

Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

#### *C. How Should I Submit CBI to the Agency?*

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

#### *D. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you

provide the name, date, and **Federal Register** citation related to your comments.

#### **II. What Action Is EPA Taking Today?**

On April 11, 2003, the Illinois Environmental Protection Agency submitted a revision to the Illinois SIP for the attainment and maintenance of the one-hour NAAQS for ozone. Specifically, the submittal included revised 2007 motor vehicle emission inventories and 2007 MVEB recalculated using MOBILE6 for the Chicago severe ozone area. The submittal also included a new 2005 projected MVEB. EPA is proposing to approve the SIP revision request.

#### **III. Where Can I Find More Information About This Proposal and Corresponding Direct Final Rule?**

For additional information see the direct final rule published in the rules section of this **Federal Register**.

**Authority:** 42 U.S.C. 4201 *et seq.*

Dated: August 28, 2003.

**William E. Munro,**

*Acting Regional Administrator, Region 5.*

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**BILLING CODE 6560-50-P**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Office of Inspector General**

#### **42 CFR Part 1001**

**RIN 0991-AB13**

#### **Medicare and Federal Health Care Programs: Fraud and Abuse; Clarification of Terms and Application of Program Exclusion Authority for Submitting Claims Containing Excessive Charges**

**AGENCY:** Office of Inspector General (OIG), HHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule would amend OIG exclusion regulations addressing excessive claims, by including definitions for the terms "substantially in excess" and "usual charges," and by clarifying the "good cause" exception set forth in this section.

**DATES:** To assure consideration, public comments must be delivered and received at the address provided below by no later than 5 p.m. on November 14, 2003.

**ADDRESSES:** Please mail or deliver your written comments to the following

address: Office of Inspector General, Department of Health and Human Services, Attention: OIG-53-P, Room 5246, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code OIG-53-P.

#### **FOR FURTHER INFORMATION CONTACT:**

Darlene M. Hampton, Office of Counsel to the Inspector General, (202) 619-0335.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

##### *A. Current Legal Framework*

Section 1128(b)(6)(A) of the Social Security Act (the Act) provides that the Secretary may exclude any individual or entity from participation in any Federal health care program if the Secretary determines that the individual or entity:

"has submitted or caused to be submitted bills or requests for payment (where such bills or requests are based on charges or cost) under subchapter XVIII of this chapter or a State health care program containing charges (or, in applicable cases, requests for payment of costs) for items or services furnished substantially in excess of such individual's or entity's usual charges (or, in applicable cases, substantially in excess of such individual's or entity's costs) for such items or services, unless the Secretary finds there is good cause for such bills or requests containing such charges or costs. \* \* \*

The Secretary has specifically delegated the authority under section 1128 of the Act to the Department's Office of Inspector General (OIG) (53 FR 12993; April 20, 1988).

The implementing OIG regulations effectuating section 1128(b)(6)(A) of the Act are set forth at 42 CFR 1001.701. Section 1001.701(a)(1) provides that the OIG may exclude an individual or entity that has "[s]ubmitted, or caused to be submitted, bills or requests for payments under Medicare or any of the State health care programs containing charges or costs for items or services furnished that are substantially in excess of such individual's or entity's usual charges or costs for such items or services. \* \* \*" In addition, § 1001.701(c)(1), implementing the statutory "good cause" exception, provides that an individual or entity will not be excluded for "[s]ubmitting, or causing to be submitted, bills or requests for payment that contain charges or costs substantially in excess of usual charges or costs when such charges or costs are due to unusual circumstances or medical complications