



Division of Medicaid and Children's Health, Region VI

January 15, 2009

DALLAS REGIONAL MEDICAL SERVICES LETTER NO. 09-001

TO: State Agencies Administering Approved Medical Assistance Plans

SUBJECT: Asset Verification System (AVS) Requirements – Section 1940 of the Social Security Act

The purpose of this letter is to provide information about a new asset verification system (AVS) requirement under the Medicaid program. Title VII, section 7001(d) of P.L. 110-252 (Supplemental Appropriations Act of 2008) added a new section 1940 to the Social Security Act. Section 1940 requires all States to implement a system for verifying the assets of aged, blind or disabled applicants and recipients of Medicaid.

The pertinent AVS program requirements are summarized in the "Application of Asset Verification Requirements to the Medicaid Program" section below. We will be forwarding further information/instructions about most of those requirements as soon as we can.

However, the purpose of this memorandum is to provide more detailed information specifically about the "consistent with" and State implementation phase-in requirements of the statute, which are underlined in the summary below. Because of the implementation timeframes required by the statute, and the need for States and potential contractors to know what will be required to have an AVS that meets statutory requirements, we want to provide information on these two aspects of the AVS program provisions to the States as early in the implementation process as possible.

Background

In September 2003, the Social Security Administration (SSA) awarded a contract to design, develop and operate an Internet-based asset verification system that in the future could replace the current process for verifying assets under the Supplemental Security Income (SSI) program. Currently, asset verification relies on a manual process under which SSA, based on information provided by the SSI applicant, attempts to verify the applicant's assets by directly contacting the individual's designated financial institution.

The contractor initially piloted its system in New York and New Jersey. California was added on November 1, 2007. The contractor's system involves a secure automated Internet-based network between SSA's district offices and various financial institutions such as banks and savings and loans. The contractor negotiated agreements with the financial institutions to participate in the asset verification project. The contractor also serves as the interface between the SSA district office and the various financial institutions.

Briefly, a district office electronically forwards a request for asset information for an individual applying for SSI to the contractor using the secure system. The contractor in turn forwards the request to the appropriate financial institutions, based on parameters that are part of the contractor's system. Each financial institution responds to the contractor, for the most part electronically, providing any information it has about assets the applicant has in the institution. The contractor then forwards this information to the SSA district office, where the information is used to determine whether the applicant meets SSI's resource requirements.

Application of Asset Verification Requirements to the Medicaid Program

P.L. 110-252 requires all States to implement a system for verifying the assets of aged, blind or disabled Medicaid applicants and recipients.

Under the new section 1940:

- Each State is required to amend its State plan to verify assets of aged, blind and disabled Medicaid applicants and recipients, using a system that is consistent with the approach taken by SSA in their SSI asset verification pilot project; i.e., an electronic verification system.
- The Secretary is directed to phase in this requirement starting with the States in which SSA's pilot project is operating; i.e., New York, New Jersey and California. These States are required to implement an asset verification system by the end of FY 2009 (September 30, 2009).
- The Secretary is further directed to require all other States to implement asset verification systems in a manner that results in the following percentages of aged, blind and disabled applicants being subject to asset verification:
 - 12.5 percent by the end of FY 2009,
 - 25 percent by the end of FY 2010,
 - 50 percent by the end of FY 2011,
 - 75 percent by the end of FY 2012, and
 - 100 percent by the end of FY 2013.
- States are required to submit a State plan amendment which describes how they will implement an asset verification system. Plan amendments will have to be submitted at least six months before the implementation deadline applicable to each State.
- The Secretary shall consult with the States involved, and take into account the feasibility of implementing an asset verification system.
- States may select and enter into a contract with a public or private entity for purposes of implementing and operating an asset verification system.
- The Secretary shall provide technical assistance to the States with regard to implementation of this provision.
- States are required to furnish reports on their verification activities to the Secretary. The Secretary is to determine the frequency, format, and content of those reports.
- Federal reimbursement for costs of implementing and operating States' asset verification systems is at a 50 percent match rate.
- Territories are exempt.

Penalty for Non-Compliance

If a State fails to implement an asset verification system as required by section 1940, FFP for services provided to aged, blind or disabled individuals for whom assets should have been verified will be withheld, unless--

- The State demonstrates to the Secretary's satisfaction that the State made a good faith effort to comply;
- No later than 60 days after the date of a finding of non-compliance, the State submits (and the Secretary approves) a corrective action plan; and
- No later than 12 months after submission of the corrective action plan, the State fulfills the terms of the plan.

"Consistent With" Requirements

Section 1940(b)(2) of the Act defines an AVS program as one that verifies individual assets in a manner consistent with the approach used by SSA in its SSI asset verification pilot project. However, "consistent with" does not necessarily mean "identical to." In other words, we believe a State can implement an AVS program that meets the general requirement of being consistent with SSA's approach without having to have a system that exactly mirrors that approach.

States have a number of options for implementing an AVS program. For example, a State could contract with SSA's pilot project contractor, or with another contractor that has indicated interest in pursuing this kind of work. Or, a State could elect to design and build its own system without the help of a contractor. If a State elected the latter course of action, there are further possibilities for the State to consider in determining how to meet the requirements of the statute.

To assist States in implementing an AVS program that meets the "consistent with" requirement, we have developed what we believe are the criteria an AVS program must meet to be consistent with SSA's approach. Those criteria are listed in Attachment 1. We have kept the criteria as general as possible so as to allow States the maximum flexibility in choosing an approach that works best for each State, while ensuring that each State's AVS program meets the spirit of the legislation.

Implementation Phase-In Requirements

Section 1940(a)(3)(A) of the Act requires the Secretary to require States to implement an AVS program within timeframes described in the second and third bullet points in the "Application of Asset Verification Requirements to the Medicaid Program" section above. To meet the fiscal year percentage goals that apply to States other than New York, New Jersey and California, CMS developed a random selection process based on the FY 2005 MSIS State Summary Data for aged, blind and disabled Medicaid eligibles. The result of the random selection process is shown in Attachment 2. CMS believes this represents the fairest and most effective means of meeting the statutory implementation goals for each fiscal year beginning with FY 2009 and ending with FY 2013.

The number of aged, blind and disabled shown for each State does not include QMBs and SLMBs who are not otherwise eligible for full Medicaid benefits, nor does the number include QIs. Except for 209(b) States, the number of aged, blind and disabled shown for each State does not include those receiving SSI. SSI recipients are excluded in non-209(b) States because in those States, receipt of SSI confers eligibility for Medicaid. Since SSA has already verified an SSI recipient's assets, and a second, independent verification by the State would not be productive.

SSI recipients are included in the number of aged, blind and disabled in 209(b) States because those States use more restrictive eligibility criteria than SSI, which means that receipt of SSI does not make a person eligible for Medicaid. Therefore, the assets of an SSI recipient applying for Medicaid in a 209(b) State must be independently verified by that State.

Consultation with States Requirements

We must emphasize that the statute requires States to implement AVS programs based on the implementation goals discussed previously. But, in selecting States to meet the fiscal year implementation goals, section 1940(a)(3)(B) of the Act also requires the Secretary to consult with States, and take into account the feasibility of implementing an AVS program in each State.

We are aware that States may have issues or problems that could affect their ability to implement a functional AVS program within the time allowed by the statute and the order of implementation shown in Attachment 2. We intend to work with States to resolve any issues/problems on an individual, State-by-State basis through the consultation/feasibility process required by section 1940(a)(3)(B). Further information on this will be forthcoming in the near future.

Please direct any questions regarding this policy change to Suzette Seng of my staff at (214) 767-6478.

Sincerely,



Bill Brooks, Associate Regional Administrator
Division of Medicaid & Children's Health (DMCH)
Centers for Medicare & Medicaid Services (CMS) – Region VI

Enclosure

Attachment 1

AVS

“Consistent With” Requirements

To be “consistent with” the approach taken by SSA in its SSI asset verification pilot, a State’s AVS must meet the following requirements:

- The request and response system must be electronic:
 - Verification inquiries must be sent electronically via the internet or similar means from the State to the financial institution (FI).
 - The system cannot be based on mailing paper-based requests.
 - The system must have the capability to accept responses electronically.
- The system must be secure, based on a recognized industry standard of security (e.g., as defined by the U.S. Commerce Department’s National Institute of Standards and Technology, or NIST).
- The system must establish and maintain a database of FIs that participate in the State’s AVS.
- Verification requests also must be sent to FIs other than those identified by applicants and recipients, based on some logic such as geographic proximity to the applicant’s home address, or other reasonable factors whenever the State determines that such requests are needed to determine or redetermine the individual’s eligibility.
- The verification requests must include a request for information on both open and closed accounts, going back for a period up to 5 years, as determined by the State.
- The State must be able to generate reports on verification activity, including information such as: the number of requests, number of responses, amounts of undisclosed assets found, etc.

Attachment 2

AVS IMPLEMENTATION Randomized List

State	Number of ABDs	Cumulative Number of ABDs	Yearly Target	Over/Under Target
Oregon	31,454			
Washington	63,870			
New Hampshire	25,058			
South Carolina	115,605			
Missouri	241,605			
New Mexico	9,247			
FY 09 - Six States	486,839	486,839	480,807	6,032
Mississippi	88,500			
Oklahoma	125,626			
Georgia	63,336			
Wisconsin	76,995			
Nevada	7,476			
Kentucky	26,685			
Vermont	10,596			
Rhode Island	18,526			
Connecticut	95,988			
FY10 - Nine States	513,728	1,000,567	961,615	38,952
Ohio	409,073			
Hawaii	39,521			
Indiana	171,699			
North Carolina	145,412			
Michigan	134,722			
Wyoming	5,053			
Maryland	39,113			
FY11 - Seven States	944,593	1,945,160	1,923,229	21,931
Illinois	382,214			
Texas	113,328			
Arizona	67,073			
West Virginia	22,793			
Utah	21,646			
Alaska	1,763			
South Dakota	6,109			
Tennessee	103,977			
Florida	192,499			
North Dakota	14,602			
Iowa	44,191			
FY12 - Eleven States	970,195	2,915,355	2,884,844	30,511
Alabama	23,206			
Maine	29,162			
Montana	8,203			
Pennsylvania	235,185			
Idaho	9,070			
D.C.	12,697			
Arkansas	25,894			
Massachusetts	139,096			
Colorado	17,938			
Virginia	183,955			
Kansas	30,015			
Louisiana	39,002			
Minnesota	146,808			
Nebraska	25,388			
Delaware	5,484			
FY13 - Fifteen States	931,103	3,846,458	3,846,458	0