



Kansas Medical Assistance Program



August 2007

Provider Bulletin Number 797

General Providers

Deficit Reduction Act Section 6032

On February 8, 2006, the Deficit Reduction Act (DRA) of 2005 was signed into law. Among the several provisions that impact the Kansas Medical Assistance Program (KMAP) is Section 6032 which imposes new requirements on any entity that receives or makes at least \$5 million in annual KMAP payments.

Specifically, Section 6032 requires that, as a condition of payment, each entity shall:

“(A) establish written policies for all employees of the entity (including management), and of any contractor or agent of the entity, that provide detailed information about the False Claims Act established under sections 3729 through 3733 of Title 31, United States Code, administrative remedies for false claims and statements established under Chapter 38 of Title 31, for false claims and statements established under Chapter 38 of Title 31, United States Code, any State laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste, and abuse in Federal health care programs (as defined in section 1128B(f));

(B) include as part of such written policies, detailed provisions regarding the entity’s policies and procedures for detecting and preventing fraud, waste and abuse, and

(C) include in any employee handbook for the entity, a specific discussion of the laws described in subparagraph (A), the rights of employees to be protected as whistleblowers, and the entity’s policies and procedures for detecting and preventing fraud, waste and abuse.”

CMS has interpreted the word “entity” to include:

“A governmental agency, organization, unit, corporation, partnership, or other business arrangement (including any Medicaid managed care organization, irrespective of the form of business structure or arrangement by which it exists), whether for-profit or not-for profit, which receives or makes payments, under a State plan approved under title XIX or under any waiver of such plan, totaling at least \$5,000,000 annually.” CMS SMDL #06-024, (Dec. 13, 2006).

CMS has clarified that payments to the entity are to be aggregated for purposes of the annual threshold:

“If an entity furnishes items or services at more than a single location or under more than one contractual or other payment arrangement, the provisions of [Section 6032] apply if the aggregate payments to that entity meet the \$5,000,000 annual threshold. This applies whether the entity submits claims for payments using one or more provider identification or tax identification numbers.” CMS SMDL #06-024, (Dec. 13, 2006).

CMS has clarified that the annual threshold is based on the federal fiscal year:

“An entity will have met the \$5,000,000 annual threshold as of January 1, 2007, if it received or made payments in that amount in Federal fiscal year 2006. Future determinations regarding an entity’s responsibility stemming from the requirements of [Section 6032] will be made by January 1 of each subsequent year, based upon the amount of payments an entity either received or made under the State Plan during the preceding Federal fiscal year.” CMS SMDL #06-024, (Dec. 13, 2006).

Additional information provided by CMS may be accessed at:
<http://www.cms.hhs.gov/smdl/downloads/SMD121306.pdf>.

PROCEDURE

Any KMAP provider, including any KMAP managed care organization, that receives or makes \$5 million in annual KMAP payments must comply with Section 6032 as a condition of receiving payment under KMAP. The \$5 million amount, for KMAP purposes, is based on paid claims, net of any adjustments to those claims. **It is the responsibility of providers or provider entities to make the determination as to whether they meet the \$5 million threshold.**

To comply with Section 6032, the provider must ensure that no later than January 1, 2007, it has implemented all of the following requirements:

1. The provider must establish written policies that provide detailed information about the federal laws identified in Section 6032(A) and any Kansas laws imposing civil or criminal penalties for false claims and statements, or providing whistleblower protections under such laws.
2. In addition to the detailed information regarding the federal and state laws, the provider’s written policies must contain detailed information regarding the provider’s own policies and procedures to detect and prevent fraud, waste, and abuse in federal healthcare programs, including Medicare and KMAP.
3. The provider must provide a copy of its written policies to all of its employees, contractors, and agents of the vendor.

4. If the provider maintains an employee handbook, the provider must include in its employee handbook a specific discussion of the federal and state laws described in its written policies; the provider's policies and procedures for detecting and preventing fraud, waste, and abuse; and the right of its employees to be protected from discharge, demotion, suspension, threat, harassment, discrimination, or retaliation in the event the employee files a claim pursuant to the Federal False Claims Act or otherwise makes a good faith report alleging fraud, waste, or abuse in a federal healthcare program, including Medicare and KMAP, to the provider or to the appropriate authorities.

Any KMAP provider that receives or makes annual payments of \$5 million or more under KMAP must certify annually that it complies with Section 6032 of the DRA. Specifically, each year, providers must complete and submit the form attesting compliance with Section 6032 of the DRA to the Kansas Health Policy Authority (KHPA). This form may be downloaded from the *General Billing Provider Manual* on the KMAP Web site under Publications, Provider Manuals or under Publications, Forms. For federal fiscal year 2006, providers must submit their initial annual attestation form no later than October 1, 2007. In future years, including federal fiscal year 2007, this form must be submitted in the quarter following the end of each federal fiscal year (October to December), but before January 1 of the following year.

KHPA and partner agencies Kansas Department of Social and Rehabilitation Services and Kansas Department on Aging have the responsibility to ensure compliance with the requirements. In addition to the annual certification, compliance is determined through retrospective reviews by the fiscal agent and contractors and through other state audits. Providers must be prepared to submit the following items within 10 days of the request of the fiscal agent, contractor, or state agency:

- Copies of written or electronic policies that meet the federal requirements
- Written description of how the policies are made available and disseminated to all employees and to all employees of any contractor agent for each provider or provider entity
- Copies of any employee handbook, if the provider maintains a handbook

Compliance with these requirements is mandatory. Any provider or provider entity that fails to comply with the annual attestation or the submission of information is subject to sanction, including suspension of Medicaid payments or termination from participation in the Kansas Medical Assistance Program.

It is the provider's responsibility to make the determination as to whether they meet the \$5 million threshold. It is Medicaid's responsibility to monitor compliance. To assist in these responsibilities, KHPA is asking all providers to review the attached questionnaire. If a provider answers "yes" to one or more of questions C through G and answers question I with a sum greater than or equal to \$5 million, he or she is asked to complete the entire questionnaire and return it to KHPA by December 1, 2007. It may be mailed to:

Kansas Health Policy Authority
Attention: Cindy Ludwig
Landon State Office Building
900 SW Jackson, Room 900N
Topeka, KS 66612

It may also be faxed to 785-296-4813, Attention: Cindy Ludwig.

Information about the Kansas Medical Assistance Program as well as provider manuals and other publications are on the KMAP Web site at <https://www.kmap-state-ks.us>. For the changes resulting from this provider bulletin, please view the *General Billing Provider Manual*, pages 5-24 through 5-25 and the Forms section.

If you have any questions, please contact Customer Service at 1-800-933-6593 (in-state providers) or 785-274-5990 between 7:30 a.m. and 5:30 p.m., Monday through Friday.

EDS is the fiscal agent and administrator of the Kansas Medical Assistance Program for the Kansas Health Policy Authority.

PART I
GENERAL BILLING
KANSAS MEDICAL ASSISTANCE PROGRAM

TABLE OF CONTENTS

Section	General Billing	Page
5000	Electronic Media Claims	5-1
5100	Timely Filing	5-3
5200	Tracer Claim Filing	5-6
5300	Appeals Process	5-7
5400	Remittance Advice (RA)/Claim Disposition	5-8
5500	Electronic Deposit of Funds	5-9
5600	Adjustments/Refunds	5-10
	Completing the Individual Adjustment Form	5-13
5700	Billing/Collection Agencies	5-17
5800	Completing the CMS-1500 claim form.	5-18
5900	Compliance with Section 6032 of Federal Deficit Reduction Act	5-25
FORMS	Individual Adjustment Form	
	CMS-1500	
	Attestation of Compliance with Section 6032 of the Federal Deficit Reduction Act	
6000	Reserved for future use	

5900. COMPLIANCE WITH SECTION 6032 OF FEDERAL DEFICIT REDUCTION ACT
Updated 8/07

Any KMAP provider, including any KMAP managed care organization, that receives or makes \$5 million in annual KMAP payments, must comply with Section 6032 of the Deficit Reduction Act of 2005 (DRA) as a condition of receiving payment under KMAP. The \$5 million amount, for KMAP purposes, is based on paid claims, net of any adjustments to those claims. **It is the responsibility of providers or provider entities to make the determination as to whether they meet the \$5 million threshold.**

To comply with Section 6032, the provider must ensure that no later than January 1, 2007, it has implemented all of the following requirements:

1. The provider must establish written policies that provide detailed information about the federal laws identified in Section 6032(A) and any Kansas laws imposing civil or criminal penalties for false claims and statements, or providing whistleblower protections under such laws.
2. In addition to the detailed information regarding the federal and state laws, the provider's written policies must contain detailed information regarding the provider's own policies and procedures to detect and prevent fraud, waste, and abuse in federal healthcare programs, including Medicare and KMAP.
3. The provider must provide a copy of its written policies to all of its employees, contractors, and agents of the vendor.
4. If the provider maintains an employee handbook, the provider must include in its employee handbook a specific discussion of the federal and state laws described in its written policies; the provider's policies and procedures for detecting and preventing fraud, waste, and abuse; and the right of its employees to be protected from discharge, demotion, suspension, threat, harassment, discrimination, or retaliation in the event the employee files a claim pursuant to the Federal False Claims Act or otherwise makes a good faith report alleging fraud, waste, or abuse in a federal healthcare program, including Medicare and KMAP, to the provider or to the appropriate authorities.

Any KMAP provider that receives or makes annual payments of \$5 million or more under KMAP must certify annually that it complies with Section 6032 of the DRA. Specifically, each year, providers must complete and submit the form attesting compliance with Section 6032 of the DRA to KHPA. This form may be downloaded from the KMAP Web site. For federal fiscal year 2006, providers must submit their initial annual attestation form no later than October 1, 2007. In future years, including federal fiscal year 2007, this form must be submitted in the quarter following the end of each federal fiscal year (October to December), but before January 1 of the following year.

5900 Updated 8/07

The KHPA and partner agencies Kansas Department of Social and Rehabilitation Services and Kansas Department on Aging have the responsibility to ensure compliance with the requirements. In addition to the annual certification, compliance is determined through retrospective reviews by the fiscal agent and contractors and through other State audits. Providers must be prepared to submit the following items within 10 days of the request of the fiscal agent, contractor, or State agency:

- Copies of written or electronic policies that meet the federal requirements
- Written description of how the policies are made available and disseminated to all employees and to all employees of any contractor agent for each provider or provider entity
- Copies of any employee handbook, if the provider maintains a handbook

Compliance with these requirements is mandatory. Any provider or provider entity that fails to comply with the annual attestation or the submission of information will be subject to sanction, including suspension of Medicaid payments or termination from participation in the Kansas Medical Assistance Program.

Deficit Reduction Act Questionnaire

A. Name of Entity: _____ DBA: _____

Provider Number: _____

NPI: _____

Tax ID Number: _____

Telephone Number: _____

Street Address: _____

City, State, ZIP Code: _____

B. Type of Entity

_____ Sole Proprietorship

_____ Partnership

_____ Corporation

_____ Unincorporated Association

_____ Other (Please Specify):

C. Is the entity operated by a management company, or leased in whole or part by another organization? _____

Name of company: _____

Tax ID: _____

D. Is the entity chain affiliated? _____

Name of chain affiliation: _____

Tax ID: _____

E. Does this entity file a consolidated cost report under another Medicaid provider number? _____

Name of other entity: _____

Other Medicaid provider number: _____

F. Does the entity have a parent company? _____

Name of parent company: _____

Tax ID: _____

G. Is this entity owned by another entity? _____

Name of owner: _____

Tax ID: _____

H. What was the amount of your individual Medicaid receipts for federal fiscal year 2006 (October 1, 2005 – Sept 30, 2006)? _____

I. What was the collective amount of your Medicaid receipts for federal fiscal year 2006? _____



Kansas Medical Assistance Program

P.O. Box 3571
Topeka, KS 66601-3571

Provider Line: 1-800-933-6593
Consumer Line: 1-800-766-9012

From the office of the Fiscal Agent

Attestation of Compliance with Section 6032 of the Federal Deficit Reduction Act

Provider/Entity Name: _____

KMAP Provider Number or NPI: _____

Address: _____
Street City State ZIP Code

I hereby attest that, as a condition for receiving payments, I have read Section 6032 of the Deficit Reduction Act of 2005 (the Act), and have examined the above-named provider/entity's policies and procedures. Based on that review, the provider/entity is in compliance with the requirements of the Act to educate employees and contractors concerning the Federal False Claims Act established under sections 3729 through 3733 of Title 31, United States Code, administrative remedies for false claims and statements established under Chapter 38 of Title 31, United States Code, State laws pertaining to Medicaid fraud, abuse, civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste and abuse in Federal health care programs. Furthermore, the provider/entity will continue to comply with these provisions to remain eligible for payment under the Kansas Medical Assistance Program. I declare that the Provider or Contractor must continue to comply with these provisions to remain eligible for payment under the Kansas Medical Assistance Program. I understand that if any statements in this declaration are false, they may be subject to prosecution under the Kansas perjury law, K.S.A. 21-3805, as well as the laws cited in this declaration.

I declare under penalty of perjury under the laws of the state of Kansas that the foregoing is true and correct.

Executed on (date) _____

Signature of Chief Executive Officer/President/Vice President Date

Print or Type Name and Title

Signature of Corporate Secretary/Treasurer Date

Print or Type Name and Title

Mail or fax the completed form to:

**Kansas Health Policy Authority
Attention: Cindy Ludwig
Landon State Office Building
900 SW Jackson, Room 900
Topeka, KS 66612**

Fax: 785-296-4813