FISMA and its Applicability to CMS Health Information

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Agenda

- CMS - Context & Programs
- Who Wants CMS Data?
- CMS OGC “on behalf of” Opinion
- CMS’ Application of FISMA
- So What?
- Review
What is CMS?

- The Centers for Medicare & Medicaid Services
- 1977 United two largest federal health care programs Medicare & Medicaid
- Formerly Health Care Financing Administration (HCFA)
- Children’s Health Insurance Program Reauthorization Act of 2009 (CHIPRA)
Context

- Very large insurance provider >90 million beneficiaries
- ~21% of Federal Budget 2008 - $670 billion
- 15 million eligibility requests per week
- ~1.2 million providers
- >1.2 billion Medicare claims & > 1.0 billion prescription drug claims annually
Context

- Employees (4,500)
- Contractors with Physical Access (2,000)
- Support Contractors in HHS Global Access List (4,000)
- MACs, FIs/Carriers, PSCs, RACs (23,000+)
- Health Plan employees (30,000+)

Note: figures are approximate
CMS Programs

- **Medicare:** >65, disabled, End Stage Renal Disease
  - Part A - Hospital Insurance
  - Part B - Medical Insurance
  - Part C - Medicare Advantage - In lieu of A & B
  - Part D - Medicare Prescription Drug

- **Medicaid:** Low-income
  - CMS provides guidelines
  - States determine eligibility
Who Wants CMS Data?

- CMS shares lots of data for lots of reasons
  - Detecting fraud, waste, and abuse
  - Healthcare research
  - Claims processing
  - Prescription drug events
  - Legislation review
  - Letters of credit
  - Eligibility inquires
  - Diagnosis / Procedural codes
  - Etc...
CMS Data Sharing

- Accrediting Organizations
- Quality Organizations
- Banks
- Standards Organizations
- Medical Associations
- Providers
- Medicare Administrative Contractors
- Insurance Trading Partners
- Non-Program Contractors/Vendors
- Other Federal Agencies
- HHS
- External Research Organizations
- Managed Advantage And Part D Organizations
- Congress
- General Public
- States
- Labor Unions
- Entitlement Organizations
- Beneficiaries
- Standards Organizations
- Medical Associations
- Non-Program Contractors/Vendors
- Other Federal Agencies

- E.g., IRS, GSA, HUD
- E.g., SSA, RRB, OPM

**Performs mission-related functions for CMS**

**Information exchange only**
OGC Opinion “on behalf of”

- “indicates that only those entities that are acting, under agency principles, as agents, where CMS is the principal, are covered under FISMA”

- “…the agent consents to act on behalf of the principal, and the principal has the right throughout the duration of the relationship to control the agent’s acts.”
OGC Opinion “on behalf of”

- The entity is acting as a “direct extension of the federal government” and “to accomplish a federal government function”

- ...includes data from contractors, private companies, non-profit organizations, state and local governments, and others...
CMS’ Application of FISMA

- Medicare Parts A & B
- MACS, FIs, and Carriers
- Medicare Parts C & D
- Quality Improvement Organizations
- Data Use Agreements

What???
Data Use Agreements

DHHS 30%
DSH 2%
FEDERAL AGENCIES 12%
OIG 12%
CMS/HHS CONTRACTORS 9%
LDS and STAT. RESEARCH 22%
RESEARCHERS/GRANTEES 11%
STATE 2%

Total DUAs: 7200
So what?

• It is your data or someone you know
• No free pass for non-FISMA covered entities
• The rules may be changing - “ICE 2009”
  • Ensure vs. Enforce
• Accountability
So what?

Looking to buy Healthcare/Insurance data

I am looking for someone that is selling possible database dumps from Healthcare or Insurance providers. Also, completed HCFA 1500 forms will work.
Review

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Thank you

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