

CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-08 Medicare Program Integrity	Centers for Medicare & Medicaid Services (CMS)
Transmittal 466	Date: May 17, 2013
	Change Request 8287

SUBJECT: Requirements for Sending Immediate Advisements to the OIG/OI (Office of the Inspector General/Office of Investigations)

I. SUMMARY OF CHANGES: The purpose of this change request (CR) is to clarify the procedures by which the PSCs and ZPICs shall send immediate advisements to the OIG/OI.

EFFECTIVE DATE: February 1, 2013

IMPLEMENTATION DATE: June 18, 2013

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-Only One Per Row.

R/N/D	CHAPTER / SECTION / SUBSECTION / TITLE
R	4/4.18.1.2/Immediate Advisements to the OIG/OI

III. FUNDING:

For Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs) and/or Carriers:
Not Applicable.

For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC statement of Work. The contractor is not obliged to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

IV. ATTACHMENTS:

**Business Requirements
Manual Instruction**

**Unless otherwise specified, the effective date is the date of service.*

Number	Requirement	Responsibility											
		A/B MAC			D M E M A C	F I	C A R R I E R	R H I	Shared-System Maintainers				Other
		A	B	H H H					F I S S	M C S	V M S	C W F	
	to allow the contractors to request further direction.												
8287.5	The PSC and ZPIC shall not document the telephone conversation through a written communication to the SAC or ASAC.												PSC, ZPICs
8287.6	If the query requested by the OIG becomes costly or requires major resources or is outside the scope of the normal law enforcement requests, the PSCs and the ZPICs shall discuss this with the Primary COR and Alternate COR before fulfilling the OIG query request.												PSC, ZPICs

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility							
		A/B MAC			D M E M A C	F I	C A R R I E R	R H I	Other
		A	B	H H H					
	None								

IV. SUPPORTING INFORMATION

Section A: Recommendations and supporting information associated with listed requirements: N/A

X-Ref Requirement Number	Recommendations or other supporting information:

Section B: All other recommendations and supporting information: N/A

V. CONTACTS

Pre-Implementation Contact(s): Julie Payiatas, 415-744-3623 or juliana.payiatas@cms.hhs.gov

Post-Implementation Contact(s): Contact your Contracting Officer's Representative (COR) or Contractor Manager, as applicable.

VI. FUNDING

Section A: For Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs), and/or Carriers:

Not Applicable.

Section B: For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS do not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

4.18.1.2 - Immediate Advisements to the OIG/OI

(Rev. 466, Issued: 05-017-13, Effective: 02-01-13, 06-18-13)

The PSC and the ZPIC BI unit shall immediately advise the OIG/OI through a telephone communication to the *Special Agent in Charge* (SAC) or *Assistant Special Agent in Charge* (ASAC) and maintain internal documentation on these advisements when it receives allegations with one or more of the following characteristics:

- Indications of PSC, ZPIC, AC, or MAC employee fraud.
- Cases involving an informant that is an employee or former employee of the suspect physician or supplier.
- Involvement of providers who have prior convictions for defrauding Medicare or who are currently the subject of an OIG fraud investigation.
- Situations involving the subjects of current program investigations.
- Multiple carriers involved with any one provider (OIFO coordinates activities with all involved carriers).
- Cases with, or likely to get, widespread publicity or involving sensitive issues.
- Allegations of kickbacks or bribes.
- Allegations of a crime by a federal employee.
- Indications that organized crime may be involved.
- Indications of fraud by a third-party insurer that is primary to Medicare.

For complaints received from the OIG Hotline, the PSC and the ZPIC shall not send an immediate advisement to the OIG/OI unless information is available to the PSC or ZPIC beyond the OIG Hotline complaint that would warrant such action. Instead, the PSC and the ZPIC shall resolve the complaint or make referrals as appropriate according to the PIM §4.6.2.B. If the PSC or ZPIC identifies the subject of an OIG Hotline complaint as currently under investigation by the OIG, the PSC and ZPIC shall treat the matter as an Immediate Advisement, contacting the OIG/OI as instructed below.

The *PSC and the ZPIC shall not* expend resources attempting to investigate the allegation until so directed by CMS and/or the OIG. For example, if a *PSC and ZPIC receives* an allegation of kickbacks, the *PSC and the ZPIC shall* immediately advise the OIG of the allegation, but shall not initiate an independent *PSC or ZPIC query* until requested to do so by the OIG and guidance on the parameters of the query are provided by the OIG. If the query requested by the OIG becomes costly or requires major resources or is outside the scope of the normal law enforcement requests (e.g., requesting the *PSC or ZPIC to conduct* an interview for the development of a kickback case), the PSCs and the ZPICs shall discuss this with the *Primary COR and Alternate COR* before fulfilling the OIG query request.

When an “immediate advisement” is required, all available documentation received with the allegation shall be forwarded to the OIG, unless otherwise directed by OIG. However, the initial forwarding of the applicable information does not equate to the *PSC and the ZPIC completing* the full referral package as defined in the PIM (see PIM, Exhibit 16.1), and does not equate to a case referral to law enforcement.

Refer to the FID section of the PIM for entering immediate advisements into the FID.