

(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 when 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 the use of such records by the DOJ, court or adjudicatory body is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

2. To agency contractors, or consultants who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity.

3. To a CMS contractor (including, but not necessarily limited to fiscal intermediaries and carriers) that assists in the administration of a CMS-administrated health benefits program, or to a grantee of a CMS-administered health benefits 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 program.

4. To a Quality Improvement Organization (QIO) in order to assist the QIO to perform Title XI and Title XVIII functions relating to assessing and improving quality of care.

5. To the agency of a State Government, or established by State law, for purposes of determining, evaluating and/or assessing overall or aggregate cost, effectiveness, and/or the quality of services provided in the State; for developing and operating Medicaid reimbursement systems; or for the purpose of administration of Federal/State programs within the State.

6. To a Federal or State agency (*e.g.*, State Medicaid agencies) to contribute to the accuracy of CMS's health insurance operations (payment, treatment and coverage) and/or to support State agencies in the evaluation and monitoring of care.

7. To another Federal agency (*e.g.*, Office of the Inspection General, General Accounting Office, Medicaid Fraud Control Unit) 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.

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

9. To a member of Congress or to a congressional staff member in response to an inquiry of the Congressional Office made at the written request of the constituent about whom the record is maintained.

10. To a national accreditation organization that has been granted deeming authority by CMS for the purpose of improving the quality of care provided through the provision of health care accreditation and related services that support performance improvement and monitors the quality of deemed providers/suppliers through the investigation of complaints.

11. To a Protection and Advocacy Group that provides legal representation and other advocacy services for the purposes of monitoring, investigating and attempting to remedy adverse conditions, and for responding to allegations of abuse, neglect, and violations of the rights of persons with disabilities.

12. To another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local law enforcement agencies) for a civil or criminal law enforcement activity (*e.g.*, police, FBI, State Attorney General's office).

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

**STORAGE:**

All records are stored on the magnetic disk sub-system of the Windows 2000 server. Furthermore, these records are saved to magnetic tape backup on a nightly basis.

**RETRIEVABILITY:**

The Medicare, Medicaid, and CLIA records are retrieved by name of provider/supplier, Medicare provider number, ACTS Complaint number, State assigned Medicaid number, or other CMS assigned numbers, complainant's name, resident/patient's name, contact/witnesses name, alleged perpetrator's name, survey team member's name, surveyor identification number, laboratory director's name, laboratory

owner's name or federal tax identification number.

**SAFEGUARDS:**

CMS has safeguards 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 systems security requirements. Employees who maintain records in the system are instructed not to release any data until the intended recipient agrees to implement appropriate administrative, technical, procedural, and physical safeguards sufficient to protect the confidentiality of the data and to prevent unauthorized access to the data.

In addition, CMS has physical safeguards in place to reduce the exposure of computer equipment and thus achieve an optimum level of protection and security for the ACTS system. For computerized records, safeguards have been established in accordance with the Department Health and Human Services standards and National Institute of Standards and Technology guidelines, *e.g.*, security codes will be used, limiting access to authorized personnel. System securities are established in accordance with HHS, Information Resource Management Circular #10, Automated Information System Security Program; CMS Automated Information Systems (AIS) Guide, Systems Securities Policies, and OMB Circular No. A-130 (revised), Appendix III.

**RETENTION AND DISPOSAL:**

CMS will retain identifiable ACTS data for a total period not to exceed 15 years.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Finance, Systems and Budget Group, Center for Medicaid and State Operations, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Director, Survey and Certification Group, Center for Medicaid and State Operations, Center for Medicaid and State Operations, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

**NOTIFICATION PROCEDURE:**

For the purpose of accessing records based on individual identifiable data, the subject individual should write to the system manager who will require the system name, Medicare provider/supplier identification number, provider/supplier's name and address, and for verification purposes the subject