Memorandum

Date APR 25 2001

From Michael Mangano
Michael F. Mangano
Acting Inspector General

Subject Review of Medicare Payments for Services Provided to Incarcerated Beneficiaries (A-04-00-05568)

To Michael McMullan
Acting Principal Deputy Administrator
Health Care Financing Administration

Attached are two copies of our final report entitled, "Review of Medicare Payments for Services Provided to Incarcerated Beneficiaries." This is the first in a series of reports on this subject.

The objectives of this review were to determine:

- whether the Health Care Financing Administration (HCFA) has sufficient controls to identify incarcerated Medicare beneficiaries and prevent the improper disbursement of Medicare funds for medical services provided to beneficiaries while in custody of Federal, State, or local officials; and

- the amount of Medicare payments for incarcerated beneficiaries based on comparing Social Security Administration (SSA) data identifying incarcerated beneficiaries with Medicare payment history for Calendar Years (CY) 1997 through 1999.

We determined that the Medicare program is vulnerable to improper payments for services rendered to incarcerated beneficiaries. According to data provided by SSA, there were 38,600 Social Security beneficiaries entitled to Medicare who were incarcerated as of July 19, 2000. We used this data to determine whether Medicare claims have been paid on behalf of these beneficiaries during CYs 1997 through 1999. To date, we have identified $32 million in Medicare fee-for-service payments by Medicare contractors to providers on behalf of 7,438 of the 38,600 incarcerated beneficiaries during this period. We are analyzing additional data we obtained from HCFA to identify incarcerated beneficiaries enrolled in Medicare managed care plans.

We have not yet determined the amount of Medicare payments made on behalf of incarcerated beneficiaries which may be improper. We are, however, extremely concerned because, generally, no Medicare payments should be made for services rendered to prisoners unless certain strict conditions are met by the government component (i.e., Federal, State, or

local) which operates the prison. We found, however, that HCFA does not identify Medicare beneficiaries who are in prison, making it virtually impossible for Medicare contractors to prevent improper payments.

As a result, the Medicare program is at risk for making improper payments for services provided to incarcerated beneficiaries. This risk is because HCFA has not succeeded in obtaining beneficiary data from SSA that identifies incarcerated beneficiaries. Nor has HCFA implemented system controls in the Enrollment Data Base (EDB) and Common Working File (CWF) to alert contractors when a Medicare claim is for services provided to an incarcerated beneficiary.

To minimize this risk, we recommend that HCFA take procedural and systematic measures to formalize its efforts to obtain additional data from SSA in the daily transmission of enrollment data which identifies incarcerated beneficiaries and design and implement systems controls in the EDB and CWF to alert contractors when a Medicare claim is submitted for services provided to an incarcerated beneficiary.

We recognize that implementing the routine transfer of necessary information from SSA and making the necessary system enhancements will take time. In the interim, we recommend that HCFA periodically obtain a file on incarcerated beneficiaries for post-payment reviews from SSA similar to the file we obtained during our review. Since the data we received from SSA is for beneficiaries incarcerated as of July 19, 2000, we believe it would be legally preferable for HCFA to obtain current information directly from SSA rather than using the data we obtained. Implementing these recommendations will help HCFA meet its program integrity goal to reduce improper payments under the Medicare program.

We are continuing our work to quantify the amount of improper Medicare payments that have been made on behalf of incarcerated beneficiaries.

In their written response to our draft report, HCFA officials shared our concerns that improper payments may be occurring and agreed with the intent of our recommendations. They hesitated, however, to fully commit to implementing systems controls to alert their contractors of imprisoned beneficiaries at this time because they believe further study is necessary to determine the most appropriate source of incarcerated beneficiary data for their use.

The HCFA officials also indicated they must consider the contractor resources needed to manually review a claim for an incarcerated beneficiary because State and local laws need to be analyzed.

While we agree that additional information on data available within SSA would be helpful to HCFA and that systems changes in the Medicare program take time, we believe that HCFA

should move to implement our recommendations in order to reduce future potential overpayments.

Please advise us within 60 days on actions taken or planned on our recommendations. If you have any questions, please call me or have your staff contact George M. Reeb, Assistant Inspector General for Health Care Financing Audits, at (410) 786-7104.

To facilitate identification, please refer to Common Identification Number A-04-00-05568 in all correspondence relating to this report.

Attachments

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

REVIEW OF MEDICARE PAYMENTS FOR SERVICES PROVIDED TO INCARCERATED BENEFICIARIES

APRIL 2001
A-04-00-05568

Memorandum

Date APR 25 2001

From Michael F. Mangano
Acting Inspector General

Subject Review of Medicare Payments for Services Provided to Incarcerated Beneficiaries (A-04-00-05568)

To Michael McMullan
Acting Principal Deputy Administrator
Health Care Financing Administration

This final report provides you with the results of the first in a series of audits of Medicare payments for services provided to incarcerated beneficiaries.

The Medicare program is vulnerable to improper payments for services rendered to incarcerated beneficiaries. According to data provided to us by the Social Security Administration (SSA), there were 38,600 Social Security beneficiaries entitled to Medicare who were incarcerated as of July 2000. We used this data to determine whether Medicare claims have been paid on behalf of any of these beneficiaries during Calendar Years (CY) 1997 through 1999. To date, we have identified $32 million in Medicare fee-for-service payments by Medicare contractors to providers on behalf of 7,438 of the 38,600 incarcerated beneficiaries during this period. We are analyzing additional data we obtained from the Health Care Financing Administration (HCFA) to identify incarcerated beneficiaries enrolled in Medicare managed care plans.

We have not yet determined the amount of Medicare payments made on behalf of incarcerated beneficiaries which may be improper. We are, however, extremely concerned because, generally, no Medicare payments should be made for services rendered to prisoners unless certain strict conditions are met by the government component (i.e., Federal, State, or local) which operates the prison. The HCFA, however, does not identify Medicare beneficiaries who are in prison, making it virtually impossible for Medicare contractors to prevent improper payments.

As a result, the Medicare program is at risk for making improper payments for services provided to incarcerated beneficiaries because HCFA has not succeeded in:

- obtaining beneficiary data from SSA that identifies incarcerated beneficiaries; and

- implementing systems controls in the Enrollment Data Base (EDB) and Common Working File (CWF) to alert contractors when a Medicare claim is for services provided to an incarcerated beneficiary.

To minimize this risk, we recommend that HCFA take the following procedural and systematic measures:

- formalize its efforts to obtain additional data which identifies incarcerated beneficiaries from SSA in the daily transmission of enrollment data; and

- design and implement systems controls in the EDB and CWF to alert contractors when a Medicare claim is submitted for services provided to an incarcerated beneficiary.

We recognize that implementing the routine transfer of necessary information from SSA and making the necessary system enhancements will take time. In the interim, we recommend that HCFA periodically obtain a file on incarcerated beneficiaries for post-payment reviews from SSA similar to the file we obtained during our review. Since the data we received from SSA is current only through July 19, 2000, we believe it would be legally preferable for HCFA to obtain current information directly from SSA rather than using the data we obtained. Implementing these recommendations will help HCFA meet its program integrity goal to reduce improper payments under the Medicare program.

In their written response to our draft report, HCFA officials shared our concerns that improper payments may be occurring and agreed with the intent of our recommendations. They hesitated, however, to fully commit to implementing systems controls to alert their contractors of imprisoned beneficiaries at this time. They stated further study is necessary to determine the most appropriate source of incarcerated beneficiary data for their use.

The HCFA officials also indicated they must consider the contractor resources needed to manually review a claim for an incarcerated beneficiary because State and local laws need to be analyzed. After the issue has been studied further, they said another 12 to 18 months would be needed to plan and execute a data exchange and to implement systems controls.

The comments from HCFA are included in their entirety as the Appendix to this report.

BACKGROUND

The Office of Inspector General is conducting a series of audits on Medicare payments made on behalf of beneficiaries who were in the custody of Federal, State, or local law enforcement agencies at the time services were provided. Under current Federal law and regulations, payments for such services are generally unallowable.

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 and if the services are paid for directly or indirectly by a governmental entity. Regulations at 42 CFR 411.4(b)(1) and (2) state the Medicare program may not pay for services provided to beneficiaries who are in the custody of penal authorities *unless* the authorities require that all individuals pay for such services and enforce that requirement by pursuing collection for repayment. The State or other government component operating the prison is presumed to be responsible for the medical needs of its prisoners. According to HCFA's procedural manuals for its contractors, this is a rebuttable presumption that may be overcome only at the initiative of the government entity. The entity must establish that it enforces the requirement to pay by billing and seeking collection from all individuals in custody, whether insured or uninsured, with the same vigor it pursues the collection of other debts. It must pursue collection, including the filing of lawsuits to obtain liens against an individual's assets outside the prison and income from nonprison sources. However, contractors are not enforcing these procedures because HCFA does not have sufficient controls to identify imprisoned Medicare beneficiaries. This condition places the Medicare program at risk for improper payments.

Section 202(x)(1)(A) of the Social Security Act, requires 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 and various State and local entities, developed and maintains a database of incarcerated individuals. On April 25, 1998, the President issued a *Memorandum for the Heads of Executive Departments and Agencies* (Memorandum) that directed agency officials to review their benefit programs and determine whether it was appropriate and cost effective to conduct a match of their benefit program databases with the SSA prisoner database. The Memorandum requires agencies that identify ineligible recipients to immediately suspend, reduce, or terminate benefits as permitted by law. The Memorandum also directed SSA to make its prisoner database available to all agencies, provide assistance, and to facilitate the agencies' quick and efficient access to the data. In addition, the Memorandum states that by May 1, 1999, agencies should have an operational computer system that matches their benefit program databases with the SSA prisoner database.

The SSA Master Beneficiary Record (MBR) identifies incarcerated beneficiaries and provides demographic and entitlement information on all Medicare beneficiaries. The MBR is the primary source of data for HCFA's EDB. Data about beneficiaries, such as dates of Medicare enrollment and termination, changes of address, etc., is transmitted to HCFA and used to update the EDB. Entitlement data from the EDB is subsequently used to update the CWF which is the Medicare benefits coordination and claims system. Medicare contractors are required by HCFA to submit claims to the CWF and obtain approval before paying claims.

SCOPE AND METHODOLOGY

Our objectives were to determine:

- whether HCFA has sufficient controls to identify incarcerated Medicare beneficiaries and prevent the improper disbursement of Medicare funds for medical services provided to beneficiaries while in custody of Federal, State, or local officials; and

- the amount of Medicare payments for incarcerated beneficiaries based on comparing SSA data identifying incarcerated beneficiaries with Medicare payment history.

To achieve our objectives, we reviewed applicable laws and regulations, Medicare reimbursement policies and procedures, pertinent provisions of the Social Security Act, and held discussions with HCFA and Medicare contractor officials. We also met with SSA officials and requested information from them identifying Medicare beneficiaries who are imprisoned or confined to mental institutions for criminal actions by court order because they are insane or incompetent to stand trial.

Our audit period is January 1, 1997 through December 31, 1999. We identified payments made to providers by contractors on behalf of the Medicare incarcerated beneficiaries identified by SSA. We are analyzing additional data we obtained from HCFA to identify incarcerated beneficiaries enrolled in Medicare managed care plans.

We held discussions with officials from Medicare contractors in Alabama, Florida, South Carolina, and Tennessee. We also sent written inquiries to these officials and incorporated their responses in the results of this review. In future audit work, we will contact selected providers and prison officials.

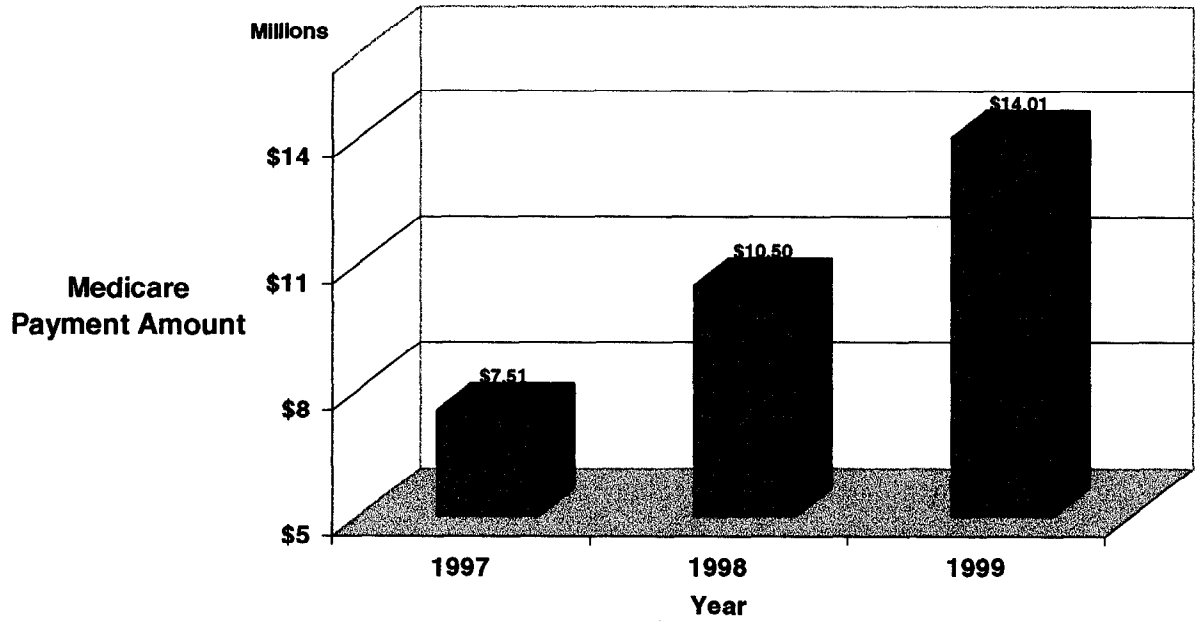
Our work began in December 1999 and was performed at: (1) HCFA and SSA headquarters in Baltimore, Maryland, and (2) our offices in Baltimore; Atlanta, Georgia; and Jacksonville, Florida. Our audit was conducted in accordance with generally accepted government auditing standards.

RESULTS OF REVIEW

The Medicare program is vulnerable to improper payments for services rendered to incarcerated beneficiaries. Our analysis of data provided by SSA of incarcerated Medicare beneficiaries and HCFA's claims data indicates that Medicare is making an increasing amount of payments on behalf of incarcerated beneficiaries. To date, we have identified $32,024,582 in payments by Medicare contractors to providers for services rendered to

7,438 incarcerated beneficiaries for CYs 1997 through 1999 ($7,511,386, $10,502,203, and $14,010,993, respectively). We are analyzing additional HCFA data to identify incarcerated beneficiaries enrolled in Medicare managed care plans.

Medicare Payments for Incarcerated Beneficiaries



The Medicare program is currently at risk of making improper payments for services for incarcerated beneficiaries because HCFA has not succeeded in (1) obtaining beneficiary data from SSA that identifies incarcerated beneficiaries, and (2) implementing systems controls in the EDB and CWF to alert contractors when a Medicare claim is for services provided to an incarcerated beneficiary. To minimize this risk, we recommend that HCFA implement the following procedural and systematic measures:

- formalize its efforts to obtain additional data which identifies incarcerated beneficiaries from SSA in the daily transmission of enrollment data; and

- design and implement systems controls in the EDB and CWF to alert contractors when a Medicare claim is submitted for services provided to an incarcerated beneficiary.

Until these recommendations are implemented, we recommend that HCFA periodically obtain a file on incarcerated beneficiaries for post-payment reviews from SSA similar to the

file we obtained during our review. Implementing these recommendations will help HCFA meet its program integrity goal to reduce improper payments under the Medicare program.

The HCFA should take immediate action to obtain data from SSA to identify incarcerated beneficiaries.

The HCFA has issued instructions to its contractors that Medicare generally should not pay for care provided to incarcerated beneficiaries. The HCFA does not, however, routinely obtain the names of such individuals. As a result, Medicare contractors cannot enforce HCFA's "no payment" policy.

To comply with the President's Memorandum, HCFA needs to assist its contractors by obtaining additional prisoner data from SSA. The HCFA officials have indicated that they have held informal discussions (some as far back as several years) with SSA officials regarding obtaining prisoner data. So far, these informal discussions have not been fruitful in obtaining the needed data.

During our meetings with SSA officials, we learned the MBR contains two data elements which must be used in conjunction to identify incarcerated beneficiaries: the Ledger Account File (LAF) code and the Reason for Suspension or Termination (RFST). If the MBR indicates an LAF code of *S7* and an RFST of *prison* or *mental*, the beneficiary is incarcerated and the services rendered to the beneficiary may be ineligible for Medicare reimbursement. In the current daily data exchange with HCFA, SSA provides the LAF code, but not the RFST. The LAF code of *S7* alone is not sufficient to identify incarcerated beneficiaries because this code also identifies two other conditions which do not affect Medicare coverage.[1] With the additional RFST data element, HCFA would have the information necessary to identify incarcerated beneficiaries.

The SSA officials provided us with a file which identified Social Security beneficiaries entitled to Medicare, who, according to SSA records, were incarcerated. This data shows that as of July 19, 2000, there were 38,600 Medicare beneficiaries who were incarcerated.

Because the necessary exchange of prisoner data is not transpiring, Medicare overpayments have occurred for services rendered to incarcerated beneficiaries that should have been paid by other entities. For example, a Florida regional medical center billed Medicaid and Medicare over $100,000 for medical services provided to prisoners held in a county prison that should have been paid by a private company under contract with the county. The HCFA

[1] The LAF code *S7* is also used by SSA to identify disabled beneficiaries who refused vocational rehabilitation and disabled beneficiaries who are working but still entitled to Medicare under section 226(b) of the Social Security Act.

and State agency officials first became aware of this condition as a result of an area newspaper's investigative report. Once the overpayment was detected, the medical center agreed to refund the money.[2] This situation indicates that neither HCFA nor the contractor had sufficient information to prevent the overpayment. Until this information is made available to contractors, the Medicare program remains at risk of similar occurrences.

The HCFA should design and implement systems controls in the EDB and CWF to prevent improper payments for incarcerated beneficiaries.

Although systems controls exist within the EDB and CWF to prevent erroneous payments for numerous reasons, none exist to prevent erroneous payment for services for incarcerated beneficiaries. We contacted four Medicare contractors to determine if they had systems controls to prevent improper payments made on behalf of incarcerated beneficiaries. Officials from one contractor indicated that they have systems controls, but no routine means of identifying incarcerated beneficiaries so the controls may be implemented properly. Officials from another contractor stated they have not implemented these types of systems controls, but such controls were possible if the data were available. They further advised us, however, that the lack of a central data source on incarcerated beneficiaries precludes any systems controls that they implement from being effective. Officials at the remaining two contractors stated they have not implemented systems controls to detect the improper payments for incarcerated beneficiaries.

Our analysis of Medicare fee-for-service claims identified to date for CYs 1997 through 1999 shows that the number of potentially improper claims is increasing. Consequently, we believe HCFA's existing systems controls are inadequate to prevent the improper disbursement of Medicare funds for services provided to incarcerated beneficiaries. Furthermore, the lack of such payment edits indicates that HCFA's payments are not in compliance with the provisions of sections 1862(a)(2) and (3) of the Social Security Act and 42 CFR 411.4(b)(1) and (2).

The HCFA needs to obtain the necessary data from SSA before this recommendation can be implemented. Once this information is obtained, such action would help HCFA meet its program integrity goal of reducing improper payments.

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[2] As a result of this disclosure, the contractor: (1) issued an educational letter to providers explaining the Medicare criteria for billing Medicare for services provided to incarcerated beneficiaries, (2) included in its coordination of benefits hospital audits an audit step to identify all contracts for medical services provided to incarcerated beneficiaries, and (3) advised the HCFA regional office of this condition. In response to the contractor's notification, HCFA issued a memorandum on September 21, 1999 to all Region IV carriers and intermediaries advising them of this condition and reiterating Medicare's payment policy.

We are continuing our work to quantify the amount of improper Medicare payments that have been made on behalf of incarcerated beneficiaries.

RECOMMENDATIONS

As a remedy to prevent future improper payments, we recommend that HCFA:

- take appropriate steps to obtain the RFST data element as part of its daily data exchange with SSA to identify incarcerated beneficiaries; and

- design and implement systems controls in the EDB and CWF to alert contractors when a Medicare claim is submitted for an incarcerated beneficiary.

We recognize that implementing the routine transfer of necessary information from SSA and making the necessary system enhancements will take time. In the interim, we recommend that HCFA periodically obtain a file on incarcerated beneficiaries for post-payment reviews from SSA similar to the file we obtained.

HCFA COMMENTS AND OIG RESPONSE

As general comments in their written response to our draft report, HCFA officials shared our concerns that improper payments may be occurring and agreed with the intent of our recommendations. They hesitated, however, to fully commit to implementing systems controls to alert their contractors of imprisoned beneficiaries at this time. They stated further study is necessary to determine the most appropriate source of incarcerated beneficiary data for their use.

The HCFA officials also indicated that they must consider the contractor resources needed to manually review a claim for an incarcerated beneficiary because State and local laws need to be analyzed. According to HCFA officials, after the issue has been studied further, another 12 to 18 months would be needed to plan and execute a data exchange and to implement systems controls.

Below are the specific responses HCFA made to our recommendations and our resultant comments. Included as an Appendix are HCFA's comments in their entirety.

OIG Recommendation

The HCFA should take appropriate steps to obtain the RFST data element as part of its daily data exchange with SSA to identify incarcerated beneficiaries.

HCFA Comments

Officials from HCFA believe that further investigation of the SSA data is needed before HCFA takes any action to obtain information from SSA to identify incarcerated beneficiaries. They contend that the MBR data from SSA has inherent limitations such as omission of the name of the facility, location, date of incarceration, and date of release. They pointed out that the current data does not include incarceration data for Medicare-only beneficiaries. They also stated that they are working diligently to determine the most appropriate source of incarcerated beneficiary data for Medicare's use.

OIG Response

Although we agree that further discussions with SSA are desirable to determine the best source of complete data, we are concerned that HCFA did not indicate a target date when such a study would be completed. In addition, we believe that sufficient information is already available to identify a significant portion of incarcerated Medicare beneficiaries. By obtaining one additional field already on SSA's MBR, HCFA could identify for further development incarcerated beneficiaries who are eligible for both Medicare and Social Security. By using the existing MBR field, we acknowledge incarceration data will not be available for Medicare-only beneficiaries. We continue, however, to recommend that HCFA obtain readily available information for this large portion of incarcerated beneficiaries while further discussions with SSA are underway.

We disagree that the MBR does not contain the date of incarceration because the Date of Suspension or Termination field on the MBR in conjunction with the LAF and RSFT codes provides this information. We acknowledge that the prison facility information is not currently available from the MBR. The SSA does, however, have this information in a separate database. Consequently, HCFA officials should request this information in their future discussions with SSA.

OIG Recommendation

The HCFA should design and implement systems controls in the EDB and CWF to alert contractors when a Medicare claim is submitted for an incarcerated beneficiary.

HCFA Comments

Officials from HCFA indicated that, assuming the SSA data is valid, the exchange in data and the recommended system improvements will require an estimated 12 to 18 months to execute. In addition, they point out that contractor staff will need to conduct potentially time-consuming manual reviews of claims and analyze the applicability of State and local laws to accurately determine Medicare's liability.

OIG Response

We realize that the system improvements will take time. Any delays in this implementation, however, could result in significant payments for incarcerated beneficiaries from the Medicare trust funds.

We acknowledge that contractor development of claims will be necessary and potentially time-consuming. It is, however, required according to existing regulations and HCFA contractor manuals. We also note that the burden of proof rests with the prison authority, not Medicare. In addition, once files are established and procedures are streamlined, less manual effort will be required because of increased awareness of prisons and providers, resulting in increased compliance.

OIG Recommendation

The HCFA should periodically obtain a file on incarcerated beneficiaries for post-payment reviews from SSA similar to the file we obtained.

HCFA Comments

The HCFA officials stated that prior to implementing our recommendation, they would need to investigate the issues to determine the applicability of post-payment recovery efforts. They pointed out that HCFA's business relationship is with the provider of the service and/or the beneficiary. Consequently, any post-payment recovery action taken (after contractor development of each case) would be against the provider or beneficiary, not the penal institution. In addition, the provider or beneficiary would have appeal rights if a claim were denied.

OIG Response

We agree that any post-payment recoveries should be principally directed at the applicable providers. We also recognize that implementing the routine transfer of necessary information from SSA and making the necessary system enhancements will take time. In the interim, however, Medicare will continue to make payments for incarcerated beneficiaries. As a result, we continue to recommend that HCFA periodically obtain a file on incarcerated beneficiaries for post-payment reviews from SSA similar to the file we obtained.

In a technical comment, HCFA officials also asked for an explanation of why Medicare payments for incarcerated beneficiaries doubled between 1997 to 1999. Our future work in this area may answer this question. We note that recent statistics indicate the prison

population is steadily growing. We believe this increase in payments adds support to our position that immediate actions needs to be taken, rather than waiting for more discussions with SSA.

DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Care Financing Administration

Deputy Administrator
Washington, D.C. 20201

DATE: APR - 2 2001

TO: Michael F. Mangano
Acting Inspector General

FROM: Michael McMullan
Acting Deputy Administrator

SUBJECT: Office of Inspector General (OIG) Draft Report: *Review of Medicare Payments for Services Provided to Incarcerated Beneficiaries* (A-04-00-05568)

Thank you for the opportunity to review and comment on the above-referenced draft report, which presents the results of OIG's review of Medicare payments for services provided to incarcerated beneficiaries. OIG believes that the Medicare program is vulnerable to improper payments for services rendered to these beneficiaries. To date, OIG has identified $32 million in Medicare fee-for-service payments by contractors to providers on behalf of 7,438 incarcerated beneficiaries during calendar years 1997 through 1999. However, OIG has not yet determined how much of this $32 million was paid incorrectly, and HCFA's actual liability is unknown at this time.

To prevent future improper payments, OIG recommended that HCFA take procedural and systematic measures to formalize its efforts to obtain additional data from the Social Security Administration (SSA) in the daily transmission of enrollment data, which identify incarcerated beneficiaries, and design and implement systems controls in the Enrollment Data Base (EDB) and Common Working File (CWF) to alert contractors when a Medicare claim is submitted for services to an incarcerated beneficiary. While we agree with the intent of OIG's recommendations, further research is needed to determine HCFA's vulnerability in the area of incarcerated beneficiaries. Since these determinations must be made on a claim-by-claim basis, we suggest selecting and analyzing a random sample of the claims in OIG's database to determine how much of the $32 million payment was actually paid incorrectly. Once the extent of the problem is determined, a strategy can be established to correct significant problems either on a prepayment or a postpayment basis.

We have carefully reviewed the subject report and share OIG's concern that improper payments may be occurring. HCFA believes that this is an important area for examination and appreciates the effort that went into this report. HCFA looks forward to working with OIG on this issue. Our detailed comments on the OIG recommendations follow.

OIG Recommendation

OIG recommends that HCFA take appropriate steps to obtain the reason for suspension or termination data element as part of its daily data exchange with SSA to identify incarcerated beneficiaries.

HCFA Response
Further investigation of the data available from SSA is needed. Since reviewing the draft report, HCFA has become aware of some inherent limitations in the SSA data. For example, the SSA Master Beneficiary Record fields used in the OIG study identify those beneficiaries who receive Social Security cash benefits and are reported as incarcerated, but do not provide the facility name or location, nor do they contain the date of incarceration or the date of release.

Hence, the data may omit individuals who have been released. This data source needs to be evaluated in light of new information obtained on other available data. HCFA and OIG staffs recently met with SSA staff and became aware of another data source, which contains prisoner data, including the date of incarceration and information about the facility. However, SSA staff indicated that those in Federal facilities and the uninsured (i.e., Medicare-only beneficiaries) would not be included in a data exchange with HCFA. We are working diligently to determine the most appropriate source of incarcerated beneficiary data for Medicare's use.

OIG Recommendation
OIG recommends that HCFA design and implement systems controls in the EDB and CWF to alert contractors when a Medicare claim is submitted for an incarcerated beneficiary.

HCFA Response
Assuming further research indicates that use of the SSA files/data is valid, exchange of data will take some time to plan and execute. For example, we (or SSA in some instances) would need to:

- Restructure HCFA's EDB to add a new data element to indicate a beneficiary's incarcerated status;
- Make systems changes in SSA's files to accommodate HCFA's needs;
- Change HCFA's CWF to house incarcerated beneficiary data;
- Change HCFA's claims processing systems to accept CWF data;
- Develop and execute all necessary data use and computer matching agreements; and
- Develop a memorandum of understanding with the Department of Justice to receive data on Federal prisoners, if warranted.

We estimate that implementing these changes would require 12-18 months.

Equally as important, the following issues also need to be considered:

- Manual Review of Claims. It is important to note that the data alone would not provide the information needed to make an accurate determination on an individual claim. An accurate determination will require manual review of the claim by contractor staff. Since resources are limited, the Agency must consider this activity in light of its other prepayment review demands.

- Applicability of State Laws. In addition to manual claims review, state and local (e.g., county, city, or other municipal level) laws regarding the billing of health services for incarcerated inmates need to be analyzed to determine the extent to which beneficiaries are held liable for these services.

- Managed Care Claims. We need to better understand how the law affects our beneficiaries in managed care arrangements.

Though not a formal recommendation, OIG recommends that HCFA periodically obtain a file on incarcerated beneficiaries for postpayment reviews from SSA similar to the file OIG obtained. Because HCFA's business relationship is with the provider of service and/or the beneficiary, any postpayment recovery would be against the provider or beneficiary, not the penal institution. This recovery could happen only after the case development described above, namely, contact with the penal authority, both to confirm that the beneficiary was in fact under its jurisdiction at the time of the Medicare service and to determine the policy regarding payment for medical services. If a denial of the claim resulted from this research, the provider or beneficiary would have appeal rights. Accordingly, HCFA will need to investigate the totality of the issues to determine the applicability of postpay recovery efforts to this workload.

Again, we appreciate the effort that went into this report and the opportunity to review and comment on the issues it raises.

Attachment

Technical Comment

Page 5, Graphic—We suggest that the report include an explanation of why the Medicare payments for incarcerated beneficiaries doubled from $7.5 million in 1997 to $14 million in 1999.