or her official capacity, or

c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation and that the use of such records by the DOJ, court or adjudicatory body is compatible with the purpose for which the agency collected the records.

13. To a CMS contractor (including, but not limited to FIs and carriers) that assists in the administration of a CMS-administered health benefits program, or to a CMS grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such programs.

14. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that

administers, or that has the authority to investigate potential fraud, waste, or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such programs.

15. To assist appropriate Federal agencies and Department contractors that have a need to know the information for the purpose of assisting the Department's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records, and the information disclosed is relevant and necessary for the assistance. In order to receive the information, CMS must:

a. Determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. Determines that the purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form,

(2) is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) there is reasonable probability that the objective for the use would be accomplished;

c. Require the recipient of the information to:

(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the disclosure, and

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual, or

(b) When required by law.

d. Secure a written statement attesting to the information recipient's understanding of and willingness to abide by these provisions and complete a Data Use Agreement (CMS Form 0235) in accordance with current CMS policies.

C. ADDITIONAL CIRCUMSTANCES AFFECTING ROUTINE USE DISCLOSURES

This system contains Protected Health Information as defined by HHS

regulation "Standards for Privacy of Individually Identifiable Health Information" (45 CFR Parts 160 and 164, 65 Fed. Reg. 82462 (12-28-00), Subparts A and E. The protected health information is collected from the Plan during the enrollment process and passed onto the Medicare Beneficiary Database. These elements include the Beneficiary Name, Sex, Date of Birth, and Health Insurance Claim Number. Disclosures of Protected Health Information authorized by these routine uses may only be made if, and as, permitted or required by the "Standards for Privacy of Individually Identifiable Health Information."

In addition, our policy will be to prohibit release even of data not directly identifiable, except pursuant to one of the routine uses or if required by law, if CMS determines there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic storage media.

RETRIEVABILITY:

Information can be retrieved by name and health insurance claim number of the beneficiary.

SAFEGUARDS:

CMS has safeguards in place for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations include but are not limited to: The Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the

Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A-130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: All pertinent National Institute of Standards and Technology publications; the HHS Information Systems Program Handbook and the CMS Information Security Handbook.

RETENTION AND DISPOSAL:

Records are maintained with identifiers for all transactions after they are entered into the system for a period of 6 years and 3 months. Records are housed in both active and archival files. All claims-related records are encompassed by the document preservation order and will be retained until notification is received from the Department of Justice.

SYSTEM MANAGER AND ADDRESS:

Director, Division of MA & Part D Application Analysis, Information Services Design and Development Group, Office of Information Services, CMS.

NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the systems manager who will require the system name, SSN, address, date of birth, sex, and for verification purposes, the subject individual's name (woman's maiden name, if applicable). Furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay.

RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7).

RECORD SOURCE CATEGORIES:

Data for this system is collected from MAs, MA-PDs, and PDPs (which obtained the data from the individuals concerned); Social Security Administration; and the Medicare Beneficiary Database, 1-800 Medicare Choice, and Health Plan Management System.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Request for Assistance for Child Victims of Human Trafficking
OMB No.: 0970-0362.

Description: The William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008, Public Law 110-457, directs the U.S. Secretary of Health and Human Service (HHS), upon receipt of credible information that a non-U.S. citizen, non-Lawful Permanent Resident (alien) child may have been subjected to a severe form of trafficking in persons and is seeking Federal assistance available to victims of trafficking, to promptly determine if the child is eligible for interim assistance. The law further directs the Secretary of HHS to determine if a child receiving interim assistance is eligible for assistance as a victim of a severe form of trafficking in persons after consultation with the Attorney General, the Secretary of Homeland Security, and nongovernmental organizations with expertise on victims of severe form of trafficking.

In developing procedures for collecting the necessary information from potential child victims of trafficking, their case managers, attorneys, or other representatives to allow HHS to grant interim eligibility, HHS devised a form. HHS has determined that the use of a standard form to collect information is the best way to ensure requestors are notified of their option to request assistance for child victims of trafficking and to make prompt and consistent determinations about the child's eligibility for assistance.

Specifically, the form asks the requestor for his/her identifying