Office Of Inspector General
Office Of Audit Services
Region II

DEPARTMENT OF HEALTH & HUMAN SERVICES

Memorandum

Date December 6, 2002

From Regional Inspector General for Audit Services

To Gilbert Kunken
Acting Regional Administrator,
Centers for Medicare & Medicaid Services

Subject Review of Medicare Payments for Services Provided to Incarcerated Beneficiaries in New York State during the period January 1, 1997 through December 31, 1999
Report Number: A-02-02-01002.

Attached are two copies of the U.S. Department of Health and Human Services, Office of Inspector General, Office of Audit Services' final report entitled "REVIEW OF MEDICARE PAYMENTS FOR SERVICES PROVIDED TO INCARCERATED BENEFICIARIES IN NEW YORK STATE, DURING THE PERIOD JANUARY 1, 1997 THROUGH DECEMBER 31, 1999." Officials in your office generally concurred with our conclusions and recommendations.

We would appreciate your views and that status of any further action taken or contemplated on our recommendations within the next 60 days. If you have any questions concerning the matters discussed in this report, please let me know or contact Thomas Grippe, Audit Manager at (212) 264-4044.

To facilitate identification, please refer to Report Number A-02-02-01002 in all correspondence relating to this report.

Timothy J. Horgan

Attachment

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

REVIEW OF MEDICARE PAYMENTS FOR SERVICES PROVIDED TO INCARCERATED BENEFICIARIES IN NEW YORK STATE DURING THE PERIOD JANUARY 1, 1997 THROUGH DECEMBER 31, 1999

JANET REHNQUIST
Inspector General

DECEMBER 2002
A-02-02-01002

Office of Inspector General

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Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

REVIEW OF MEDICARE PAYMENTS FOR SERVICES PROVIDED TO INCARCERATED BENEFICIARIES IN NEW YORK STATE DURING THE PERIOD JANUARY 1, 1997 THROUGH DECEMBER 31, 1999

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DEPARTMENT OF HEALTH & HUMAN SERVICES

Memorandum

Date December 6, 2002

From Regional Inspector General for Audit Services

To Gilbert Kunken
Acting Regional Administrator,
Centers for Medicare & Medicaid Services

Subject Review of Medicare Payments for Services Provided to Incarcerated Beneficiaries in NYS during the period January 1, 1997 through December 31, 1999
Report Number: A-02-02-01002.

This report provides you with the results of our "Review of Medicare Payments for Services Provided to Incarcerated Beneficiaries in New York State", during the period January 1, 1997 through December 31, 1999. The Office of Inspector General, the Office of Audit Services performed similar reviews in nine other states.

At the request of Senator Grassley, Senate Finance Committee, the Office of Inspector General, the Office of Audit Services undertook a review of Medicare payments for services provided to incarcerated beneficiaries. The objective of our review was to determine whether Medicare fee-for-service claims paid in 10 States during the 3-year period of January 1, 1997 through December 31, 1999 were in compliance with Federal regulations and Centers for Medicare & Medicaid Services (CMS) guidelines. New York State (NYS) was one of the 10 States selected for review.

Senator Grassley's request was made at the April 25, 2001 Senate Finance Committee hearing held to address improper payments in Federal programs. At this hearing, we released our national report entitled, *Review of Medicare Payments for Services Provided to Incarcerated Beneficiaries,* in which we found that the Medicare program had paid $32 million in fee-for-service benefits on behalf of 7,438 incarcerated beneficiaries during the 3-year period mentioned above. Generally, no Medicare payments should be made when a beneficiary is in State or local custody under a penal authority since the State or other government component is responsible for their medical and other needs. This is a rebuttable presumption that may be overcome only if certain strict conditions are met. These conditions are that there must be a State or local law requiring all such individuals, or groups of individuals repay the cost of medical services *and* the incarcerating entity must enforce this requirement by diligently pursuing collection.

In order to determine the extent of improper Medicare payments made on behalf of beneficiaries reported as incarcerated, we reviewed a randomly selected statistical sample of 100 claims from each of 10 selected States. The States selected represented about 70

percent of the $32 million mentioned in our April 25, 2001 report and the claims reviewed were for services in the 3-year period covered in that report.

During our reviews in the 10 States, we found that Medicare payments are allowable for some categories of beneficiaries who are in custody under penal statute while unallowable for other categories of beneficiaries in custody under penal statute. This has occurred because regulations and CMS guidelines require that the State or local law requiring repayment of the costs of medical services and the enforcement requirements may apply to categories of individuals, rather than to all individuals. A category of beneficiaries is comprised of beneficiaries with the same legal status (e.g., not guilty by reason of insanity - NGRI). Therefore, the allowability of a Medicare payment depends on the beneficiary's specific category of legal status even though he or she is in custody under a penal statute. During our review we found this an important distinction.

Our review in NYS disclosed that Medicare payments for 74 of the 100 claims sampled were allowable under Medicare regulations and CMS guidelines. These included:

- 50 claims for 29 beneficiaries who were committed by court order to mental health facilities under section 330.20[1] of NYS's Criminal Procedure Law (CPL). Since these beneficiaries, under NYS law, had an obligation to repay the state for their medical services, the Medicare payments were considered allowable;

- Three claims for two beneficiaries who were placed in NYS psychiatric facilities for non-criminal reasons (i.e. civil commitments). Under a civil commitment in NYS, the individual is considered liable for services received. Therefore, the Medicare payments were considered allowable;

- 21 claims for 10 beneficiaries, who, we believe, were not incarcerated on the date of service.

However, 16 of the 100 sampled claims, totaling $597, were considered unallowable under Medicare regulations and CMS guidelines, as follows:

- 13 claims for five beneficiaries, totaling $476, were unallowable under Medicare regulations, because the beneficiaries did not have a legal obligation to pay for the medical services received. The improper billing of these services occurred due to a misinterpretation by the NYS Office of Mental Retardation and Developmental Disabilities (OMRDD) of the State Mental Hygiene Law, regarding the financial liability of patients receiving medical services under a CPL 730.30 (fitness to proceed) criminal court order.

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[1] Procedure following verdict or plea of not responsible by reason of mental disease or defect (also referred to as "Not Guilty by Reason of Insanity or NGRI").

- Three claims for three beneficiaries, totaling $122, were inappropriately billed to Medicare for individuals residing in Federal or local correctional facilities. The Medicare providers apparently were unaware the individuals were incarcerated.

For the remaining 10 claims in our sample, we were unable to confirm the whereabouts of the beneficiaries at the time the services were rendered, and therefore, could not determine whether the Medicare payments were allowable.

As a result of the April 25, 2001 national report, CMS plans to establish an edit in its Common Working File (CWF) that will deny claims for incarcerated beneficiaries. Claims meeting the conditions for payment will not be subject to this edit if the supplier or provider submitting the claim certifies, by using a modifier or a condition code on the claim, that he or she has been instructed by the State or local government component that the conditions for Medicare payment have been met. We believe when fully implemented this enhancement will prevent many improper payments for claims of incarcerated beneficiaries. However, we believe the CMS regional office and its contractors will need to educate suppliers and providers on the proper use of the modifier or condition code. Also, claims with the modifier or condition code must be monitored to assure the conditions for Medicare reimbursement are met. Finally, CMS regional office should work with NYS mental health officials to resolve OMRDD's misinterpretation of the state mental hygiene law regarding patient liability for services.

In response to our draft report, the CMS regional office (RO) generally concurred with our conclusions and recommendations.

INTRODUCTION

BACKGROUND

Under current Federal law and regulations, payments for Medicare payments made on behalf of beneficiaries in the custody of law enforcement agencies are generally unallowable except when certain requirements are met.

Under sections 1862(a)(2) and (3) of the Social Security Act, the Medicare program will not pay for services if the beneficiary has no legal obligation to pay for the services or if the services are paid directly or indirectly by a government entity. Furthermore, regulations at 42 CFR 411.4(b)(1) and (2) state in part that:

> *(a) General rule: Except as provided in 411.8(b) (for services paid by a government entity), Medicare does not pay for service if: (1) the beneficiary has no legal obligation to pay for the service; and (2) no other person or organization (such as a prepayment plan of which the beneficiary is a member) has a legal obligation to provide or pay for that service.*

(b) Special conditions for services furnished to individuals in custody of penal authorities. Payment may be made for services furnished to individuals or groups of individuals who are in the custody of the police or other penal authorities or in the custody of government agency under a penal statute only if the following conditions are met:

(1) State or local law requires those individuals or groups of individuals to repay the cost of medical services they receive while in custody.

(2) The State or local government entity enforces the requirement to pay by billing all such individuals, whether or not covered by Medicare or any other health insurance, and by pursuing collection of the amounts they owe in the same way and with the same vigor that it pursues the collection of other debts.

Under these criteria, Medicare payments on behalf of prisoners in custody of Federal authorities are not allowable since these prisoners by definition are not subject to State or local laws regarding the terms of their care. For prisoners in custody of State or local government entities, the component operating the prison is presumed to be responsible for the medical needs of its prisoners. This is a rebuttable presumption that must be affirmatively overcome by the initiative of the State or local government entity. There must be a law requiring all individuals or groups of individuals in their custody to repay the cost of medical service. In addition, the entity must establish that it enforces the requirement to pay by billing and seeking collection from all individuals or groups of individuals in custody, whether insured or uninsured, with the same vigor it pursues the collection of other debts. Guidelines in CMS contractor manuals state the government entity must enforce the requirement to pay and seek collection from all individuals in custody with the same legal status (e.g., NGRI).

Section 202(x)(1)(A) of the Social Security Act requires the (SSA) to suspend Old Age and Survivors and Disability Insurance (i.e., Social Security benefits) to persons who are incarcerated. To implement this requirement, SSA, with the assistance of the Federal Bureau of Prisons (FBOP) and various State and local entities, developed and maintains a database of incarcerated individuals.

The Office of Inspector General matched a file of incarcerated Medicare beneficiaries provided by SSA to CMS's National Claims History file for claims paid between January 1, 1997 and December 31, 1999. Based on the matching, a database was compiled of claims paid on behalf of beneficiaries whose SSA payments had been suspended due to incarceration on the dates of service. A listing for NYS was created that included 6,370 claims totaling $3,060,595.

OBJECTIVE, SCOPE AND METHODOLOGY

Our objective was to determine whether Medicare payments for services provided to beneficiaries reported incarcerated during the period January 1, 1997 through December 31, 1999 were in compliance with Medicare regulations and CMS guidelines. To achieve our objective, using the NYS listing we created of 6,370 claims totaling $3,060,595; we selected and reviewed a random statistical sample of 100 fee-for-service claims totaling $28,911 paid during the period January 1, 1997 through December 31, 1999. As part of our review, we:

- Reviewed applicable Federal laws and regulations;
- Met with CMS officials in Region II to discuss Medicare criteria involving incarcerated beneficiaries and whether Medicare contractors and providers had been contacted regarding such criteria;
- Reviewed applicable State and local laws and regulations pertaining to health care cost liabilities for incarcerated beneficiaries and other individuals in the penal system;
- Discussed with officials from the NYS Office of Mental Health (OMH) and the NYS OMRDD applicable laws, regulations and procedures relating to court ordered placement of individuals in state mental health facilities, as well as the patients liabilities in receiving medical services while in such facilities;
- Contacted officials of the Medicare fiscal intermediary and carriers in Region II to ascertain if they have controls in place to detect claims submitted on behalf of incarcerated beneficiaries;
- Reviewed OMH and OMRDD collection procedures and a limited judgmental sample of Medicare and non-Medicare patients who were under court ordered placement in state mental health facilities, in order to determine if collection procedures for repayment of services, were adequate and applied uniformly in all cases;
- Examined the NYS Department of Corrections inmate website to determine whether beneficiaries in our sample were incarcerated on the claimed dates of service, and
- Checked the Federal Bureau of Prisons (FBOP) database to determine if any beneficiaries were confined at the Federal prison, on the date of service.

We conducted our review in accordance with generally accepted government auditing standards. Our review was limited in scope. The internal control review was limited to performing inquiries at the contractor level to determine if they have controls in place to

detect claims submitted on behalf of incarcerated beneficiaries. Our review was not intended to be a full scale internal control assessment of the suppliers/providers and was more limited than that which would be necessary to express an opinion on the adequacy of the suppliers' or providers' operations taken as a whole. The objectives of our audit did not require an understanding or assessment of the overall internal control structure of the suppliers and providers. We performed our review during the period October 2001 through June 2002.

FINDINGS AND RECOMMENDATIONS

Since the prisoner data from SSA was not contained in CMS's records, the Medicare fiscal intermediary and carriers in NYS did not have controls in place to detect claims submitted on behalf of incarcerated beneficiaries, or claims for those who met the Medicare exception under NYS law (e.g., NGRI cases).

We reviewed a sample of 100 Medicare claims for beneficiaries, who according to SSA records, were incarcerated in NYS, during the period January 1, 1997 through December 31, 1999.

Our review disclosed that Medicare payments for 74 of the 100 claims sampled were allowable under Medicare regulations and CMS guidelines. These included:

- 50 claims for 29 beneficiaries who were committed by court order to mental health facilities under section 330.20 of the state's Criminal Procedure Law (CPL). Since these beneficiaries, under law, had an obligation to repay the state for their medical services, the Medicare payments were considered allowable;

- Three claims for two beneficiaries who were placed in state psychiatric facilities for non-criminal reasons (i.e., civil commitments). Under a civil commitment in NYS, the individual is considered liable for services received. Therefore, the Medicare payments were considered allowable, and

- 21 claims for 10 beneficiaries who, we believe, were not incarcerated on the date of service.

However, 16 of the 100 sampled claims, totaling $597, were considered unallowable under Medicare regulations and CMS guidelines, as follows:

- 13 claims for five beneficiaries, totaling $476, were unallowable under Medicare regulations, because the beneficiaries did not have a legal obligation to pay for the medical services received. The improper billing of these services occurred due to a misinterpretation by the NYS Office of Mental Retardation and Developmental Disabilities (OMRDD) of the State Mental Hygiene Law (MHL), regarding the

financial liability of patients receiving medical services under a CPL 730.30 (fitness to proceed) criminal court order.

- Three claims for three beneficiaries, totaling $122, were inappropriately billed to Medicare for individuals residing in Federal or local correctional facilities.

For the remaining 10 claims in our sample, we were unable to confirm the whereabouts of the beneficiaries at the time the services were rendered, and therefore, could not determine whether the Medicare payments were allowable.

The following table summarizes the results of our review:

Description	Sample Amount	Number of Claims	Number of Beneficiaries
Allowable	$27,248	74	41
Unallowable	597	16	8
Unable to Determine	1,066	10	6
Total	$28,911	100	55

ALLOWABLE CLAIMS

Our review showed that Medicare payments for 74 claims, totaling $27,248, met Medicare reimbursement requirements.

NYS Mental Hygiene Law article 43.03(c) states, "Patients receiving services while being held pursuant to order of a criminal court, other than patients committed to the department pursuant to section 330.20 of the criminal procedure law, or examination pursuant to an order of the family court shall not be liable to the department for such services." Further, an OMH policy letter dated August 22, 1985, stated, "Section 43.03 of the Mental Hygiene Law was amended to establish patient liability for the services rendered on or after 08/02/85 to patients admitted under section 330.20 of the Criminal Procedure Law. Therefore effective 08/02/85, we will investigate and bill CPL 330.20 patients following the same procedure as for any civil admission." In addition, the letter stated, "For new admissions, investigate and bill all payor sources including Medicare, Medicaid, and private ability."

We found that 50 of the 74 allowable claims involved Medicare payments made on behalf of the beneficiaries placed in State-operated mental health facilities under section 330.20 because they were found to be NGRI. These represented 27 beneficiaries residing in OMH facilities and two residing in OMRDD facilities. Since these beneficiaries were placed in the facilities under section 330.20 court orders, they were considered liable for all services received.

There were also three claims allowed in which the beneficiaries had been placed in NYS mental health facilities but under civil commitments. Under a civil commitment order in NYS, the individual is considered liable for services received. Therefore, the Medicare payments were considered allowable.

Our review of OMH and OMRDD collection procedures and a limited judgmental sample of Medicare and non-Medicare patients in OMH or OMRDD facilities showed that, collection procedures were adequate and applied uniformly for all patients. We believe that payments made on the beneficiaries' behalf were allowable and consistent with Medicare reimbursement requirements, because NGRI patients were liable for their health care costs under the NYS Mental Hygiene Law, and uniform collection procedures were enforced.

In 21 of the 74 allowable claims, representing 10 beneficiaries, we determined that the beneficiaries were not incarcerated on the date of service. For example, we accessed the NYS Department of Corrections inmate website and found that two beneficiaries, representing 12 claims, had been paroled from the State prison prior to the date of service on the claim. Another beneficiary, representing two claims, had served his maximum prison sentence and was released prior to the date of service. Further, based on our inquiry of the Medicare providers, there was nothing to lead us to believe the beneficiaries paroled or released from the State prisons were subsequently incarcerated in county or local prisons on the date of service. For six other claims allowed, the Medicare providers indicated the beneficiaries, were not incarcerated. In one instance, we determined that the beneficiary was not in prison, but rather in a nursing home. Nursing home staff indicated that the nursing home had been in contact with SSA regarding an error in the cutoff of the beneficiary's SSA benefits. We will share our findings with SSA for the beneficiaries who we believe were not incarcerated on the date of service.

UNALLOWABLE CLAIMS

We determined that Medicare payments for 16 of the 100 sampled claims, totaling $597, were improperly paid on behalf of beneficiaries who were incarcerated, or under court ordered custody of the State, on the date of service.

Beneficiaries in OMRDD Facilities

In 13 of the 16 claims, for five beneficiaries, totaling $476, Medicare had been inappropriately billed for patients who were placed in OMRDD facilities under CPL article 730.30. The Medicare payments for these claims were unallowable, because the beneficiaries did not have a legal obligation to pay for the medical services.

NYS Mental Hygiene Law article 43.03(c), states, "Patients receiving services while being held pursuant to order of a criminal court, other than patients committed to the department pursuant to section 330.20 of the criminal procedure law, or examination pursuant to an order of the family court shall not be liable to the department for such services."

Although article 43.03(c) is applicable to court ordered patients under both the OMH and OMRDD, there is inconsistent treatment and interpretation of this law by these two mental health offices within NYS. The OMH does not bill the patient or Medicare for treatment. Conversely, the OMRDD believes it is proper to bill patients and Medicare for medical services while the patient is being evaluated under an article 730.30 "fitness to proceed" order.

The OMRDD's Deputy Counsel, in a letter dated January 30, 2002, acknowledged the difference in interpretation of the law between OMH and OMRDD, but indicated the distinction was based on differences in the type of patient and type of services provided each patient.

According to HHS Office of Counsel for the Inspector General (OCIG) :

"It would be improper for OMRDD to bill Medicare for medical services while an individual is under an Article 730 court order since MHL 43.03(c) does not make a distinction for liability of fees based on the type of service or treatment provided. The statute explicitly requires that the patient will not be liable to the department for "services" if held pursuant to a criminal court order. The statute neither defines the services that are covered nor does it exclude services that will be covered. Therefore, on its face, the statute appears to cover any/all services provided to the patient while being held pursuant to a criminal court order. Moreover, neither the statute nor case law address "outside medical services." Finally, the January 30, 2002 letter from the Deputy Counsel for OMRDD fails to provide any legal basis for any distinction for liability of fees for patients committed pursuant to an Article 730 court order."

As a result, we believe OMRDD was inappropriate in its interpretation of the State law and in billing Medicare for these patients.

Incarcerated Beneficiaries

In three of the 16 claims, for three beneficiaries, totaling $122, we determined that the beneficiaries were residing in Federal or local correctional facilities on the date of service. In one instance, we accessed the FBOP database and found that the beneficiary was listed in the Federal prison system on the date of service. For the two other cases, we determined from provider records and inquiry with prison staff that the individuals were incarcerated in local county prisons on the date of service. The Medicare providers apparently were unaware the individuals were incarcerated.

UNABLE TO DETERMINE ALLOWABILITY OF CLAIMS

For the remaining 10 claims in our sample, representing six beneficiaries, we were unable, despite numerous efforts, to confirm the whereabouts of the beneficiaries at the time the services were rendered. For example, in reviewing records for these beneficiaries, we noted contradictory address information between the claim and provider records, or

encountered non-cooperative Medicare providers, which hindered our attempts to locate the beneficiaries and determine whether they were incarcerated on the dates of service.

Since we could not verify if the beneficiary was in custody at the time the services were rendered, we were unable to determine whether the Medicare claims were allowable.

CONCLUSIONS AND RECOMMENDATIONS

Our review in NYS determined that 16 claims out of our sample of 100 claims did not meet Medicare reimbursement requirements. We did not examine the remaining 6,270 claims in the universe. If CMS decides to consider re-adjudication of these remaining claims, we believe a cost benefit analysis should be done taking into consideration the small dollar amount, the age of the claims, and the difficulties we encountered in determining the whereabouts of beneficiaries due to the age of the claims.

We found during our audit period that Medicare payments on behalf of NGRI beneficiaries in State-operated mental health facilities in NYS were allowable because of provisions in NYS law that requires these individuals to pay for their medical care. Further, we found that the State's OMH and OMRDD implemented this provision with due diligence. However, we believe that CMS through its regional offices needs to monitor these claims in the future to ensure these conditions for payment continue to be met.

As a result of our April 25, 2001 report, we have been informed that CMS plans to establish an edit in CWF that will deny claims for incarcerated beneficiaries. Claims meeting the conditions for payment will not be subject to this edit if the supplier or provider submitting the claim certifies, by using a modifier or condition code on the claim, that he or she has been instructed by the State or local government component that the conditions for Medicare payment have been met. The modifier or condition code will be pivotal in paying or denying claims for incarcerated beneficiaries.

We, therefore, recommend that the CMS regional office:

- Require its contractors to monitor future claims made on behalf of NGRI beneficiaries to ensure the conditions for payment continue to be met.

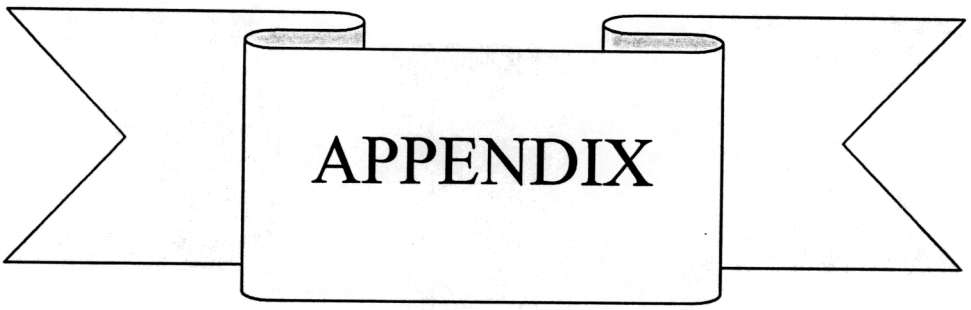
- Make a concerted effort through its contractors to educate suppliers and providers on the meaning of the modifier or condition code and circumstance relating to their proper use.

- Require its contractors to monitor claims with the modifier or condition code after implementation to assure the conditions required in 42 CFR 411.4 (b) are met.

- Work with NYS mental health officials to resolve OMRDD's misinterpretation of the state mental hygiene law regarding patient liability for services.

CMS RESPONSE

The CMS RO responded to our draft report on November 8, 2002, and indicated general concurrence with our conclusions and recommendations. However, the CMS RO stated, they, rather than the Medicare contractors (as we had recommended in our draft report), would be in a better position to assist OMRDD in correcting their procedures. (We agree and have revised our recommendation accordingly.) Regarding the monitoring of future claims, CMS RO stated that this could be achieved through use of a Common Working File edit, establishment of claim condition codes and data sharing with the Social Security Administration. They indicated, these actions must be addressed by their Central Office as part of a national initiative. Finally, they agreed with our recommendation that provider education would be a useful measure to prevent inappropriate billings. The text of the CMS response to our draft report is included in the Appendix to this report.


APPENDIX

CMS
CENTERS for MEDICARE & MEDICAID SERVICES

Memorandum

Region II

Date: November 8, 2002

From: Gilbert Kunken
Acting Regional Administrator

To: Timothy Horgan
Regional Inspector General for Audit Services

Subject: Response to Draft Report, Common Identification Number: A-02-02-01002, Review of Medicare Payments for Services Provided to Incarcerated Beneficiaries in New York State during the period January 1, 1997 through December 31, 1999

The New York Regional Office of CMS agrees with your general conclusion that, although there were some instances in which Medicare payment may have been paid for services to non-qualified beneficiaries, the small dollar amount involved does not support an effort to investigate the claims and recoup any overpayments that are established as a result. In addition, given the ambiguity of the coverage status of incarcerated Medicare beneficiaries in New York State, we believe that it may not be cost effective to attempt to establish with complete assurance that no payments for non-covered services are processed in the future. We suggest that the following steps would be the most effective way to reduce the incidence of payment errors for these beneficiaries:

- A majority of the incorrect payments were made because of a misinterpretation by the NYS Office of Mental Retardation and Developmental Disabilities (OMRDD) of the State Mental Hygiene Law regarding financial liability of patients receiving medical services under a CPL 730.30 (fitness to proceed) criminal court order. Your draft recommends that the Medicare contractors in New York work with the State mental health officials to correct this misinterpretation. We think the CMS Regional Office, which works with State officials on matters of policy and interpretation of health care program law and regulation, is better placed to assist OMRDD in correcting their procedures. The six Medicare contractors that pay claims for services in New York State would not be as authoritative or effective in addressing this matter.
- The first and third of your draft recommendations (page 10 of the report) seem to us to cover the same ground and might be combined. We believe it would be feasible to implement contractor investigation of incarcerated beneficiary claims on a sample basis if the necessary conditions are established. Those conditions are the establishment of the Common Working File edit to deny claims for incarcerated beneficiaries, establishment of the claim condition code which would permit payment in appropriate situations, and a data sharing agreement with the Social Security Administration to obtain its file of incarcerated Medicare beneficiaries. All of these are actions that must be addressed by our Central Office as part of a national initiative rather than as a single state or regional matter. Issues of cost, technical feasibility and competing opportunities would be part of the CMS decision making process.
- We believe that directed provider education would be a useful measure to prevent inappropriate billing, as you recommend.

Thank you for the opportunity to comment on the draft report. If you would like to discuss these issues with us, please contact Sandra Tokayer at extension 4-2505.

ACKNOWLEDGMENTS

This report was prepared under the direction of Timothy J. Horgan, Regional Inspector General for Audit Services. Other principal Office of Audit Services staff who contributed include:

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