



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office Of Inspector General
Office Of Audit Services

Region II

Jacob K. Javits Federal Building

26 Federal Plaza

New York, NY 10278

December 6, 2004

Report Number: A-02-04-01003

Ms. Mary Adam
Assistant Vice President
Audit and Reimbursement
Empire Medicare Services
400 South Salina Street
Syracuse, New York 13202

Dear Ms. Adam:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General report entitled "Audit of University Hospital of Brooklyn's Organ Acquisition Costs Claimed for the Period January 1, 1998 through December 31, 1998." A copy of this report will be forwarded to the action official named on page 2 for review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

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To facilitate identification, please refer to report number A-02-04-01003 in all correspondence.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Timothy J. Horgan", is written over a horizontal line.

Timothy J. Horgan
Regional Inspector General
for Audit Services

Enclosures – as stated

Direct Reply to HHS Action Official:

James T. Kerr
Regional Administrator
Centers for Medicare and Medicaid Services – Region II
26 Federal Plaza, Room 3811
New York, New York 10278

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**AUDIT OF
UNIVERSITY HOSPITAL OF BROOKLYN'S
ORGAN ACQUISITION COSTS
CLAIMED FOR THE PERIOD
JANUARY 1, 1998 THROUGH DECEMBER 30, 1998**



**December 2004
A-02-04-01003**

Office of Inspector General

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OAS FINDINGS AND OPINIONS

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed, as well as other conclusions and recommendations in this report, represent the findings and opinions of the HHS/OIG/OAS. Authorized officials of the HHS divisions will make final determination on these matters.



EXECUTIVE SUMMARY

BACKGROUND

University Hospital of Brooklyn is the teaching hospital of the State University of New York Downstate Medical Center. The 406-bed hospital serves the needs of nearly 3 million people, and is a regional referral center for neonatology, transplantation, and pediatric hemodialysis. On its calendar year (CY) 1998 Medicare cost report, University Hospital of Brooklyn claimed \$4,174,166 for organ acquisition costs associated with its kidney transplant program. Medicare reimburses certified transplant programs for their proportionate share of costs associated with the acquisition of organs for transplant to Medicare beneficiaries. Medicare's share of the \$4,174,166 claimed for CY 1998 was \$2,559,531.

OBJECTIVE

The objective of this self-initiated audit was to determine whether organ acquisition costs claimed on the CY 1998 Medicare cost report by the University Hospital of Brooklyn for its kidney transplant program were allowable. Specifically, did the University Hospital of Brooklyn:

- comply with Medicare law, regulations, and guidelines for claiming organ acquisition costs
- receive excess Medicare reimbursement for organ acquisition activities

SUMMARY OF FINDINGS

University Hospital of Brooklyn did not comply with certain Medicare laws, regulations, and guidelines for claiming organ acquisition costs in the preparation of its Medicare Part A cost report and received excess Medicare reimbursement for organ acquisition activities. Specifically, the University Hospital of Brooklyn did not have systems to segregate salary costs of organ acquisition from salary costs of post-transplant and other hospital activities. The table below summarizes the results of the audit:

Results of Audit

Salaries	\$1,460,280	\$1,117,008	\$ 0	\$343,272	\$ 0
Floor Space	56,571	56,571	0	0	0
Other Costs ²	2,657,315	0	0	0	2,657,315
Total	\$4,174,166	\$1,173,579	\$ 0	\$343,272	\$2,657,315

¹ We limited the scope of our audit based on our analysis of high-risk categories, a review of audits performed by the Medicare fiscal intermediary and our survey work at the University Hospital of Brooklyn. We do not express an opinion on the unaudited amount of \$2.7 million.

² Other costs included organ purchases, recipient and donor evaluations, laboratory and other tests, organ excision fees, costs for hospital inpatient stays for donors, overhead, and other direct costs of the organ transplant program.

We limited our review of organ acquisition costs to \$1.5 million of the \$4.2 million claimed by University Hospital of Brooklyn on its CY 1998 Medicare cost report. We found the University Hospital of Brooklyn claimed \$343,272 in unsupported costs.

The unsupported costs of \$343,272 did not comply with Medicare's documentation requirements for reimbursement. University Hospital of Brooklyn officials agreed that not all of the unsupported costs complied with Medicare documentation requirements. However, the University Hospital of Brooklyn did not allocate any portion of the salaries to non-organ acquisition cost centers even though the salaries claimed pertained to employees working on both pre-transplant and post-transplant activities. We recognize that some portion of the unsupported costs may have related to organ acquisition activities and would have been allowable if documented properly. However, according to Federal regulations and the Provider Reimbursement Manual³ the unsupported costs are considered unallowable for Medicare reimbursement. Although the University Hospital of Brooklyn was unable to provide necessary documentation to support \$343,272 of costs claimed for CY 1998, when settling the audit finding, the Centers for Medicare & Medicaid Services (CMS) and Empire Medicare Services may elect to use an allowable alternative methodology to estimate unsupported organ acquisition costs. If the University Hospital of Brooklyn is unable to provide alternative support for the \$343,272, Empire Medicare Services should recover that portion of the \$263,888 that the University Hospital of Brooklyn is unable to support.

RECOMMENDATIONS

We recommend that Empire Medicare Services:

- work with the University Hospital of Brooklyn to determine, if possible, what portion of the \$343,272 of unsupported costs and related Medicare payment of \$263,888 is associated with allowable organ acquisition activities, and recover that portion of the \$263,888 that the University Hospital of Brooklyn is unable to support;
- review organ acquisition costs claimed by the University Hospital of Brooklyn on its Medicare costs reports in subsequent years for unsupported costs similar to those identified for CY 1998, and recover any Medicare overpayments;
- monitor future Medicare cost report claims for organ acquisition costs from the University Hospital of Brooklyn to ensure compliance with Medicare requirements; and
- instruct the University Hospital of Brooklyn to develop and maintain adequate time-and-effort reporting and accounting controls, and to provide clear direction to responsible personnel as to Medicare requirements for claiming and documenting organ acquisition costs.

³ 42 CFR §§ 413.24(a) and (c) and the Provider Reimbursement Manual, part 1, § 2304.

Empire Medicare Services and University Hospital of Brooklyn Comments

In their comments to our draft report, Empire Medicare Services and the University Hospital of Brooklyn agreed with our findings and recommendations. The full text of Empire Medicare Services comments is presented as Appendix A. The full text of the University Hospital of Brooklyn comments is presented as Appendix B.

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INTRODUCTION

BACKGROUND

University Hospital of Brooklyn

University Hospital of Brooklyn is the teaching hospital of the State University of New York Downstate Medical Center. The 406-bed hospital serves the needs of nearly 3 million people, and is a regional referral center for neonatology, transplantation and pediatric hemodialysis. The hospital was Medicare certified for kidney transplants on December 26, 1966.

The University Hospital of Brooklyn claimed \$4,174,166 for organ acquisition costs associated with its kidney transplant program during CY 1998. Of this amount, Medicare's share was \$2,559,531.

Medicare Reimbursement of Organ Acquisition and Transplant Costs

Medicare reimburses hospitals that are certified transplant centers for their reasonable costs associated with organ acquisition. Costs that qualify as organ acquisition are reimbursed outside of the Medicare prospective payment system and are in addition to the hospital's payment for the transplant itself.

Medicare reimbursed the University Hospital of Brooklyn for organ acquisition costs as passthrough costs under Medicare Part A, based on the ratio of Medicare transplants to total transplants. Under this retrospective cost reimbursement system, Medicare makes interim payments to hospitals throughout the calendar year. At the end of the calendar year, each hospital files a cost report and its interim payments are reconciled with allowable costs, which are defined in Medicare regulations and policy.

The Medicare program also reimbursed the University Hospital of Brooklyn for transplant surgery, inpatient, and post-transplant costs for the recipients, but through different payment systems. Medicare Part A paid for the cost of transplant surgeries and certain follow-up care through diagnosis-related group payments to the hospital. The diagnosis-related group payments were set at a predetermined rate per discharge for groups of patients demonstrating similar resource consumption and length-of-stay patterns. Medicare Part B paid for the physician services furnished to a live donor or recipient during and after the transplant.

Medicare Allowable Organ Acquisition Costs

Medicare allows as organ acquisition costs all costs associated with the organ donor and recipient before admission to a hospital for the transplant operation (i.e., pre-transplant services) and the hospital inpatient costs associated with the donor. Allowable organ acquisition costs include tissue typing, recipient registration fees, recipient and donor evaluations, organ purchases and transportation, and inpatient stays for organ donors.

Medicare's Supporting Documentation Rules

Medicare rules require that hospitals maintain separate cost centers for each type of organ. Only that portion of salaries related to time spent on allowable organ acquisition activities may be

included as organ acquisition costs on the Medicare cost report. If an employee works on both pre-transplant and other activities (post-transplant or nontransplant), the related salary should be allocated to the appropriate cost center using a reasonable basis. The hospital is expected to keep accurate time records or time studies to support its decision to allocate a portion of the employee's salary to the organ acquisition cost center. The documentation must be current, accurate, and in sufficient detail to support payments made for services rendered to beneficiaries. This documentation includes all ledgers, books, records, and original evidences of cost (e.g., labor timecards, payrolls, and bases for apportioning costs) that pertain to the determination of reasonable cost.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objective of this self-initiated audit was to determine whether organ acquisition costs claimed on the CY 1998 Medicare cost report by the University Hospital of Brooklyn for its kidney transplant program were allowable. Specifically, did the University Hospital of Brooklyn:

- comply with Medicare law, regulations, and guidelines for claiming organ acquisition costs
- receive excess Medicare reimbursement for organ acquisition activities

To the extent that the costs claimed were unsupported, we disclosed the related estimated Medicare overpayment.

Scope

The scope of our audit included kidney organ acquisition costs claimed by the University Hospital of Brooklyn on its CY 1998 Medicare cost report, which was the latest cost report audited by Empire Medicare Services. Based on our analysis of audits performed by Empire Medicare Services and our survey work at the University Hospital of Brooklyn, we identified higher risk cost categories and limited our scope to an audit of \$1,460,280 claimed for salaries and \$56,571 for floor space. We did not review the remaining \$2,657,315 and do not express an opinion on this amount. In addition, we did not audit the total number of organs transplanted, the Medicare eligibility of the recipients, inpatient days, or the ratio of costs to charges used on the Medicare Part A cost report to determine certain costs.

We selected the University Hospital of Brooklyn for review because the dollar amount of claimed organ acquisition costs during our audit period was among the highest in New York State.

We did not review the internal controls at the University Hospital of Brooklyn because a review of such controls was not necessary to accomplish our objective.

We performed our fieldwork during the period from February 2004 to May 2004, at the University Hospital of Brooklyn.

Methodology

To accomplish our objective, we:

- obtained an understanding of Medicare reimbursement principles for organ acquisition costs;
- reviewed the documentation supporting organ acquisition costs claimed by the University Hospital of Brooklyn for CY 1998;
- reviewed accounting records and reports;
- reviewed payroll records;
- interviewed University Hospital of Brooklyn transplant center and transplant laboratory employees and managers;
- reviewed transplant laboratory tests performed during selected months of our audit period, to determine whether tests were performed only on pre-transplant patients;
- toured the transplant center and transplant laboratory;
- reviewed floor plans supporting space costs applicable to organ acquisition;
- obtained and reviewed cost report documentation and working papers applicable to our audit period from Empire Medicare Services; and
- discussed our recommended adjustments with Empire Medicare Services.

Empire Medicare Services determined the estimated Medicare overpayment amounts associated with our findings by using proprietary software to adjust the University Hospital of Brooklyn's Medicare cost report.

Our audit was conducted in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

University Hospital of Brooklyn did not comply with certain Medicare laws, regulations, and guidelines for claiming organ acquisition costs in the preparation of its Medicare Part A cost report and received excess Medicare reimbursement for organ acquisition activities. Specifically, the University Hospital of Brooklyn did not have systems to segregate salary costs of organ acquisition from salary costs of post-transplant and other hospital activities. The table below summarizes the results of the audit:

Results of Audit

Salaries	\$1,460,280	\$1,117,008	\$0	\$343,272	\$ 0
Floor Space	56,571	56,571	0	0	0
Other Costs	2,657,315	0	0	0	2,657,315
Total	\$4,174,166	\$1,173,579	\$0	\$343,272	\$2,657,315

According to 42 CFR §§ 413.24(a) and (c) and the Provider Reimbursement Manual, part 1, § 2304, costs claimed must be reasonable, properly allocated, and supported by proper documentation. Only that portion of salaries related to time spent on allowable organ acquisition activities may be included as organ acquisition costs on the cost report. If an employee works on both pre-transplant and other activities (post-transplant or nontransplant), then the related salary should be allocated to the appropriate cost center using a reasonable basis. Costs incurred to supervise or support organ transplant employees should be allocated on a basis consistent with the supervised and supported staff.

Salaries totaling \$1,117,008 were allowable because they were primarily for transplant laboratory employees that performed only pre-transplant activities. In addition, floor space costs of \$56,571 were allowable because the hospital was able to support that the space claimed represented square footage for pre-transplant activities.

The unsupported costs of \$343,272 did not comply with Medicare's documentation requirements for reimbursement. Based on interviews and job descriptions of transplant center employees, we determined that the salaries claimed were for personnel that performed both pre-transplant and post-transplant activities. However, the entire salary of each of the transplant center employees was included as organ acquisition costs on the cost report. We were unable to determine the amount of the salaries that should have been claimed as organ acquisition since the employees did not document the allocation of their time to pre-transplant and post-transplant activities.

University Hospital of Brooklyn officials agreed that not all of the unsupported costs complied with Medicare documentation requirements. However, the University Hospital of Brooklyn did not allocate any portion of the salaries to non-organ acquisition cost centers even though the salaries claimed pertained to employees working on both pre-transplant and post-transplant activities. We recognize that some portion of the unsupported costs may have related to organ acquisition activities and would have been allowable if documented properly. However, according to Federal regulations and the Provider Reimbursement Manual, these unsupported costs were considered unallowable for Medicare reimbursement. Although the University Hospital of Brooklyn was unable to provide necessary documentation to support \$343,272 of costs it claimed for CY 1998, when settling the audit finding, CMS and Empire Medicare Services may elect to use an allowable alternative methodology to estimate unsupported organ acquisition costs. If the University Hospital of Brooklyn is unable to provide alternative support for the \$343,272, Empire Medicare Services should recover that portion of the \$263,888 that the University Hospital of Brooklyn is unable to support.

RECOMMENDATIONS

We recommend that Empire Medicare Services:

- work with the University Hospital of Brooklyn to determine, if possible, what portion of the \$343,272 of unsupported costs and related Medicare payment of \$263,888 is associated with allowable organ acquisition activities, and recover that portion of the \$263,888 that the University Hospital of Brooklyn is unable to support;
- review organ acquisition costs claimed by the University Hospital of Brooklyn on its Medicare costs reports in subsequent years for unsupported costs similar to those identified for CY 1998, and recover any Medicare overpayments;
- monitor future Medicare cost report claims for organ acquisition costs from the University Hospital of Brooklyn to ensure compliance with Medicare requirements; and
- instruct the University Hospital of Brooklyn to develop and maintain adequate time-and-effort reporting and accounting controls, and to provide clear direction to responsible personnel as to Medicare requirements for claiming and documenting organ acquisition costs.

AUDITEE COMMENTS AND OIG RESPONSE

Empire Medicare Services Comments

In its comments to our draft report, Empire Medicare Services agreed with our findings and recommendations. The full text of Empire Medicare Services comments is presented as Appendix A.

OIG Response

We are pleased that Empire Medicare Services agreed with our findings and is taking steps to implement our recommendations.

University Hospital of Brooklyn Comments

In its comments to our draft report, the University Hospital of Brooklyn agreed with our findings, but did not feel that the total salaries of employees who perform post-transplant activities should be deemed as unsupported and disallowed as organ acquisition. University Hospital of Brooklyn officials also indicated they were taking action to identify employee time spent on organ acquisition activities. The full text of the University Hospital of Brooklyn comments is presented as Appendix B.

OIG Response

We commend the University Hospital of Brooklyn for taking action to identify employee time spent on organ acquisition activities. We recognize that some portion of the unsupported costs may have related to organ acquisition activities that would have been allowable if documented

properly as stated on page 4 of the draft report. Accordingly, we continue to recommend that Empire Medicare Services work with the University Hospital of Brooklyn to determine what portion of the unsupported costs was associated with allowable organ acquisition activities.

APPENDICES

**MEDICARE**

Part A Intermediary
Part B Carrier

November 5, 2004

Mr. Timothy J. Horgan
Regional Inspector General for Audit Services
Department of Health and Human Services
Office of the Inspector General
Office of Audit Services
26 Federal Plaza, Room 3900
New York, NY 10278

Ref.: Draft Report "Audit of University Hospital of Brooklyn's Organ Acquisition Costs Claimed for the Period January 1, 1998 through December 31, 1998" (A-02-04-01003)

Dear Mr. Horgan:

The following is our response to the recommendations discussed in the draft OIG report "Audit of University Hospital of Brooklyn Organ Acquisition Cost Claimed for the Period January 1, 1998 through December 31, 1998."

OIG Recommendation #1 – Work with University Hospital of Brooklyn to determine, if possible, what portion of the \$343,272 of unsupported costs and related Medicare payment of \$263,888 is associated with allowable organ acquisition activities, and recover that portion of the \$263,888 that University Hospital of Brooklyn is unable to support with allowable organ acquisition costs.

Intermediary Response – The OIG's determination of \$343,272 of unsupported cost was based upon their detailed audit of the provider's books and records. Our Jericho audit office will meet with University Hospital of Brooklyn to determine if any of the cost can be determined to be related to allowable organ acquisition activities. This will occur during the 2000 cost report audit that is scheduled to start during the third week of January 2005. If the hospital cannot supply adequate support for the allowability of the cost the Intermediary's responsibility will be limited to reclassifying unsupported organ acquisition costs from Organ acquisition to the cost centers where they originated in conformity with the OIG findings. We have asked the OIG for copies of their work papers supporting audit results and calculation of the unsupported organ acquisition salary amounts.

EMPIRE MEDICARE SERVICES
A Division of Empire HealthChoice Assurance, Inc., a CMS-Contracted Agent
400 South Salina Street, Syracuse, NY 13202
www.empiremedicare.com

Mr. Timothy J. Horgan
November 5, 2004
Page 2

OIG Recommendation #2 - Review organ acquisition costs claimed by the University Hospital of Brooklyn on its Medicare cost reports in subsequent years for unsupported costs similar to those identified in CY 1998 and recover any Medicare overpayments.

Intermediary Response – We will be taking the following actions to implement this recommendation:

CALENDAR YEAR END	FI ACTION TO BE TAKEN
1998	See explanation in the answer to OIG Recommendation #1.
1999	A Notice of Reopening will be issued followed by a review of the Provider's documentation. The review will take place at the time of the 2000 audit. If necessary a reopening of the Cost Report to include the recommended adjustment will be done.
2000	Audit is scheduled to start the third week of January 2005. This area will be audited. A management point, if necessary, will be given regarding this issue.
2001 and Subsequent	Neither desk review nor audit has started to date. A note to future audits will be included in the 2000 audit work papers to ensure that the cost is reviewed in the future.

OIG Recommendation #3 – Monitor future Medicare cost report claims for organ acquisition costs from University Hospital of Brooklyn to ensure compliance with Medicare requirements.

Intermediary Response – We will request that the Provider establish a reasonable written accounting policy that identifies and clarifies a process to be utilized in accounting for time spent

Mr. Timothy J. Horgan
November 5, 2004
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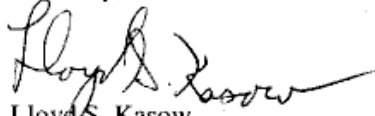
in pre-transplant organ acquisition activities, versus transplant and post transplant activities. Once it has been determined that the policy is reasonable, we will then test to ensure that the policy is being adhered to via review of the providers records. This review will begin for periods subsequent to fiscal year ended 2005.

OIG Recommendation #4 – Instruct University Hospital of Brooklyn to develop and maintain adequate time studies and accounting controls, and to provide clear direction to responsible personnel as to Medicare requirements for claiming and documenting organ acquisition costs.

Intermediary Response – This recommendation is addressed in Intermediary Response #3.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Lloyd S. Kasow", written over a horizontal line.

Lloyd S. Kasow
Medicare Coordination

cc: Mary Adam
Edward Stern



**SUNY
DOWNSTATE
Medical Center**

University Hospital of Brooklyn
Hospital Finance

October 27, 2004

University Hospital of Brooklyn
College of Medicine
School of Graduate Studies
College of Nursing
College of Health Related Professions

Mr. Timothy J. Horgan, Regional Inspector General
Department of Health and Human Services
Office of Inspector General/Office of Audit Services
Region II, Jacob K. Javits Federal Bldg.
26 Federal Plaza
New York, NY 10278

Dear Mr. Horgan:

We have received and reviewed the Department of Health and Human Services, Office of Inspector General (OIG) draft report (#A-02-04-01003) entitled "Audit of University Hospital of Brooklyn's Organ Acquisition Costs Claimed for the Period January 1, 1998, through December 31, 1998."

During the course of the audit, OIG auditors reviewed our reported \$1,460,280 of salaries claimed as organ acquisition costs. During interviews, with various employees, they identified a few who perform activities that are both pre-transplant and post-transplant. We agree with these findings, although we do not feel that the total salaries of those employees who perform post-transplant should be deemed as unsupported and disallowed as organ acquisition costs.

We are currently in the process of implementing time and effort studies for those employees currently included in our organ acquisition costs. This will allow us to clearly identify, if any, their time spent on non organ acquisition activities.

Please feel free to contact Mr. Jeffrey Kostalos, of my staff, at (718) 826-4911 should you have any questions regarding this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerry H. Dantis".

Gerry H. Dantis
Assistant Vice President
Hospital Finance

Cc: Jeffrey Kostalos
Enrique Ongtiong



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:

Richard Schlitt, *Audit Manager*

Jeffrey I. Jacobs, *Senior Auditor*

Robert Huot, *Auditor*

Camille O'Brady, *Auditor*

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