Nebraska SMP
Empowering Seniors To Prevent Healthcare Fraud

SMP Briefs

The SMP (Senior Medicare Patrol) Program educates and empowers people with Medicare to identify and report health care fraud and resolve errors.

There is a SMP Program in every state, the District of Columbia, Guam, U.S. Virgin Islands, and Puerto Rico. Nebraska's SMP Program serves the entire state through a network of eight local coordinators and over 100 volunteers. Visit *www.dhhs.ne.gov/smp* or call 1-800-942-7830

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SCAM ALERT! Some latest scams you should be aware of are listed below. Scams often cross state lines and quickly proliferate throughout the nation.

- A Scottish lottery scam offering certification and proof of authenticity was reported.
- A consumer in Nebraska received repeated calls from someone with a foreign accent saying she had won $1,000,500 but she had to call the number he gave her to claim it. She told him she thought it was a scam and she was calling the police. This savvy senior reported the scam phone call to Nebraska SMP, the police, Better Business Bureau and the Attorney General's Office.
- A consumer reported that Medicare paid for diabetic shoes. The consumer was not a diabetic and she had not ordered the shoes.
- A consumer reports excessive charges when Medicare was paid $1,100 for a urine sample.
- A provider back billed for charges patient had already paid.
- A beneficiary reports that Medicare paid for unsolicited services rendered to her in the parking lot while she was waiting for a ride.
- There were several reports on a home health company contacting veterans and making applications to the Veterans Aid and Attendance Program, a program that pays for care in the home. There have been allegations that the company's representatives falsified signatures of veterans and changed the payee to the vendor rather than the veteran. This matter can be referred to Officer of the Inspector General for the Veterans Affairs http://www4.va.gov/oig/contacts/hotline.asp.
- A Medicare Advantage Plan was sold to a consumer not yet 65 and not on Medicare, and who, at the time of the sale, dropped his group health insurance. The Plan paid numerous bills prior to realizing he was not qualified. The Plan is now demanding that he pay the money back.

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- Consumers in some states have received suspicious phone calls from a Washington, D.C. area code. The caller states he is a government worker notifying the beneficiary the he was to receive a $7,500 grant. The caller states that only 1200 people will get the "Pell" grant. When beneficiaries tried to call the number back, the phone rang once and then disconnected. "Pell" grants are educational grants.
- Given the time of the year, there has been an increase in reports of IRS scams.
- Ongoing mystery shopper scams have been reported. The FBI web site provides information on the mystery shopper schemes: http://www.fbi.gov/cyberinvest/escams.htm .

Warning: Phony Census Workers

The Better Business Bureau encourages everyone to be cooperative and take a few minutes to fill out their census form. However, scammers may capitalize on this opportunity to gain access to your personal information. Census workers may be visiting your home to verify your address and in the second phase, they will gather information about every person living at those addresses. This information will include name, age, gender, race, and other relevant information. Census workers will not ask for your Social Security number or for information about your bank accounts or credit cards. The Better Business Bureau advises you not to invite the worker, or anyone you do not know, into your home and to never give out personal or financial information to anyone who shows up at your door. First, ask to see a photo ID and a badge that shows that the person represents the U.S. Census Bureau. Census workers will have a hand-held device that is used to take your information, a canvas bag and a confidentiality notice. Census workers may contact you by phone, mail or in person but they will never contact you by email. Never trust any email attachments or links in emails that are purported to be from U.S. Census Bureau.

Updated Special Fraud Alert!
Telemarketing by Durable Medical Equipment Suppliers
(Issued by CMS)

Section 1834(a)(17)(A) of the Social Security Act prohibits suppliers of durable medical equipment (DME) from making unsolicited telephone calls to Medicare beneficiaries regarding the furnishing of a covered item, except in three specific situations: (i) the beneficiary has given written permission to the supplier to make contact by telephone; (ii) the contact is regarding a covered item that the supplier has already furnished the beneficiary; or (iii) the supplier has furnished at least one covered item to the beneficiary during the preceding 15 months. Section 1834(a)(17)(B) specifically prohibits payment to a supplier that knowingly submits a claim generated pursuant to a prohibited telephone solicitation. Accordingly, such claims for payment are false and violators are potentially subject to criminal, civil, and administrative penalties, including exclusion from Federal health care programs.

The Office of Inspector General (OIG) has received credible information that some DME suppliers continue to use independent marketing firms to make unsolicited telephone calls to Medicare beneficiaries to market DME, notwithstanding the clear statutory prohibition. Suppliers cannot do indirectly that which they are prohibited from doing directly. OIG has also been made aware of instances when DME suppliers, notwithstanding the clear statutory prohibition, contact Medicare beneficiaries by telephone based solely on treating physicians' preliminary written or verbal orders prescribing DME for the beneficiaries. A physician's preliminary written or verbal order is not a substitute for the requisite written consent of a Medicare beneficiary.

Except in the three specific circumstances described in the statute, section 1834(a)(17)(A) prohibits unsolicited telemarketing by a DME supplier to Medicare beneficiaries, whether contact with a beneficiary is made by the supplier directly or by another party on the DME supplier's behalf. Moreover, a DME supplier is responsible for verifying that marketing activities performed by third parties with which the supplier contracts or otherwise does business do not involve prohibited activity and that information purchased from such third parties was neither obtained, nor derived, from prohibited activity.

If a claim for payment is submitted for items or services generated by a prohibited solicitation, both the DME supplier and the telemarketer are potentially liable for criminal, civil, and administrative penalties for causing the filing of a false claim, as well as criminal and civil penalties for using interstate telephone calls in furtherance of schemes to defraud.

WHAT TO DO IF YOU HAVE INFORMATION ABOUT FRAUD AND ABUSE INVOLVING MEDICARE OR MEDICAID PROGRAMS:

If you have information about DME suppliers or telemarketers engaging in any of the activities described above, contact any of the regional offices of OIG, U.S. Department of Health and Human Services, at the following locations:

Regional Offices States Served Telephone
Boston, MA: CT, ME, NH, RI, VT - 617-565-2664
New York, NY: NJ, PR, VI - 212-264-1691
Philadelphia, PA: DE, DC, MD, VA, WV - 215-861-4586
Atlanta, AL: GA, KY, NC, SC, TN, MS - 404-562-7603
Chicago, IL: IN, MI, MN, OH, WI - 312-353-2740
Dallas, TX: LA, AR, OK, NM - 214-767-8406
Kansas City, MO: ND, SD, MT, KS, IA, CO,
NE, UT, WY - 816-426-4000
San Francisco No., CA: OR, WA, ID, AK - 415-437-7961
Los Angeles So., CA: AZ, NV, HI - 714-246-8302
Miami, FL: 305-530-7756

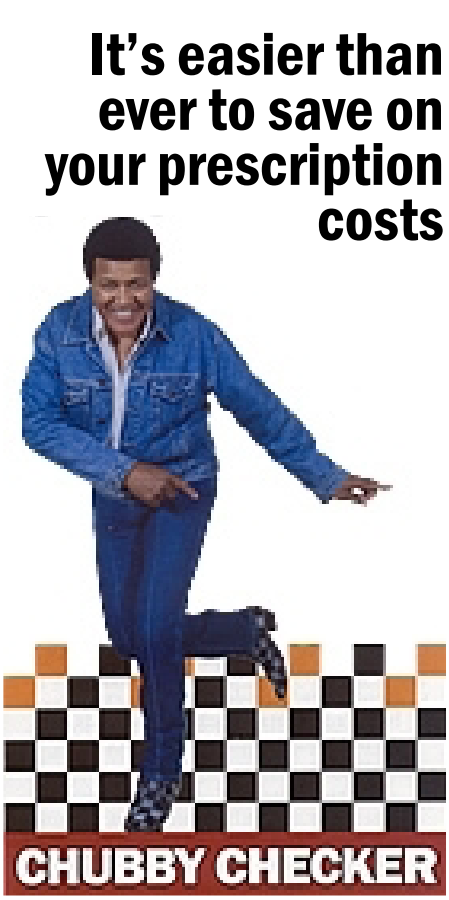
Legislative Update

Changes to the Medicare Improvements for Patients and Providers Act

Recently, Social Security Administration Commissioner Michael Astrue and Rock and Roll Legend Chubby Checker, best known for his hit recording "The Twist," launched a new campaign promoting recent changes in Medicare law. This new "twist" makes it easier to qualify for Extra Help with Medicare prescription drug plan costs, and will streamline the application process for state-based Medicare Savings Programs.

Under changes in the Medicare Improvements for Patients and Providers Act, which took effect January 1, 2010, the cash value of life insurance is eliminated from counting as a resource. The new law also eliminates the

assistance people receive from others to pay for household expenses from counting as income. Lastly, the application for extra help can now start the application process for Medicare Savings Programs, which are state programs that provide help with other Medicare Costs such as paying Medicare Part B premiums.



THE HEALTH CARE & EDUCATION AFFORDABILITY RECONCILIATION ACT of 2010

Sec.1304. of this legislation increases funding for the Health Care Fraud and Abuse Control Fund by $250 million over the next decade. It indexes funds to fight Medicaid fraud based on the increase in the Consumer Price Index.

The Elder Justice Act and the Patient Safety and Abuse Prevention Act included as part of health care reform legislation passed and signed by President Obama has been called the most comprehensive legislation ever to combat elder abuse, neglect and exploitation.

The main provisions of the Elder Justice Act include:

*Adult Protective Services (APS) funding. Provides $400 million ($100 million per year) in first-time dedicated funding for adult protective services. Provides $100 million ($25 million annually) for state demonstration grants to test a variety of methods to improve APS.

*Provides $32.5 million (over 4 years) in grants to support the Long-Term Care Ombudsman Program and an additional $40 million ($10 million annually) in training programs for national organizations and State long-term care ombudsman programs.

*Establishes an Elder Justice Coordinating Council to make recommendations to the Secretary of HHS on the coordination of activities of federal, state, local and private agencies and entities relating to elder abuse, neglect and exploitation. Recommendations contained in report are due in 2 years.

The Patient Safety and Abuse Prevention Act creates a national program of criminal background checks for persons seeking employment in nursing homes and other long-term care facilities.

Elder Justice Coalition Coordinator, Bob Blancato said, "The Elder Justice Coalition is pleased that Congress has recognized and responded to the growing national problem of elder abuse with the passage of these bills. With estimates as high as 5 million cases and with victims of elder financial abuse losing $2.5 billion a year, it was long overdue to act."

Meet our Partners

Nebraska SMP has an active Steering Committee that meets quarterly to discuss SMP related fraud and abuse issues and get updates from partner organizations. Representatives from the following organizations serve on the Steering Committee: SHIIP (Senior Health Insurance Information Program), AARP, TRIAD (a partnership of three organizations – law enforcement, senior citizens and community groups), CIMRO (a quality improvement organization), Medicaid Fraud Control Unit in the Attorney General's Office, representative from the Consumer Protection Unit in Attorney General's Office, Department of Health and Human Services Program Integrity staff, Nebraska Medical Society, IntegriGuard Program Safeguard Contractor, Long-term Care Ombudsman, State Unit on Aging Adult Protective Services, Senior Center Association, Area Agencies on Aging and SMP Director and local coordinators. SMP Briefs features a column written by one of these SMP partners. In this issue the featured article is from MFCU.

Nebraska Attorney General's Medicaid Fraud and Patient Abuse Unit

-By Assistant Attorney General Vicki Adams and Chief Investigator Mark Moraczewski

In July 2004, LB 1084 made Nebraska the 48th state in the nation to establish a Medicaid Fraud Control Unit. LB 1084 amended the "False Medicaid Claims Act" to create a unit with the authority to investigate and prosecute Medicaid provider fraud and patient abuse and neglect. Cases come to the Unit either through referrals from entities such as the Nebraska Department of Health and Human Services, Adult Protective Services or tips to the Medicaid Fraud hotline (1-800-727-6432). The Unit is a separate division of the Nebraska Attorney General's Office and is comprised of two Assistant Attorneys General, one of whom is the director of the unit; two auditors; two investigators; a paralegal; and a legal assistant.

Medicaid Fraud Control Units are charged with the investigation and prosecution of health care providers who defraud the Medicaid program. This authority also extends to the review and prosecution of cases involving abuse, neglect or financial exploitation of patients in health care facilities receiving Medicaid funding. The Units have either statewide criminal prosecution authority or formal procedures for referring cases to local prosecutorial authorities with respect to the detection, investigation and prosecution of suspected criminal violations of the Medicaid program. Some state Units also have authority to pursue civil actions to recover damages pursuant to civil false claims statutes.

The Nebraska Medicaid Fraud and Patient Abuse Unit has the authority to investigate and prosecute both criminally and civilly. Investigations are conducted by sworn certified law enforcement investigators and prosecuted by Medicaid Fraud State Assistant Attorneys General, who can prosecute in the State Court and are cross-designated to prosecute in the Federal Courts. The Unit prosecutes criminally under either the general theft provisions contained in Neb. Rev. Stat. §28 Article 5 or Neb. Rev. Stat. §68-1017. For criminal abuse/neglect matters, prosecution may be made pursuant to Neb. Rev. Stat. §28-386. Since the Unit was established, nearly $190,000.00 in criminal restitution, fines and penalties have been recovered from providers who have defrauded Medicaid.

Since the inception of Nebraska's Medicaid Fraud and Patient Abuse Unit, civil recoveries arising under the "False Medicaid Claims Act" have exceeded $32 million. The potential for a tremendous amount of civil liability is not the only weapon in the unit's arsenal for preventing program fraud. Providers may be excluded from participating in the Nebraska Medicaid program as an administrative sanction. Also, the Unit may make referrals to the Office of the Inspector General for a determination on whether a provider should be excluded nationally from participation in every federal program, including Medicaid and Medicare.

The Nebraska Medicaid Fraud and Patient Abuse Unit has played a substantial role in ensuring the viability of the Medicaid system by restoring and preserving program funds. The Unit is equipped with sophisticated means of ferreting out and pursuing those providers who play the odds that their fraud will go undetected. The potential of criminal charges, the enormity of the financial consequences available under the "False Medicaid Claims Act", and the risk posed to a provider's own livelihood as a result of defrauding Medicaid should serve as powerful deterrents to abusing the Medicaid system. Hopefully an additional side effect, if you will, of the Unit's oversight will be increased efforts on the part of providers to educate themselves and their staff on compliance issues, many of which pertain to the medical necessity and standards of care. Increased awareness of those requirements may serve to actually decrease Medicaid costs by producing healthier patients.

Attorney General Bruning Announces Agreement with LifeLock over Advertising Claims

Nebraska is one of 35 states to settle charges that the LifeLock company used false claims to promote its identity theft protection services. LifeLock, Inc. has agreed to pay $11 million to the Federal Trade Commission and $1 million to the 35 state attorneys general to settle. LifeLock will pay $15,000 in restitution to eligible Nebraskans who signed up for services between April 1, 2005 and March 30, 2009.. The FTC and states will jointly send letters to eligible customers, notifying them of the agreement and how they can opt-in to the settlement according to Attorney General Jon Bruning.

Under the agreement, LifeLock is prohibited from misrepresenting that its services:

- Protect against all types of identity thefts;
- Constantly monitor activity on each of its consumers' consumer reports;
- Always prompt a call from a potential creditor before a new credit account is opened in the customer's name; and
- Eliminate the risk of identity theft.

In a news release issued in March, Bruning said there are steps people can take to protect themselves:

- Obtain a free annual credit report from each of the three major credit-reporting agencies, regardless of whether they have been identify theft victims.
- Monitor bank accounts and credit cards for unauthorized withdrawals or charges.
- Consumers who suspect they are already identity theft victims can place a fraud alert on their credit history by contacting one of the three major credit reporting agencies.
- Request a security freeze, which means that a consumer's credit file cannot be shared with potential creditors.

SMP Performance Report to OIG

The 2009 Nebraska SMP report to OIG includes significant increases in several reporting items over 2008. Stay tuned for the official release of the report in May.

SMP Coordinators' Corner

Nebraska SMP Coordinators are gearing up to conduct Volunteer Foundations Training for their new and existing volunteers. Kudos to the coordinators for successfully recruiting several new volunteers! Way to go!

Coordinators' Corner

DeAnna Tuttle, and Debbie Schipper and Tami Barrett did newspaper articles on the SMP Program. The articles were published in the Hastings Tribune, Norfolk Daily News and the Lincoln Journal Star's Neighborhood Extra Section.

Pat Wilcox conducted various group presentations at organizations such as "Young at Heart" Senior Group at Bethany Lutheran Church and disseminated several SMP materials in the Omaha community. VAS, contractor for the Eastern Nebraska Office on Aging conducted several media activities entitled "Tips for Preventing Medicare Fraud and Identity Theft" in various local newspapers including the Blair Enterprise, the Scribner Rustler, Fremont Tribune, North Bend Eagle and Dodge Criterion. In addition newsletter articles were published in 50 Plus Omaha Magazine (Personal Health Journal and Recruitment; circulation 20,000), New Horizons (Program Basics and Volunteer Recruitment; circulation - 50) and VAS Newsletter (SMP Volunteer Training; circulation - 50). VAS conducted outreach and education events at various retirement homes.

Walking the Talk

-By Tami Barrett, SMP Coordinator, Aging Partners, Lincoln AAA

Growing up as a child in the 1980's, my parents taught me early how to be smart with my money. Every Saturday morning I would wake to the sound of the adding machine spitting out numbers to my mom. She would spend all morning balancing her checkbook, as well as the family business accounts. Many mornings I would sit next to her and she would say things like, "You'll get far in life if you have good credit. You'll get a lot further if you save your money, and not buy everything on credit." I never knew exactly what "credit" was until I opened my first credit card at the age of 22.

Now in my mid-30's, I look back on those valuable conversations. I'm one of those rare people who pay off my credit card balance in full every month. Sometimes I have a better feeling of paying off my debts than of actually making new purchases. I've never been caught up in material things, and take great pride in everything that I own. I see a better rate of return on developing relationships with people than of putting money into the stock market.

For the past ten years I have worked at Aging Partners. Seven of those years, I have worked as the Elder Rights Coordinator. I manage the Local Long-Term Care Ombudsman Program and Nebraska's SMP, (Senior Medicare Patrol Project). The Ombudsman Program provides advocacy to residents living in nursing homes and assisted living communities. Nebraska's SMP is an outreach program that helps beneficiaries become more aware of Medicare/Medicaid fraud, waste, and error.

Two years ago a resident in an assisted living facility called my office. She said, "I've been getting the run-around. Every place I call says they can't help me. Can you help me?" I answered, "I'll try to help you. What is wrong?" She continued, "I keep getting calls from collection agencies saying I own them money. They call me all day long. I haven't opened any credit cards or purchased anything in years. Many of these companies say that I've opened new accounts at home improvement stores. I've been living in my apartment for over eight years and I don't need anything from any home improvement store."

After I helped her check her credit report online, we soon discovered that her estranged son had opened joint accounts in her name. Our first call was to the Attorney General's Office to get information on identity theft. Other calls included the credit card company's fraud department. Later we also needed to contact the Lincoln Police Department. It was a long process, but soon those annoying phone calls stopped.

Many older adults don't buy things on credit like they used to when they were younger. People who are close to us are usually the ones who have access to our confidential information. Difficult times and desperation can lead even the best of people to do things they normally wouldn't do.

It's a good idea to check your credit report annually. Know that your good credit, which is essentially your good name, is still in good standing.

People can get an annual free credit report by going to www.annualcreditreport.com Other places advertise free credit reports, but often want you to open a new credit card or subscribe to a program. This report shows positive or potentially negative activity. If you are interested in knowing your credit score, you will need to pay extra for this.

Medicare's Incentive Reward Program for Fraud and Abuse

To help fight Medicare Fraud and Abuse, The Health Care Financial Administration began the Incentive Reward program in July 1998. This program will give a reward for information leading to the recovery of Medicare funds from health care providers who engage in fraud and abuse against the Medicare program. The amount of the reward you may receive will not be more than 10 percent of the Medicare funds recovered in the case, or $1000, whichever is less.

To be eligible for a reward:

- The initial complaint must be received on or after July 8, 1998;
- The information you give must lead to a recovery of at least $100;
- The information must not be related to a fraud investigation already underway; and
- You must not be related to an employee of certain Federal government agencies.

Annual Volunteer Conference

Volunteers, mark your calendars! The annual volunteers' conference will be held August 26, 2010 at the Holiday Inn Downtown in Lincoln. We are planning some exciting and timely topics with great presenters. Look for the conference brochure in the mail soon.

April 18 – 24 is National Volunteer Week

"Volunteers are the only human beings on the face of this earth who reflect this nation's compassion, unselfish caring, patience and just plain love for one another."

-Erma Bombeck

This year's theme is Celebrating People in Action. Our heartfelt Thanks to Nebraska SMP volunteers who work daily to inspire seniors to protect, detect and report Medicare fraud. Nebraska SMP's 100 plus volunteers volunteered and trained for over 2,600 hours last year. Our volunteers helped conduct over 300 outreach education events reaching an estimated 25,000 people. **Thank you new volunteer recruits for making the commitment to serve**.

SMP Calendar

April 14	Steering Committee Meeting
April 18-24	National Volunteer Week
May 6	Coordinators' Monthly Conference Call
August 26	Annual Volunteers' Conference

DHHS
Nebraska Department of Health and Human Services