



DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF AUDIT SERVICES
233 NORTH MICHIGAN AVENUE
CHICAGO, ILLINOIS 60601

REGION V
OFFICE OF
INSPECTOR GENERAL

Report Number: A-05-04-00061

December 2, 2004

Ms. Barbra Buls
Vice President Government Programs
Blue Cross and Blue Shield of Nebraska
2120 South 72nd Street Suite 500
P.O. Box 24563
Omaha, Nebraska 68124-0563

Dear Ms. Buls,

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General's (OIG) report entitled "Ineligible Medicare Payments to Skilled Nursing Facilities Under the Administrative Responsibility of Blue Cross and Blue Shield of Nebraska." A copy of this report will be forwarded to the action official noted below 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 named below. 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-05-04-00061 in all correspondence relating to this report.

Sincerely,

Paul Swanson
Regional Inspector General
for Audit Services

Enclosures – as stated

Direct Reply to HHS Action Official:

Joe Tilghman – CMS Regional Administrator
Centers for Medicare & Medicaid Services – Region VII
Richard Bolling Federal Building
Room 235
601 East 12th Street
Kansas City, Missouri 64106

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**INELIGIBLE MEDICARE PAYMENTS
TO SKILLED NURSING FACILITIES
UNDER THE ADMINISTRATIVE
RESPONSIBILITY OF BLUE CROSS
AND BLUE SHIELD OF NEBRASKA**



**December 2004
A-05-04-00061**

Office of Inspector General

<http://oig.hhs.gov>

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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

OBJECTIVE

The audit objective was to determine the extent of ineligible Medicare Skilled Nursing Facility (SNF) payments, attributable to Blue Cross and Blue Shield of Nebraska (BCBS of Nebraska), contained in a database of payments made under the administrative responsibility of nine Medicare Fiscal Intermediaries (FI's). The nine FIs reviewed are presented in Appendix A.

FINDINGS

The Medicare program improperly paid an estimated \$78,352 to SNF providers that should be recovered by BCBS of Nebraska. Based on the projected results of a sample of 200 SNF stays, 75.5 percent of the database was not in compliance with Medicare regulations requiring a three consecutive day inpatient hospital stay within 30 days of SNF admission.

The cause of the improper SNF payments in the database is not directly attributable to any inappropriate action or inaction by BCBS of Nebraska. The absence of automated cross-checking, within the Centers for Medicare & Medicaid Services' (CMS) Common Working File (CWF) and BCBS of Nebraska's claims processing systems, allowed ineligible SNF claims to be paid. Because a comparison of the actual dates of the inpatient stay on the hospital claim to the inpatient hospital dates on the SNF claim did not occur, a qualifying three-day hospital stay preceding the SNF admission was not verified. Neither the CWF nor BCBS of Nebraska have an automated means to match an inpatient stay to a SNF admission and to generate a prepayment alert that a SNF claim does not qualify for Medicare reimbursement. As a result, unallowable SNF claims amounting to \$78,352 were paid without being detected.

Although we believe that the estimated improper payments of \$78,352 should be recovered by BCBS of Nebraska, CMS issued a memorandum, dated November 26, 2003 (see Appendix B), instructing FIs not to initiate any recovery actions specific to the issue identified in this report.

RECOMMENDATIONS

We recommend that BCBS of Nebraska:

- Initiate recovery actions estimated to be \$78,352 or support the eligibility of the individual stays included in the database.
- Initiate SNF provider education to emphasize Medicare interpretations which establish an eligible three-day inpatient hospital stay and qualify a SNF admission for Medicare reimbursement.

In a written response to our draft report, BCBS of Nebraska cited the above-mentioned CMS memorandum which instructed the FIs not to seek recovery of the overpayments identified in this audit. The full text of BCBS of Nebraska's response is included as Appendix E to this report.

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INTRODUCTION

BACKGROUND

Skilled Nursing Facilities

A SNF is an institution primarily engaged in providing skilled nursing care and related services to residents who require medical or nursing care and the rehabilitation for the injured, disabled, and sick. To qualify for Medicare reimbursement, a SNF stay must be preceded by an inpatient hospital stay of at least three consecutive days, not counting the date of discharge, which is within 30 days of the SNF admission.

Regulations

The legislative authority for coverage of SNF claims is contained in Section 1861 of the Social Security Act; governing regulations are found in Title 42 of the Code of Federal Regulations (CFR); and CMS coverage guidelines are found in both the Intermediary and Skilled Nursing Facility Manuals.

Data Analysis of Ineligible SNF Stays Nationwide

In a previous, Office of Inspector General (OIG) self-initiated review of SNF compliance with the three-day inpatient hospital stay requirement in the State of Illinois, improper Medicare payments were identified for calendar year 1996 of approximately \$1 million (CIN A-05-99-00018). Because of the significance of the improper payments in one state, the review was expanded to calendar years 1997 through 2001 and to SNF stays nationwide. In order to quantify the extent of improper SNF payments nationwide, a database was created containing SNF claims that were paid even though CMS's automated systems did not support the existence of a preceding three-day inpatient hospital stay. Using the claim data from the CMS National Claims History Standard Analytical File, SNF and inpatient hospital claims were matched and 60,047 potentially ineligible SNF claims were identified with improper reimbursements of \$200.8 million.

In developing the nationwide database, all SNF claims, with service dates between January 1, 1997 and December 31, 2001, were extracted from the CMS National Claims History Standard Analytical File. All SNF claims with a zero dollar payment or identification with a Health Maintenance Organization were excluded. Also, inpatient hospital claims were extracted with dates of service between January 1, 1996 and December 31, 2001, which were associated with the beneficiary Health Insurance Claim (HIC) numbers on the extracted SNF claims.

A file of inpatient hospital stays was created using the hospital admission and discharge dates for the extracted inpatient claims and a SNF file was created by combining all the extracted SNF claims indicating an admission date within 30 days of a previous discharge. The files of inpatient hospital and the SNF stays were then sorted by HIC number and compared to determine whether an inpatient hospital stay actually occurred within 30 days of SNF admission. All SNF stays with an inpatient stay within 30 days of SNF admission, but less than three days in length, were

extracted. Based on the previous review in Illinois, all SNF stays with no inpatient hospital stay prior to admission were excluded. These situations likely pertained to the beneficiary having either a Veterans Administration or private-pay qualifying inpatient hospital stay which made the SNF stay eligible for Medicare reimbursement.

The database was arrayed by the FI responsible for the SNF payments. For sampling purposes, the database was then stratified into 18 strata based on the amount of potential improper payments per FI. The 17 FIs with amounts exceeding \$1 million were placed in separate strata and a separate OIG report was issued to each. (See Appendix C). The 17 FIs accounted for \$197 million of the \$201 million dollars (98 percent) in the database. The remaining nine FIs, including BCBS of Nebraska, were each responsible for amounts less than \$1 million. Their combined total of \$3.7 million was grouped into one stratum. The nine FIs were responsible for 908 potentially ineligible SNF stays, consisting of 1,312 SNF claims. BCBS of Nebraska's share of the database of potential improper payments amounted to \$98,884, which contained 41 SNF stays consisting of 48 SNF claims.

OBJECTIVE, SCOPE AND METHODOLOGY

The audit objective was to determine the extent of ineligible Medicare SNF payments, attributable to BCBS of Nebraska, contained in a database of payments made under the administrative responsibility of nine Medicare FIs.

The audit was performed in accordance with generally accepted government auditing standards. This audit is part of a nationwide review of ineligible SNF payments. Accordingly, this report is part of a series of reports to be issued to the FIs identified in our national database. A roll-up report will be issued to CMS, addressing the major issues resulting from the FI audits. This review was limited to testing the extent of ineligible Medicare SNF payments associated with the financial and administrative responsibility of the nine FIs reviewed. The database identified 908 potentially ineligible SNF stays, which included 1,312 SNF claims reimbursed in the amount of \$3.7 million under the responsibility of the nine FIs reviewed.

Because of the limited scope of our review, we did not review the overall internal control structures for any of the nine FIs. Our internal control testing was limited to a questionnaire relating to the claim processing system edits in place at the previously reviewed 17 FIs.

The fieldwork was performed in the Chicago Regional Office during June 2004.

Methodology. Since our substantial data analysis established a database of SNF claims that were paid even though CMS's National Claim History File did not support the existence of a preceding three-day inpatient hospital stay, our audit testing was limited to determining whether any other sources supported the required inpatient stay. In essence, the validation process consisted of determining whether any eligible SNF stays were inadvertently included in the database. A statistical sample of 200 SNF stays was selected from the database (reimbursed at \$801,685) and compared the SNF admission to inpatient information on the CWF system. For each of the 200 SNF stays selected, the Inpatient Listing (INPL) claims screen from the various

CWF host sites were reviewed to identify any inpatient stays omitted from the database which would make the SNF stay eligible for Medicare reimbursement.

The amount of SNF payments eligible for Medicare reimbursement was projected using the Department of Health and Human Services, Office of Inspector General, Office of Audit Services RAT-STATS Unrestricted Variable Appraisal Program. Since the database was intended to quantify only ineligible Medicare reimbursements, the “difference estimator” estimation method was used to measure the amount of eligible Medicare reimbursements that were inadvertently included in the database. The database of ineligible SNF payments was adjusted by using the difference estimator and the upper and lower limits were calculated at the 90 percent confidence level. We estimate that the lower limit of the 90th percentile of ineligible SNF payments under the nine FIs reviewed amounted to \$2.9 million during the period January 1, 1997 to December 31, 2001. To calculate BCBS of Nebraska’s share of the estimated \$2.9 million overpayment, we computed BCBS of Nebraska’s percentage (2.7%) of the \$3.7 million database value and applied the percentage to the overall sample projection. Details of the sample methodology and estimation are presented in Appendix D.

FINDINGS AND RECOMMENDATIONS

The Medicare program improperly paid SNF providers an estimated \$78,352 that can be attributed to BCBS of Nebraska. Seventy-five and one half percent of the 908 SNF stays in the database were not in compliance with Medicare regulations requiring a three consecutive day inpatient hospital stay within 30 days of the SNF admission. In accordance with 42 CFR, section 409.30, a SNF claim generally qualifies for Medicare reimbursement only if the SNF admission was preceded by an inpatient hospital stay of at least three consecutive calendar days, not counting the date of discharge, and was within 30 calendar days after the date of discharge from a hospital. The majority of the potentially ineligible SNF payments within the database did not have the required inpatient stay and should be recovered.

No Automated Matching

The significant amount of improper Medicare SNF payments is attributed to the lack of automated procedures within the CWF and BCBS of Nebraska’s claims processing systems. SNF claims are not matched against a history file of hospital inpatient claims to verify that a qualifying hospital stay preceded the SNF admission. Consequently, neither the CWF nor BCBS of Nebraska have an automated means of assuring that the SNF claims are in compliance with the three consecutive day inpatient hospital stay regulations and eligible for Medicare reimbursement.

Instead of an automated match of inpatient and SNF claims data, SNFs are on an honor system. The automated edits, in place in the CWF and BCBS of Nebraska’s claims processing systems, merely ensure that the dates of a hospital stay have been entered on the SNF claim form. As the SNF claim is processed, edits ensure that the hospital dates on the SNF claim indicate a stay of at least three consecutive days. If the SNF mistakenly enters inaccurate hospital dates reflecting a three consecutive day hospital stay, the edits are unable to detect the errant data that renders the

claim ineligible for Medicare reimbursement. Consequently, the ineligible SNF claim is processed for payment.

Relative to the improper SNF payments that are identified in the database, some SNFs may not understand that a particular day in a beneficiary's hospital stay may not be considered an inpatient day under Medicare regulations. Occasionally a beneficiary's hospital stay of three consecutive days will include a day of outpatient services, such as emergency room or observation care preceding the actual inpatient services. When this situation occurs, the Medicare Hospital Manual, section 400D, states that the outpatient services, rendered during the hospital visit, are treated as inpatient services for billing purposes only. The first day of inpatient hospital services is the day that the patient is formally admitted as an inpatient, which is subsequent to the patient's release from the emergency room or from observational care. A SNF's misunderstanding of these Medicare regulations will result in an incorrect claim of a three consecutive day hospital stay. The hospital's related inpatient claim will appropriately reflect two days of inpatient care. Since SNF claims are not matched against a history file of hospital inpatient claims, the disparity in the hospital days listed on the SNF and the hospital claims are not detected.

Although the lack of a cross check between hospital and SNF claims in the claims processing systems enables a significant dollar amount of ineligible SNF claims to be paid, the processing of the SNF and inpatient claims by different contractors and delayed claims submission practices by Medicare providers may preclude an effective prepayment matching routine for SNF claims. Hospital providers may have their claims processed by FIs different than those processing the related SNF claims, and Medicare providers have up to 27 months, after the date of service, to submit a claim. Under these circumstances, the FI processing the SNF claims would not have the inpatient claim data necessary for an effective and efficient prepayment matching with SNF claims. While the CWF system would have all the inpatient hospital claim data and SNF claim data necessary for a matching procedure, the time allowed by Medicare regulations for providers to submit claims might result in a high incidence of inappropriately suspended SNF claims. Although generally SNFs submit claims more promptly than hospitals, it is not uncommon for a SNF to submit several claims for a prolonged beneficiary stay, before the hospital submits the claim for the qualifying hospital stay. Consequently, it is foreseeable that hospital inpatient claims data would not be available on the automated system for a prepayment matching, at the time a SNF claim is submitted for processing.

The cause of the improper SNF payments in the database is not directly attributable to any inappropriate action or inaction by BCBS of Nebraska, however, there is a need for BCBS of Nebraska to educate SNF providers about the Medicare reimbursement regulations.

EFFECT

Out of the potential unallowable database of \$3.7 million, improper Medicare SNF payments for the nine FIs reviewed during the period January 1, 1997 through December 31, 2001 amounted to an estimated \$2.9 million, of which \$78,352 was attributable to BCBS of Nebraska. From the database, 151 of the 200 SNF stays sampled were confirmed as not being in compliance with

Medicare regulations requiring a three consecutive day inpatient hospital stay within 30 days of the SNF admission.

Forty-nine SNF stays in the sample were eligible for Medicare reimbursement based on a three-day hospital stay. For these 49 stays, patient claims were found listed on the CWF host sites. For some unknown reason, these admissions were not transmitted to the CMS National Claims History File, used to create the database. If these claims had been included in the cross match procedure, the SNF stay would have been eligible and excluded from the database. Based on the results of the sample, an estimated 75.5 percent of the 908 SNF stays and \$2.9 million, \$78,352 attributable to BCBS of Nebraska, of the payments in the database were not in compliance with Medicare reimbursement regulations.

The OIG previously issued 17 similar reports to FIs nationwide with recommendations that the FIs initiate recovery actions on the improper payments identified within the OIG developed database. In a memorandum, dated November 26, 2003, CMS instructed the FIs not to initiate any recovery actions. Under the current regulations, the estimated improper payments of \$78,352 are the provider's liability. We believe that this amount should be recovered by BCBS of Nebraska.

RECOMMENDATIONS

We recommend that BCBS of Nebraska:

- Initiate recovery actions estimated to be \$78,352 or support the eligibility of the individual stays included in the database.
- Initiate SNF provider education to emphasize Medicare interpretations which establish an eligible three-day inpatient hospital stay and qualify a SNF admission for Medicare reimbursement.

BCBS OF NEBRASKA'S RESPONSE

BCBS of Nebraska referred to a CMS memorandum which instructed all Medicare FIs to suspend recovery efforts related to the OIG audit of ineligible SNF payments. The full text of BCBS of Nebraska's response is included as Appendix E to this report.

APPENDICES

APPENDIX A

NINE MEDICARE FISCAL INTERMEDIARIES REVIEWED:

Premera Blue Cross

Blue Cross and Blue Shield of Kansas, Inc.

Blue Cross and Blue Shield of Rhode Island

Chisholm Administrative Services

Anthem Heath Plans of New Hampshire, Inc.

Blue Cross and Blue Shield of Wyoming

Blue Cross and Blue Shield of Montana, Inc.

Blue Cross and Blue Shield of Nebraska

Cooperativa – Puerto Rico

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850



JSM-17, 11-20-03

MEMORANDUM

DATE: November 26, 2003

FROM: Acting Director, Financial Services Group
Office of Financial Management

Director, Medicare Contractor Management Group
Center for Medicare Management

SUBJECT: Audit Reports on Skilled Nursing Facility (SNF) Benefit's Three-Day Hospital Stay Requirement--ACTION

TO: All Medicare Fiscal Intermediaries

The Office of the Inspector General (OIG) has issued a series of local level audit reports to you highlighting a discrepancy in the way the three-day hospital stay is calculated to establish eligibility for SNF care. OIG found that, when an observation day was immediately followed by a short inpatient admission, the observation day was incorrectly counted as an inpatient day in order to establish SNF eligibility; i.e., to meet the three-day hospital requirement.

We agree with OIG that these findings raise significant policy issues related to the technical eligibility criteria for SNF care. However, these findings did not identify any type of deliberate pattern of misrepresentation that would allow us to determine "fault" on the part of the SNFs admitting these beneficiaries as Medicare Part A patients. Similarly, we cannot conclude that the beneficiaries could reasonably have been expected to know they were not eligible for Part A SNF benefits.

Therefore, in the absence of fault, we have concluded that it would not be appropriate to recover payments that were previously made for these claims. You should **not** seek to recover the payments identified by OIG in these studies. If you have already recovered funds as a result of implementing the OIG findings, you should immediately reverse these transactions, and return the payments to the providers.

The Centers for Medicare & Medicaid Services' central office staff are working with OIG to analyze our existing policies, and to make recommendations for future action. We will communicate the results of these deliberations through regular administrative channels.

If you have any questions concerning the policy aspects of the SNF benefit's requirement for a qualifying three-day hospital stay in this context, please contact Bill Ullman on (410) 786-5667. If you have any questions concerning any associated refunds or overpayments, please contact Lisa Vriezen on (410) 786-1492.

/s/

Gerald Walters

/s/

Gregory G. Carson

cc:

All RAs

All CCMOs

Jeff Hinson, CMM/MCMG

SCHEDULE OF OIG REPORTS ISSUED TO SEVENTEEN INDIVIDUAL FISCAL INTERMEDIARIES

<i>FI Name</i>	<i>OIG Report Number</i>	<i>Date Issued</i>
1 Mutual of Omaha	A-05-02-00083	March 14, 2003
2 AdminaStar Federal	A-05-02-00086	March 26, 2003
3 United Government Services	A-05-02-00087	March 26, 2003
4 Palmetto GBA	A-05-02-00088	March 31, 2003
5 Riverbend GBA	A-05-03-00015	April 4, 2003
6 Empire HealthChoice, Inc.	A-05-03-00022	May 8, 2003
7 Care First of Maryland	A-05-03-00026	March 31, 2003
8 Veritus Medicare Services	A-05-03-00035	July 16, 2003
9 FirstCoast Service Options, Inc.	A-05-03-00036	April 9, 2003
10 TriSpan Health Services	A-05-03-00050	September 19, 2003
11 Cahaba Government Benefit Adminastrators	A-05-03-00051	July 16, 2003
12 Noridian Mutual Insurance Company	A-05-03-00062	June 19, 2003
13 Medicare Northwest	A-05-03-00063	October 27, 2003
14 Anthem Health Plans of Maine, Inc.	A-05-03-00071	October 27, 2003
15 Blue Cross and Blue Shield of Arizona	A-05-03-00072	September 30, 2003
16 Arkansas Blue Cross and Blue Shield	A-05-03-00086	October 21, 2003
17 Blue Cross and Blue Shield of Georgia	A-05-03-00087	October 21, 2003

SAMPLING METHODOLOGY

ESTIMATION METHODOLOGY

The amount of SNF payments eligible for Medicare reimbursement were projected using the Department of Health and Human Services, Office of Inspector General, Office of Audit Services RAT-STATS Unrestricted Variable Appraisal Program. Since substantial data analysis identified a database of potentially ineligible Medicare reimbursements, the “difference estimator” estimation method was used to measure the effect of the projected amount of eligible payments in the database and, thus, estimate the extent of ineligible Medicare SNF payments contained in the database. The upper and lower limits of the adjusted estimate of ineligible SNF payments was projected at the 90 percent confidence level, by subtracting the upper and lower limits of the projected eligible payments from the database value of the nine FIs reviewed which totaled \$3,699,766.

SAMPLE RESULTS – NINE FISCAL INTERMEDIARIES

The results of the review are as follows:

<u>Number of SNF Stays</u>	<u>Sample Size</u>	<u>Value of Sample</u>	<u>Number of SNF Stays Eligible for Payment</u>	<u>Value of SNF Stays Eligible for Payment</u>
908	200	\$801,685	49	\$136,032

VARIABLE PROJECTION – NINE FISCAL INTERMEDIARIES

Point Estimate \$617,585

90% Confidence Interval

Lower Limit	\$466,992
Upper Limit	\$768,179

Calculation of estimated ineligible SNF payments at the lower and upper limit of the 90% confidence interval:

Database Value	\$3,699,766	Database Value	\$3,699,766
Upper limit	(-) <u>\$768,179</u>	Lower limit	(-) <u>\$466,992</u>
Lower Limit As Reported	\$2,931,587	Upper Limit	\$3,232,774

EXTRAPOLATION OF OVERPAYMENTS ATTRIBUTABLE TO BCBS OF NEBRASKA

Database Value – BCBS of Nebraska	\$98,884
Database Value – Nine FI's	\$3,699,766
BCBS of Nebraska's % of Database Value	2.6727%

Estimated Overpayment Amount – Nine FI's	\$2,931,587
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BCBS of Nebraska's % of Database Value	2.6727%
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Extrapolated Overpayment Amount – BCBS of Nebraska	\$78,352
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**MEDICARE
PART A INTERMEDIARY**

Provider: 1-877-869-6503
Beneficiary: 1-800-MEDICARE
(1-800-633-4227)
Fax (402) 398-3640

October 21, 2004

Stephen Slamar
DHHS-OIG Office of Audit Services
233 North Michigan Avenue, Suite 1360
Chicago, Illinois 60601

RE: Report Number A-05-04-00061

Dear Mr. Slamar,

This letter is in response to the above noted Office of Inspector General Report titled "Ineligible Medicare Payments to Skilled Nursing Facilities Under the Administrative Responsibility of Blue Cross and Blue Shield of Nebraska."

Appendix B of this report contains Centers for Medicare and Medicaid Services (CMS) Joint Signature Memorandum (JSM) numbered 17, dated November 26, 2003. In this JSM it clearly states that "you should **not** seek to recover the payments identified by OIG in these studies." Per the JSM instruction Blue Cross and Blue Shield of Nebraska as a contractor for CMS will not be recovering any payments that were previously made for these claims.

However, we would like to request a list of the Blue Cross and Blue Shield of Nebraska claims involved in this audit. We feel that we can use this issue as an educational opportunity for the facilities involved.

If you have any additional questions, please feel free to contact me at (402) 390-1807.

Respectfully,

Cathy Bojanski
Medicare Compliance Officer
Blue Cross Blue Shield of Nebraska

CC: Barbra Buls
Vice President Government Programs

ACKNOWLEDGMENTS

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

Stephen Slamar, *Audit Manager*

David Markulin, *Senior Auditor*

Technical Assistance

Tammie Anderson, *Advanced Audit Techniques*

For information or copies of this report, please contact the Office of Inspector General's Public Affairs office at (202) 619-1343.