DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Memorandum

Date NOV 13 1992

From Bryan B. Mitchell Bryan Mitchell
Principal Deputy Inspector General

Subject Review of General and Administrative and Employee Fringe Benefits Costs Reported by Humana Hospital San Antonio (A-06-92-00072)

To

William Toby, Jr.
Acting Administrator
Health Care Financing Administration

This memorandum alerts you to the issuance on November 16, 1992 of our final audit report. A copy is attached.

This review was one of several reviews performed at selected hospitals nationwide at the request of the House of Representatives Subcommittee on Oversight and Investigations (Subcommittee) of the Committee on Energy and Commerce. The first objective of this review was to determine whether the general and administrative (G&A) costs and employee fringe benefits costs reported by Humana Hospital San Antonio (HHSA) for the cost reporting year ended August 31, 1990, were allowable, reasonable, and allocable under Medicare cost principles. Because of congressional interest in hospital expenses and profitability, our second objective was to evaluate the costs not included in HHSA's net costs subject to allocation to Federal programs, to determine if these costs were necessary and related to patient care. In addition, Subcommittee staff asked us to review the need for new construction to house HHSA's new heart treatment facility.

The HHSA reported $7,137,923 of G&A costs and $3,538,787 of employee fringe benefits costs as subject to allocation to Federal programs. We found that $78,316 of G&A costs and $5,227 in employee fringe benefits costs were not allowable under Medicare cost principles. These costs included (1) charges for unallowable hospital meals, (2) meals and entertainment costs not related to patient care, (3) unallowable liquor costs, (4) tickets to sports events, and (5) other unallowable costs.

Under the prospective payment system, these unallowable costs had no direct effect on inpatient reimbursement. They directly affected only the Medicare and Medicaid reimbursement for outpatient services. For the above year, 2.3 percent of HHSA's costs which were subject to allocation to Federal programs pertained to Medicare and Medicaid outpatient services. Thus, about $1,671 and $251 of the above costs are subject to recovery under the Medicare and Medicaid programs, respectively.

In addition, reported employee fringe benefits costs totaling $1,587,613 may be overstated, since this amount largely represents payments for employee health care provided by HHSA or by other organizations of Humana, Incorporated (Humana), HHSA's parent company. This reported amount may not reflect Humana's actual costs in providing these services. There are still questions to be resolved as to whether the other Humana organizations are related to HHSA and whether HHSA's reported costs must be limited to the actual costs of HHSA or other Humana organizations. Our review of this area is continuing.

We also examined selected G&A costs incurred by HHSA but not made subject to allocation to Federal programs. The HHSA specifically excluded $4,103,411 in G&A costs from its costs subject to allocation to Federal programs. We identified $211,097 of these costs as unnecessary to patient care. These costs included (1) free rent and guaranteed incomes to recruited physicians, (2) public relations expenditures, and (3) charitable contributions. We cite these costs as a cause for concern, considering the continuing escalation of health care costs in general.

As to the need for new construction to house HHSA's new heart treatment facility, we saw evidence of unused space in HHSA's present facility. However, HHSA may have had considerable difficulty in converting an additional 56,000 square feet of existing space to create the new heart treatment facility without new construction.

We recommend that Humana submit an amended Medicare cost report which excludes the $83,543 of unallowable costs we found. Humana generally disagreed with our conclusions that these questioned costs were unallowable or that the other costs were unrelated to patient care. Our response to Humana's comments is contained in our report. We believe that our recommendation is appropriate.

For further information contact:
Donald L. Dille
Regional Inspector General for
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Attachment

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

REVIEW OF GENERAL AND ADMINISTRATIVE AND EMPLOYEE FRINGE BENEFITS COSTS REPORTED BY HUMANA HOSPITAL SAN ANTONIO

OCTOBER 1992

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Office of Audit Services
1100 Commerce, Room 4E1A
Dallas, TX 75242

Common Identification Number: A-06-92-00072

Mr. Jimmy LeDoux, Executive Director
Humana Hospital San Antonio
8026 Floyd Curl Drive
San Antonio, Texas 78229

Dear Mr. LeDoux:

Enclosed are two copies of a Department of Health and Human Services (HHS), Office of Inspector General (OIG), Office of Audit Services (OAS) report entitled, "Review of General and Administrative and Employee Fringe Benefits Costs Reported by Humana Hospital San Antonio" covering the cost reporting year ended August 31, 1990. Your attention is invited to the audit findings and recommendations contained in the report.

Final determinations as to actions to be taken on all matters reported will be made by the HHS official named below. We request that you respond to each of the recommendations in this report within 30 days from the date of this letter to the HHS official named, presenting any comments or additional information that you believe may have a bearing on his final determination.

In accordance with the principles of the Freedom of Information Act (Public Law 90-23), OIG, OAS reports issued to the Department's grantees and contractors are made available, if requested, to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act, which the Department chooses to exercise. (See 45 CFR Part 5.)

To facilitate identification, please refer to the referenced common identification number in all correspondence relating to this report.

Sincerely,

Martin A. Smith

for DONALD L. DILLE
Regional Inspector General
for Audit Services

Direct Reply to:

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Enclosure

cc w/Enclosure:

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SUMMARY

Humana Hospital San Antonio (HHSA) reported general and administrative (G&A) and employee fringe benefits costs totaling $7,137,923 and $3,538,787, respectively, as subject to allocation to Federal programs (Medicare and Medicaid) for the cost reporting year ended August 31, 1990. Included in these amounts were $78,316 in G&A costs and $5,227 in employee fringe benefits costs which are not allowable under Medicare cost reimbursement principles, since these costs do not relate to patient care. The unallowable G&A and employee fringe benefits costs represent less than 1 percent of the costs subject to allocation to Federal programs. These costs include:

-- charges for hospital meals given to nonhospital and hospital personnel,

-- meals and entertainment costs not related to patient care,

-- unallowable liquor costs,

-- tickets to sports events, and

-- other unallowable costs.

Hospitals are reimbursed under the Medicare program for their G&A and employee fringe benefits costs through, for the most part, fixed payments which are based on the volume and type of services performed, regardless of actual costs. The HHSA's reimbursements for inpatient service costs under both the Medicare and Medicaid programs were made through fixed payments under a prospective payment system (PPS). Under this system, these unallowable costs have no direct effect on inpatient reimbursement. These unallowable costs directly affect only the reimbursement of outpatient services. Costs related to outpatient services are initially reimbursed based on submitted charges, and are subsequently adjusted to reflect the lower of allowable costs or charges.

During HHSA's cost reporting year ended August 31, 1990, 2.3 percent of its net costs which were subject to allocation to Federal programs pertained to Medicare and Medicaid outpatient services. Thus, about $1,671 and $251 of the above costs may be subject to recovery under, the Medicare and Medicaid programs, respectively.

In addition, reported employee fringe benefits costs totaling $1,587,613 may be overstated, since this amount largely represents payments for employee health care provided by HHSA or by other organizations of Humana, Incorporated (Humana), which is HHSA's parent company. This reported amount may not reflect Humana's actual costs in providing these services. There are still some questions to be resolved as to whether the other Humana organizations are related to HHSA and whether HHSA's reported costs must be limited to the actual costs of HHSA or other Humana organizations. Our review of this area is

continuing. Humana believes that HHSA is not required to limit its reported costs to Humana's actual costs.

Because of the overall interest in hospital profitability by the Subcommittee on Oversight and Investigations (Subcommittee), under the Committee on Energy and Commerce, House of Representatives, we also examined selected G&A costs which were incurred by HHSA but not made subject to allocation to Federal programs. The HHSA specifically excluded $4,103,411 in G&A costs from its net costs subject to allocation to Federal programs. We identified $211,097 of these costs which we considered unnecessary in providing patient care. These costs, described in more detail under "Other Matters," include:

-- the cost of providing free rent and guaranteed incomes to recruited physicians,

-- certain public relations expenditures, and

-- contributions to charitable organizations.

We also reviewed, at the Subcommittee's request, certain matters pertaining to the need for a new cardiology center being built at HHSA. Expressing a conclusive opinion as to the need for this facility was beyond the scope of this review. Our review of this new center is also reported under "Other Matters."

The HHSA forwarded our findings to Humana for comment. Humana acknowledged that certain items, including theater and sports tickets given to nonemployees and an awards dinner, were appropriate audit exceptions. Humana stated that all of the other questioned items are allowable either as ordinary and necessary expenses related to operating a health care facility or as reasonable employee fringe benefits related to patient care. Humana cited certain Provider Reimbursement Review Board (PRRB) decisions to support its position that the Office of Inspector General (OIG) inappropriately questioned unrecovered meal costs, physicians' Christmas party costs, and certain other costs. In addition, Humana commented that it could find no specific criteria that excluded alcoholic beverages from allowable costs.

The OIG stands by its initial position on these matters. The PRRB decisions cited by Humana were either later reversed or were not applicable to costs for nonemployees, which was a major issue among the costs we questioned.

Accordingly, we are recommending that HHSA submit to its fiscal intermediary (FI) an amended Medicare cost report which excludes the above questioned costs from its costs that are subject to allocation to Federal programs. The questioned costs total $78,316 of G&A costs and $5,227 of employee fringe benefits costs.

The full text of Humana's comments appears in the Appendix.

TABLE OF CONTENTS

INTRODUCTION

This report addresses the G&A and employee fringe benefits costs incurred by HHSA for the cost reporting year ended August 31, 1990. Our review had two main objectives. The first objective was to determine whether HHSA's G&A and employee fringe benefits costs were allowable, reasonable, and allocable to patient care and other activities financed by the Federal Government. Our second objective was to evaluate the G&A costs not included in HHSA's net costs subject to allocation to Federal programs, to determine if these costs were necessary and related to patient care. These two objectives were identified in the Subcommittee's written request. The Subcommittee staff orally asked us to perform a third objective, to review the need for new construction to house HHSA's new heart treatment facility.

BACKGROUND

Humana, based in Louisville, Kentucky, provides an integrated system of health care services through the operation of acute care hospitals and a variety of health benefit plans for employee groups and Medicare beneficiaries. One of these hospitals is HHSA.

For the cost reporting year ended August 31, 1990, HHSA reported total hospital costs of $67.7 million before reclassifications and adjustments. The net amount subject to allocation to Federal programs was $61.4 million. Included in these figures were G&A costs originally totaling $11,917,299, which were reduced to $7,137,923 through reclassifications and adjustments totaling $675,965 and $4,103,411, respectively. The HHSA also reported employee fringe benefits costs totaling $3,538,787, for which there were no offsetting reclassifications or adjustments.

The OIG is reviewing G&A and employee fringe benefits costs at selected hospitals nationwide. The HHSA was included in this review at the specific request of the Subcommittee. The Subcommittee stated in its request that it was conducting an inquiry into the Nation's health care system, including evaluating trends in access to care and the quality of care and also assessing the factors that contribute to rapidly rising health care costs.

The Social Security Amendments of 1983 established the PPS of reimbursement to hospitals under Medicare. Effective with cost reporting periods beginning on or after October 1, 1983, Medicare's payment for Part A hospital inpatient operating costs was made prospectively on a per discharge basis. Under the PPS, Medicare discharges are classified into diagnosis related groups (DRG). For periods beginning on or after October 1, 1986, a specific PPS payment rate, fixed nationally, was made to hospitals on the basis of the diagnosis classification system. Thus, under the PPS, hospitals are reimbursed for inpatient services under the Medicare program, including their G&A and employee fringe benefits costs, through the fixed DRG payments which are based on the volume and type of services performed, regardless of actual costs.

By comparison, Medicare reimbursement to hospitals for Part B outpatient services is made on an interim basis. After the end of the year, these charges are settled on the lower of allowable costs or charges.

In Texas, reimbursement to hospitals under the Medicaid program substantially incorporates the features described above for Medicare reimbursement.

Thus, to the extent that G&A or employee fringe benefits costs were charged to inpatient hospital care, the reimbursements to HHSA for these costs under both the Medicare and Medicaid programs were made through fixed payments under a PPS. Therefore, these unallowable costs have no direct effect on inpatient reimbursement. These unallowable costs directly affect only the reimbursement of outpatient services, which are subject to settlement on a reasonable cost basis.

SCOPE

Our review had two main objectives. The first objective was to determine whether HHSA's G&A and employee fringe benefits costs were allowable, reasonable, and allocable to patient care and other activities financed by the Federal Government. In response to the Subcommittee's request and overall interest in hospital expenses and profitability, we expanded our review to include a second objective. That objective was to evaluate G&A costs not included in HHSA's net costs subject to allocation to Federal programs to determine if they were necessary and related to patient care. The Subcommittee staff orally asked us to perform a third objective, to review the need for new construction to house HHSA's new heart treatment facility.

The results of our work pertaining to the first objective is reported under "Findings and Recommendations." For the second and third objectives, the results are described under "Other Matters."

To accomplish these objectives, we reviewed transactions selected from the G&A and employee fringe benefits accounts identified in HHSA's Hospital and Health Care Cost Report (HCFA-2552) for the cost reporting year ended August 31, 1990. We reviewed pertinent supporting documentation provided by HHSA and corporate Humana officials for charges reported as G&A and employee fringe benefits costs. We discussed selected charges with both HHSA and corporate Humana officials. Concerning the new heart treatment facility, we reviewed documents related to the planning of this facility, interviewed HHSA officials, and inspected the existing HHSA facility and the new construction underway.

In selecting transactions for review, for the most part, we included only those items or areas of cost emphasized in the Subcommittee's request and which we believed had the greatest risk of noncompliance with Federal requirements. The items of particular emphasis included the following areas of cost:

-- expenditures that could be personal in nature;

-- excessive compensation or pension costs for top executives;

-- parties, vacations, entertainment, liquor, and travel;

-- charitable and political contributions;

-- fund raising and public relations; and

-- lobbying.

Our examination was made in accordance with generally accepted government auditing standards. Our review, however, was limited to agreed upon procedures to address areas of interest expressed by the Subcommittee. A review of internal controls was not performed, as it was not required to satisfy our limited audit objectives.

In connection with the areas or procedures referred to above, no matters came to our attention that caused us to believe that the specified accounts or items should be adjusted other than those matters described in the "Findings and Recommendations" section of this report.

The costs incurred by Humana corporate headquarters were reviewed by OIG staff from the Region IV office in Atlanta. The most significant of these items was the Humana corporate management fee, totaling $4,482,155, which was allocated to HHSA and included in HHSA's total G&A costs. This fee constituted 37.6 percent of HHSA's total G&A costs. Of the total fee, $2,563,297 was included in the costs subject to allocation to Federal programs and constituted 35.9 percent of those costs.

Our review of G&A and employee fringe benefits costs was limited to those transactions for which supporting documentation was available at HHSA.

Our examination was performed at HHSA in San Antonio, Texas from October 1991 through December 1991.

FINDINGS AND RECOMMENDATIONS

ALLOWABILITY OF G&A COSTS SUBJECT TO ALLOCATION TO FEDERAL PROGRAMS

Of the $7,137,923 in G&A costs included in HHSA's costs subject to allocation to Federal programs, $78,316 was unallowable. These costs were unallowable under Medicare Provider Reimbursement Manual (PRM), part 1 criteria. These unallowable costs included:

- -- Charges of $54,645 for hospital meals given to nonhospital personnel and to hospital personnel for whom such charges were not a recognized fringe benefits.

- -- Charges of $22,524 for meals and entertainment costs for events not related to patient care. These events included:

  - o a physicians' Christmas party;
  - o physicians participation in a charity golf tournament;
  - o a hospital-sponsored physician golf/tennis invitational tournament;
  - o theater tickets for use by physicians and hospital management;
  - o season tickets for professional basketball games to be used by physicians or hospital management;
  - o physician/hospital management meals, entertainment, and liquor at a country club and a bar, and participation in a committee for the arts; and
  - o payments for social and entertainment events attended by HHSA's Executive Director and his spouse and various physicians and their spouses.

- -- Expenditures of $1,147 for questionable supplies, such as 300 imprinted Christmas cards sent to admitting physicians ($293); 96 art ornaments purchased for resale, which produced a net loss ($473); and golf trophies presented to physician golf and tennis tournament participants ($381).

The Medicare cost principles in section 2102.3 of the PRM state that:

> "Costs not related to patient care are costs which are not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities and activities. Such costs are not allowable in computing reimbursable costs."

In addition, the PRRB has released some relevant decisions on the reimbursement of these costs. In PRRB Decision Number 80-D88, dated October 10, 1980, the PRRB stated that payments made to specific civic and charitable organizations did not constitute Medicare reimbursable costs, as they were not related to patient care. The PRRB also stated that such contributions did not meet the qualification that reasonable cost includes all necessary and proper costs incurred in rendering the services (Reference PRM, section 2100).

Further, in PRRB Decision Number 80-D84, dated October 7, 1980, the PRRB disallowed costs for the purchase of alcoholic beverages for medical staff meetings on the basis that such costs were not related to patient care.

Hospital Meal Costs

We identified $54,645 in two of HHSA's accounts which represented unallowable meal costs.

According to section 2105.2 of the PRM, the cost of meals for other than provider (hospital) personnel is unallowable under the Medicare program because those costs are not related to patient care. In this regard, a March 3, 1983 decision by the Deputy Administrator of the Health Care Financing Administration (HCFA) concluded that attending physicians or visitors are not to be treated as hospital personnel. The decision stated that:

> "...while serving no-charge meals to visitors, attending physicians and nonprovider clinic personnel may be convenient and even a prudent business decision, the meal costs associated with them are not recognized as related to patient care by the program. Sec. 2102.3 of the Manual explicitly states that such costs are not related to patient care."

The HCFA decision further stated that meal costs relating to visitors and attending physicians are not reimbursable because such costs are unnecessary in the efficient delivery of health care services.

We reviewed the charges to HHSA's account 90024, Dietary Charge Back, totaling $29,504, and account 90071, Medical Staff Dietary Function, totaling $25,141, together because both accounts contained charges for meals for nonhospital and hospital personnel. Of the $54,645 charged to these two G&A accounts, $41,530 was for meals to nonhospital personnel; the remaining $13,115 was for meals to hospital personnel.

Attending physicians and outside professional groups are nonhospital personnel. Nurses, administrators, and other HHSA employees are hospital personnel.

Most of these meal charges were for meals provided during breakfast or lunch meetings at the hospital. However, some of these meal charges were for special events such as "Doctor Day," "Rodeo Day," "St. Patrick's Day," or "Fiesta Day."

We believe that the $41,530 in meal charges for outside professional groups or attending physicians is unallowable because such costs are not related to patient care.

Concerning the remaining $13,115, section 2145 of the PRM allows for a hospital to be reimbursed for any reasonable unrecovered cost of meals given to its own personnel when the meals are treated as a fringe benefits. However, if employee meals are not considered to be a fringe benefit, the costs associated with such meals must be solely for the hospital's benefit and related to patient care to qualify for reimbursement. For example, the cost of meals for selected hospital personnel who must remain on call to provide patient care on the hospital's premises during mealtime is a reimbursable cost.

We found that the $13,115 in charges for free meals to HHSA employees was not a part of HHSA's employee fringe benefit package, and the cost of such meals was not solely for the hospital's benefit and not related to patient care. We therefore believe that these charges are unallowable under Medicare cost principles.

Humana Comments

With regard to unallowable meals for nonhospital personnel, Humana stated that three recent PRRB decisions (91-D46, 91-D47, and 91-D48), dated May 3, 1991, overturned earlier intermediary disallowances for the unrecovered cost of meals provided to attending physicians.

Humana also commented that the cost of meals provided to hospital personnel, where reasonable, are generally reimbursable. In this regard, Humana stated that meals usually were provided to hospital employees at departmental staff meetings, at which time patient care, quality, and administrative issues were discussed. Further, Humana stated that to say these meal costs provided no benefit to the hospital and patients would be highly assumptive, and that it appears the criteria used to determine cost allowability was whether the costs were "hands-on" or not.

Humana further commented that the methodology used by the OIG to determine the amount of meal costs incurred for hospital versus nonhospital personnel was questionable. The problem, according to Humana, was that the OIG had not taken into consideration the three or four hospital employees that were present at medical staff meetings. In these instances, the OIG had classified such meetings as involving only nonhospital personnel because the OIG testing and an interview with the hospital dietary director had shown the meetings to be primarily physician oriented.

In summary, Humana stated that all of these questioned items are usual and customary in the industry, and that to classify these amounts as unallowable would violate section 2145 of the PRM.

OIG Response

Concerning Humana's first comment, the May 3, 1991 PRRB decisions cited by Humana as grounds for allowing the unrecovered cost of meals for attending physicians were later reversed by a HCFA Administrator decision dated July 2, 1991. In the July 2, 1991 decision, the HCFA Administrator concluded that staff physicians (or attending physicians) are not hospital employees; they are independent and are treating their private patients on the provider's premises. Additionally, the HCFA Administrator concluded that meals for attending physicians serve no specific purpose that is related to patient care or of benefit to Medicare beneficiaries. Therefore, these meals do not meet the criteria of reasonable cost.

Secondly, we continue to believe that the hospital employees' unrecovered meal costs are not allowable because: (1) they are not a recognized employee fringe benefit and (2) they were not solely for the benefit of the provider and related to patient care in the sense that selected hospital personnel had to remain on call to provide patient care on the hospital's premises during mealtime, as required by section 2145 of the PRM. That condition did not exist for these questioned meals.

Additionally, while Humana stated that the meals usually were provided to hospital employees at departmental staff meetings wherein patient care, quality, and administrative issues were discussed, the records supporting these charges do not reflect such information. Further, the HCFA Deputy Administrator decision of March 3, 1983, cited above, stated that as set forth in 42 CFR 405.406(a) and 405.453(a) (recodified at 42 CFR 413.20(a) and 413.24(a)), the provider has the burden of maintaining adequate records to support its claim for the reimbursement of costs. Such documentation requirements are also covered in section 2105.2 of the PRM.

Regarding Humana's third point, the OIG recognizes that its identification of unrecovered meal costs for hospital and nonhospital personnel was based on a sampling of vouchers supporting meal charges for various meetings and special events. In the absence of detailed records to show who attended these meetings or events and the subjects discussed, the OIG interviewed HHSA's dietary director to establish a basis for estimating the percentage of hospital versus nonhospital personnel attending the meetings or events reviewed.

In summary, the OIG believes that, for the reasons cited above, the unrecovered meal costs totaling $54,645 that were charged to two G&A accounts for both nonhospital and hospital personnel are unallowable.

Meals and Entertainment

Our analysis of various charges for meals and entertainment identified $22,524 in costs that were unallowable because they were not related to patient care. These unallowable charges relate to the six activities discussed below. A HHSA official told us that, generally, HHSA's Executive Director, his spouse, various physicians, and their spouses either used the tickets or participated in the activities described below, unless otherwise indicated.

Physicians' Christmas Party Expenditures

The HHSA reported $12,573 as its share of a jointly-sponsored Christmas party for physicians; $11,415 of these costs were subject to allocation to Federal programs.

Three Humana hospitals in the San Antonio area--HHSA, Humana Metropolitan Hospital, and Humana Women's Hospital--sponsored a Christmas party in 1989 that was open to all physicians with admitting privileges at these hospitals. According to the Humana Metropolitan Hospital's Director of Marketing and Public Relations, a Humana official who was responsible for making party arrangements, the purposes of the party were to show the hospitals' appreciation for the physicians' business and to encourage the retention of the physicians. Hospital records showed that 511 persons attended this Christmas party, which was held at a downtown San Antonio Riverwalk hotel.

Various expense vouchers disclose charges for the party totaling $25,373, less a $400 credit balance at the hotel, for a net cost of $24,973. The expenditures included $13,003 for food, $7,410 for liquor, $2,265 for entertainment, $1,596 for invitations, $557 for centerpieces, $408 for sodas and mineral water, $120 for electrical charges, and $14 for travel.

The other two Humana hospitals were later allocated $12,220 of these costs, which left $12,573 reported by HHSA. Of the $12,573 reported by HHSA, $11,415 was charged to its account 90069 (Meals and Entertainment), which was included in its cost report as subject to allocation to Federal programs. The remainder of $1,338 was charged to account, 90070, Other Travel Costs, which was not included in the costs subject to allocation to Federal programs.

Humana Comments

Humana stated that PRRB Decision 85-D62 overturned an intermediary's disallowance of the costs of a provider's Christmas party held for selected personnel and their guests, and that this decision was affirmed without comment by the HCFA Deputy Administrator on August 13, 1985. Humana also stated that of the $11,415 in party costs claimed on HHSA's Medicare cost report, approximately 29.2 percent (or $3,333) pertained to alcohol; HHSA could find no references in law, regulations, or the PRM that specifically prohibits the cost of alcohol as an allowable cost.

OIG Response

The OIG believes that the physician Christmas party costs remain unallowable because the PRRB decision cited by Humana is not relevant to such costs for nonhospital personnel. The PRRB Decision 85-D62 only recognizes the allowability of Christmas party costs in the context of provider employees' fringe benefits. Since physicians are not hospital employees, we believe that the $11,415 in physician Christmas party expenditures included in HHSA's reported G&A costs subject to allocation to Federal programs is still unallowable.

Further, while we agree that the allowability of alcohol or liquor costs is not specifically addressed by law, regulations, or the PRM, PRRB Decision 80-D84, dated October 7, 1980, upheld an intermediary's disallowance of alcoholic beverage costs, pursuant to section 2102.1 of the PRM and 42 CFR 405.451 (recodified at 42 CFR 413.9), on the grounds that such costs were not related to patient care. Further, HCFA's Deputy Administrator, in another decision on October 15, 1991, disallowed the costs of football tickets and alcoholic beverages as fringe benefits for employees, citing PRM sections 2102.1 and 2102.2 which state, respectively, that costs must be reasonable and related to patient care.

Expenditures for Golf and Tennis Tournaments

The HHSA reported $5,051 as its share of a jointly-sponsored golf and tennis tournament for physicians and $1,200 in fees for a charity golf tournament.

The HHSA paid $11,378 for a golf and tennis invitational tournament that was open to physicians with admitting privileges at three San Antonio area Humana hospitals. According to Metropolitan Hospital's Director of Marketing and Public Relations, the purpose of the tournament was to encourage retention of physicians.

The $11,378 in expenditures included costs for:

- -- green fees and other miscellaneous items, $3,843;
- -- food, $3,240;
- -- gift certificates to a local golf shop, $1,200 ($600 for the first place foursome, $400 for the second place foursome, and $200 for the third place foursome);

-- hole-in-one insurance,[1] $573;

-- golf caps, $553;

-- liquor, $509;

-- golf and tennis balls, $507;

-- towels, $393;

-- trophies, $381;

-- golf and tennis lessons, $164; and

-- printing, $15.

Of the $11,378 in total costs, $6,327 was subsequently transferred to the two other Humana hospitals, leaving $1,950 in meals and entertainment costs in HHSA's account 90069 and $381 of supply costs in account 90021 (discussed under General Supplies, page 13), all of which were included in HHSA's cost report as costs subject to allocation to Federal programs. The balance of $2,720 was reported as costs not allocable to Federal programs.

In addition to the above costs, the HHSA paid $1,200 in registration fees for the 12th Annual Spurs Scramble, all of which was included in the meal and entertainment charges which were subject to allocation to Federal programs. The fees permitted four physicians to participate in a golf tournament at the Club at Sonterra in San Antonio. Proceeds of the tournament were to benefit various Spurs Foundation charities, including Big Brothers and Sisters, Cystic Fibrosis, Make-A-Wish Foundation, and others.

Humana Comments

Humana acknowledged that these golf/tennis charity tournament costs of $1,950 and $1,200 should have been reclassified and excluded from allocation to Federal programs.

Expenditures for Theater Tickets and Season Tickets for Professional Basketball Games

The HHSA included in its G&A costs $3,096 for eight season tickets to the Majestic Theater in San Antonio. Ticket costs of $1,816 and $1,280 were incurred in September 1989 and June 1990, respectively. The HHSA subsequently transferred $1,260 and $640 of these costs, respectively, to two other San Antonio area Humana hospitals. Consequently, $1,196 was ultimately included

[1] This insurance premium was to cover a contingent liability for a possible hole-in-one made by physicians participating in the Humana golf invitational tournament. The prize for a hole-in-one was a $27,000 Mercedes.

in HHSA's meal and entertainment costs which were subject to allocation to Federal programs. Hospital records and interviews with HHSA management officials disclosed that these costs were incurred to promote physician relations.

In addition, our review of an intercompany transfer of expenses from Humana Metropolitan Hospital to HHSA showed that Humana Metropolitan Hospital purchased four season tickets to the San Antonio Spurs professional basketball games for $5,720. One-half, or $2,860, of the cost of these tickets was transferred to HHSA's Meals and Entertainment account 90069.

Humana Comments

Humana acknowledged that the above theater tickets and San Antonio Spur tickets costing $1,196 and $2,860, respectively, should have been reclassified and excluded from allocation to Federal programs.

Expenditures for Meals, Liquor, and Entertainment

We identified $3,733 of costs for meals, liquor, and entertainment which were subject to allocation to Federal programs.

A review of the HHSA Executive Director's travel and expense reports for November and December 1989 and March 1990 disclosed that he had been reimbursed $2,555 for meal and entertainment costs charged to account 90069. These costs were shown on his expense reports as "physician relations" and included meals provided to the Executive Director, physicians, and in some instances, their spouses.

In addition, country club charges in July and August 1990 and an employee's travel and expense report for December 1989 disclosed the following:

1. The HHSA incurred expenditures totaling $164 and $535 at the Dominion Country Club, a private country club where HHSA's Executive Director has a membership. These charges were for luncheon and dinner costs for two physician and hospital management meetings held there pertaining to the selection of a medical director for HHSA's heart institute. About 51 percent of these costs were for liquor, amounting to $116 and $241, respectively, for the above meetings. Included in these liquor costs were a $118 bottle of wine and three $50 bottles of wine. We believe that meetings concerning the selection of a medical director could have been conducted at the hospital.

   Additionally, $350 was spent in August 1990 for a musician to provide background music at this country club for a department managers' dinner.

2. A HHSA employee's travel and expense report evidenced a reimbursement of $129, which included a liquor bill for $91 and decorations totaling $38. These charges were included as meal and entertainment costs for management's recognition of HHSA's department managers.

Humana Comments

Humana replied that the meal and entertainment costs associated with the Executive Director should be considered allowable, as the costs were being incurred for the provider's benefit and indirectly for patient care.

Concerning the $699 for meals at meetings to select a medical director for HHSA's new heart institute, Humana stated that a "non-sterile" atmosphere was more conducive to determining the qualifications of a medical director. Therefore, it believes that these recruitment costs should be considered as allowable.

Similarly, Humana commented that the $350 in costs for music provided during a departmental managers meeting and the $129 in costs for a meeting recognizing department managers should be deemed allowable.

OIG Response

The OIG continues to believe that these physician relations costs, which included meals for the Executive Director, physicians, and in some instances, their spouses, do not relate to patient care and thus are unallowable.

We still believe that meetings concerning the selection of a medical director could have been conducted at the hospital, and that these costs were therefore unnecessary and unallowable.

Similarly, we believe the musician, liquor, and decorations costs for a department manager meeting and recognition dinner were unnecessary and did not relate to patient care and are unallowable.

Executive Director's Participation in Annual Awards Dinner

The hospital's Executive Director and his spouse attended an annual awards dinner in April 1990 to accept an award, on behalf of HHSA, that was presented by the San Antonio Business Committee for the Arts. Dinner costs of $170 were considered by HHSA as a contribution to that committee.

Humana Comments

Humana commented that these awards dinner costs were inadvertently included in HHSA's allocable costs.

General Supplies

The General Supplies account 90021 had $293 in charges for 300 imprinted Christmas cards sent to HHSA's admitting physicians. This account also had unrecovered charges of $473 for 96 art ornaments purchased for resale by HHSA. These ornaments were purchased by Humana's corporate headquarters from a nonprofit educational affiliate of the John F. Kennedy Center for the Performing Arts. Originally, $768 in costs were transferred to HHSA for these ornaments. However, sales revenue totaling $295, recorded in account 58200, Miscellaneous Income, was offset against G&A costs, leaving a balance of $473.

In addition, the cost of golf trophies, totaling $381, for Humana's physician golf and tennis tournament, discussed above, was charged to this supply account.

We believe that all of these costs are unallowable because they do not relate to patient care.

Humana Comments

Humana stated that Christmas card costs are allowable for the same reasons the PRRB ruled that Christmas party costs are allowable.

Humana also confirmed that 96 ornaments were charged to HHSA at $8 each, which represents the $768 spent on Christmas ornaments. Humana further commented that 59 of these ornaments were sold to employees at $5 each; thus, $295 was collected via sales. This income was recorded in account 58200, Miscellaneous Income, which was then offset against G&A costs. Further, Humana commented that 24 of these ornaments remain at the hospital, and 13 are missing. Humana recognizes that the cost of the 24 ornaments on hand should be moved to an inventory account; however, the difference between the total costs and amounts collected from sales should be deemed a fringe benefit and considered as an allowable cost.

Humana recognized that the golf trophy costs totaling $381 should be disallowed.

OIG Response

We continue to believe that physician Christmas card costs of $293 are unallowable, as they do not relate to patient care. Furthermore, as stated on page 9, the PRRB decision cited by Humana as justification for allowing the physician Christmas party costs was, in our opinion, not relevant to that issue or this issue. The cited decision concerns costs incurred for employees, not physicians who are not employees.

We believe that the net cost of $473 for ornaments charged to G&A costs remains unallowable because it is not a recognized employee fringe benefit and it is not related to patient care.

ALLOWABILITY OF EMPLOYEE FRINGE BENEFITS COSTS SUBJECT TO ALLOCATION TO FEDERAL PROGRAMS

The HHSA reported $3,538,787 as employee fringe benefits costs subject to allocation to Federal programs. Of this amount, $1,587,613 related to employee health benefit costs. However, these costs may be overstated, since they may represent charges between Humana components rather than the actual costs of providing the health care. Medicare reimbursement policy generally limits the payment involving transactions among related parties to the actual costs incurred.

In addition, HHSA included unallowable employee fringe benefit expenditures totaling $5,227 in its reported net costs subject to allocation to Federal programs. These unallowable costs included:

-- payments of $3,791 for liquor for HHSA employees, and

-- unrecovered costs of $1,436 for season tickets to professional basketball games.

Employee Health Care Costs

The HHSA's cost report included $883,348 in employee group health insurance (self-insurance) charges and $704,265 in premiums to a Humana health maintenance organization (HMO) as an employee fringe benefit cost. Section 1000 of the PRM mandates that costs applicable to services, facilities, and supplies furnished to the provider by organizations related to the provider by common ownership or control are includable in the provider's allowable costs at the cost of the related organization.

To date, Humana's headquarters in Louisville, Kentucky has not given us a definitive description of the costing methodology for these costs and a definitive position as to whether these employee fringe benefits amounts should be limited to actual costs. This may be a significant issue, since at least portions of these two employee fringe benefits amounts may represent intercompany charges, either in the form of paid claims or health plan rates, which include profit.

The $883,348 self-insured health benefit amount, according to documents provided by Humana's headquarters, is supposed to represent paid claims. We believe that, in certain instances, the paid claim amounts may represent Humana's costs for medical services obtained for an employee from a non-Humana provider. However, in the majority of instances, we believe the paid claim amounts represent charges from a Humana related party (e.g. Humana hospital, Humana HMO, etc.), rather than the actual costs of providing the services. Therefore, these costs may be unallowable to the extent that they exceed Humana's cost of providing the services.

Similarly, the $704,265 in premiums paid to the Humana HMO, for employees who elected to receive this health care fringe benefit, appear to be unallowable to the extent that the HMO premiums exceed the Humana HMO's cost of providing those services.

Humana's Vice President of Reimbursement/Financial Planning, in a December 16, 1991 memorandum to HHSA, responded to OIG concerns on this matter. This official stated that a provider who meets the Medicare exceptions at 42 CFR 413.17(d) is not required to limit its reported costs to its actual costs. However, this Humana official provided no substantiation to demonstrate that Humana met these exceptions.

Humana Comments

Humana stated that it meets the four exception criteria listed at 42 CFR 413.17(d) which allows related organizations to use charges as allowed costs under Medicare cost principles. Humana provided various information to support its position. In addition, Humana believed that, at the time of its letter, all of the documentation requested by the OIG concerning HHSA's reported costs for employee health care fringe benefits had been provided.

OIG Response

Our review of this issue is continuing. We will continue to seek information on the composition of the paid claims (e.g., services paid for HHSA employees and payments to providers) and other data, and we will request a legal opinion as to whether Humana meets the related organization exceptions. To complete our review of this issue, further work will be required at HHSA, Humana corporate headquarters in Louisville, Kentucky, HCFA, and the Department of Health and Human Services' Office of General Counsel. On May 7, 1992, a letter was sent to Humana requesting additional information or clarification on information previously provided.

Liquor Costs for an Employee Christmas Party and Manager Award Dinner

The HHSA held an employee Christmas party, which was open to all employees. About 1,000 persons attended. Liquor costs of $3,220 were charged to account 90109, Employee Benefits - Other Employee Benefits, and were included in the net costs subject to allocation to Federal programs.

Similarly, liquor costs totaling $571, pertaining to a HHSA manager award dinner, were charged to the same account.

As stated previously, the cost of liquor is unallowable under Medicare cost reimbursement criteria.

Humana Comments

Humana expressed the opinion that liquor costs are allowable.

OIG Response

As we previously stated on page 9, the PRRB and HCFA's Deputy Administrator have separately ruled that the cost of alcoholic beverages is unallowable as fringe benefits for employees. The HCFA's Deputy Administrator cited PRM sections 2102.1 and 2102.2 which state, respectively, that costs must be reasonable and related to patient care.

Discounted or Free Professional Basketball Tickets

The Humana Health Plan of San Antonio transferred 13 season tickets for San Antonio Spurs professional basketball games to HHSA. These 13 season tickets, valued at $5,852, represented 572 game tickets which were to be sold to HHSA employees at a 15 percent discount. These discounted sales to employees, and some unsold tickets subsequently given free to employees as compensation, resulted in a net residual cost of $1,436 in employee fringe benefits, which was charged to account 90109, Employee Benefits - Other Employee Benefits. These costs are not allowable.

In a recent decision regarding PRRB Decision 91-D60 dated August 16, 1991, the Deputy Administrator of HCFA disallowed the costs of football tickets and alcoholic beverages as fringe benefits for employees. In this decision, the Deputy Administrator cited PRM sections 2102.1 and 2102.2, which state, respectively, that costs must be reasonable and related to patient care.

Humana Comments

Humana cited two aspects of PRRB Decision 91-D60 which was reversed by HCFA's Deputy Administrator. First, HCFA's decision is a reversal of the PRRB ruling that these costs "...help to increase employee morale and reduce employee turnover; and the costs were reasonable...." Secondly, Humana pointed out that the issues at hand in this case are not identical to the Spurs ticket arrangement because of the introduction of alcohol costs into the case before the PRRB and the Administrator. The alcohol costs may have been an overriding factor in the Administrator's decision. In summary, Humana believes that the $1,436 in costs was incurred as a fringe benefit for its employees and should be considered allowable.

OIG Response

Since HCFA's Deputy Administrator disallowed the costs of football tickets and alcoholic beverages as fringe benefits for employees, citing PRM sections 2102.1 and 2102.2, we continue to believe that these costs are unallowable, as these costs were not related to patient care.

CONCLUSIONS AND RECOMMENDATIONS

We conclude, after considering Humana's comments, that HHSA inappropriately reported as costs subject to allocation to Federal programs $78,316 of G&A costs and $5,227 in employee fringe benefits costs which are not allowable under Medicare cost reimbursement principles.

We recommend that HHSA submit to its Medicare FI an amended cost report which excludes the above questioned costs from its costs which are subject to allocation to Federal programs.

OTHER MATTERS

NECESSITY OF COSTS NOT SUBJECT TO ALLOCATION TO FEDERAL PROGRAMS

In response to the Subcommittee's request, we reviewed some of the G&A costs which HHSA incurred, but which HHSA did not report as subject to allocation to Federal programs. Of the $4,103,411 in G&A costs that HHSA specifically excluded from the net costs subject to allocation to Federal programs, we identified $211,097 of costs that we considered to be unnecessary in providing patient care. These costs included:

-- expenditures of $194,847 for HHSA physician recruitment and professional relations costs, 94 percent of which represent charges for providing free rent and guaranteed incomes to recruited physicians;

-- expenditures of $8,550 for public relations; and

-- contributions of $7,700 to charitable organizations.

None of these costs were charged to the Medicare or Medicaid programs. We believe, however, that unnecessary costs such as these drive up the price of health care in general.

A HHSA official told us that, generally, HHSA's Executive Director, his spouse, various physicians, and their spouses participated in the public relations and contributions matters described below, unless otherwise indicated.

Expenditures for Physician Recruitment and Professional Relations

Physician Recruitment and Professional Relations, account 90073, had a total of $194,847 in costs which we do not believe was necessary for the provision of patient care. Our review of charges to this account disclosed that HHSA provides free rent and income guarantees to the physicians it recruits for its hospital staff. We found that 94 percent of the charges to this account represent expenditures for providing free rent and guaranteed incomes to recruited physicians. The balance of charges to this account generally represent miscellaneous charges such as physician moving costs, plus meals and entertainment costs as discussed on page 11.

The HHSA's records showed that Humana, under the name of Humana Hospital - San Antonio, entered into an agreement with recruited physicians that provides the following subsidies:

-- free rent valued at about $21,500 for a year; and

-- income guarantees up to $60,000 per year, which is offset by the physician's billings.

Our review of a HHSA cost analysis register for charges made to this account disclosed that during the cost reporting year ended August 31, 1990, HHSA was providing free rent and/or income guarantees to six physicians. Our examination of one physician recruiting agreement and related correspondence disclosed the following:

-- Physician A, responsible for bringing into his practice an associate, physician B, was to receive free rent for a year valued at $21,450. Our analysis of HHSA's cost analysis register showed that physician A received $19,663 during the cost reporting year ended August 31, 1990.

-- Physician A, on behalf of his recruited associate, physician B, was to receive income guarantees of up to $5,000 per month, or $60,000 for a year. Records at HHSA disclosed that income guarantee payments were made to physician A totaling $34,578, and that the associate, physician B, was to repay $3,343 of this amount over a 6-month period, pursuant to a loan provision in the agreement.

We do not believe that these costs were necessary in the provision of patient care.

Humana Comments

Humana commented that it self-disallowed these costs in compliance with the PRM. Humana also expressed the opinion that these costs are integrally related to patient care. Humana further stated that to ignore these costs as necessary would be to say that physicians have nothing to do with patient care.

OIG Response

We acknowledge that physician services are obviously related to patient care in a general sense. However, we believe that a hospital's provision of free rent to physicians in a professional office building is an unnecessary cost and one that is not directly related to patient care in the hospital. We believe that the provision of patient care should remain the same, whether the physician paid the rent or whether the hospital paid it. We further believe that the same position can be taken for the income guarantees made to physicians.

Further, if a large number of hospitals provide physician incentives such as these, the resulting effect of these unnecessary expenses is increased health care costs on a national basis. While one hospital might argue that the use of physician incentives increases its hospital occupancy rate and therefore improves its overall profitability, the incentives should not increase the number of illnesses or surgeries on a national basis. Therefore, if one hospital increases its occupancy rate, there would be a corresponding loss of occupancy at another hospital. The end result of any widespread use of such physician incentives is higher health care costs on an overall basis.

Public Relations Expenditures

Our examination of various charges to Public Relations - Outside Services, account 92040, disclosed $8,550 in expenditures that we believe are unnecessary in providing patient care.

In this regard, records at HHSA showed that three Humana San Antonio area hospitals and the Humana Health Plan of San Antonio each contributed $7,500, or a total of $30,000, to support the San Antonio Performing Arts Association sponsorship of a concert. The $7,500 expenditure was charged to Public Relations - Outside Services, account 92040. As a result of the $30,000 contribution, 20 complimentary tickets were provided to the concert--6 tickets to each of the Humana hospitals and 2 tickets to the Humana Health Plan.

In addition, the HHSA purchased advertising on an outfield billboard for $1,750 from the San Antonio Missions Baseball Club. Records at HHSA showed that $700 of this cost was transferred to two other San Antonio area Humana hospitals. Therefore, HHSA's net share was $1,050, which was charged to account 92040.

Humana Comments

Humana stated that the hospital properly self-disallowed these costs, but it believes that a commitment to the community is part of its mission in being a responsible corporate citizen.

OIG Response

We continue to believe that such expenditures are not necessary and do not relate to patient care.

Contributions to Charitable Organizations

Our examination of various charges to Humana Community Grant, account 90093, disclosed $7,700 of contributions that we believe are unnecessary in providing patient care.

Contribution to Benefit San Antonio Youth Literacy Foundation

The HHSA contributed $5,000 to underwrite a charitable event held at San Antonio's Sea World, for the benefit of the San Antonio Youth Literacy Foundation. Records showed that both HHSA and Humana Metropolitan Hospital in San Antonio were to have contributed $5,000 to this event.

American Heart Association's Heart of Gold Gala

The HHSA purchased tickets totaling $1,000 for a table seating eight persons at the American Heart Association's fourth annual Heart of Gold Gala. A HHSA official stated that the $1,000 was considered a contribution.

Purchase of Golf Tournament Tickets Which Benefitted Various Charities

The HHSA made a $600 contribution to the Dominion Country Club, which hosted the 1990 Senior PGA Tournament. This contribution provided HHSA with season tickets, single-day admission tickets, parking passes, and sponsorship publicity. Tournament flyers indicated that contributions were to benefit the following three charities: Make-A-Wish Foundation, Palmer Drug Abuse Program, and the Ronald McDonald House.

Contribution to Opera Guild

Records at HHSA showed that Humana Metropolitan Hospital purchased Opera Guild tickets totaling $3,000. Each of the four Humana San Antonio area hospitals and the Humana Health Plan (an HMO) was allocated $600 of these costs. According to a HHSA official, the $600 was considered a contribution.

Moe Bandy Banquet

Our review disclosed that HHSA purchased a table seating 10 persons for the Moe Bandy Banquet which was to benefit the Children's Transplant Association. A HHSA official said that the $500 was considered a charitable contribution.

Humana Comments

Humana replied that it believes strongly in its commitment to assisting local and national charities, many of which sponsor causes that directly impact the future of medical care and research. Further, while the Medicare program does not consider such contributions as an allowable cost, the Internal Revenue Service does recognize these contributions as legitimate business deductions.

OIG Response

We continue to believe that such expenditures are not necessary and do not relate to patient care.

ESTABLISHMENT OF HHSA'S HEART INSTITUTE

At the request of Subcommittee staff, we obtained the following information concerning the need for HHSA's new heart institute. Overall, we saw evidence of unused space in HHSA's present facility, but HHSA may have had considerable difficulty in converting an additional 56,000 square feet of existing space to create the new heart treatment facility without new construction.

Background

Our examination of HHSA's proposal to build a heart institute, including various documents outlining the background and history related to this issue, disclosed that discussions on building a new heart institute began in the summer of 1984. The discussions were between HHSA's Executive Director and a group of San Antonio area cardiologists. A committee was formed by the physicians, and a plan was developed for new construction, state-of-the-art equipment, an integrated communications system, and a more qualified nursing staff. After several meetings, a decision was reached not to proceed. However, a byproduct of this process was the establishment of a cardiac transplant program in August 1985.

Documents provided by HHSA showed that in March 1989, HHSA submitted a proposal for a new heart treatment facility to the Humana corporate office. The proposal showed that this new facility, including equipment, would cost approximately $14 million. The delay between 1984 and 1989 in getting a heart institute initiated resulted from the various parties' inability to reach agreements. The March 1989 proposal may have been prompted by the fact that, in the same month, the Southwest Texas Methodist Hospital of San Antonio began construction on a $26.5 million expansion for its cardiovascular services.

Reasons for Building the Heart Institute

The HHSA's Operations Director told us that, according to the project architect at Humana's corporate headquarters, no written feasibility study was made on remodeling the existing hospital versus building a new facility. However, the HHSA official stated that the project architect did mention various discussions on the new facility, including why it would not be possible to place a state-of-the-art heart institute within the existing hospital. Humana officials concluded that it would be necessary to build a new facility to achieve excellence in patient heart care because:

-- critical heart care services should be centrally or colocated within the hospital, and

-- the existing hospital did not have adequate space available for the expansion of heart services.

Documentation provided by HHSA showed that the existing hospital currently does not have its cardiovascular patient rooms, catheterization laboratories, surgical/operating rooms, and rehabilitation facilities colocated. Additionally, the project architect concluded that the new and updated laboratories and laboratory equipment which were needed to establish a state-of-the-art heart institute could not be located in the existing hospital because of the size and weight of the equipment needed.

Hospital Utilization Before the Decision to Build a Heart Institute

Our examination of HHSA's average monthly census and productivity data showed that for the period September 1988 through March 1989, only one full unit (1/2 floor; 10,116 square feet) on the fourth floor of the existing HHSA building was closed and available for additional heart services. While only one unit was completely closed, there were six other units with occupancy rates varying from 20 percent (Pediatrics) to 54 percent (Surgical and Medical/Oncology). The Pediatrics unit was later transferred to the Humana Women's Hospital of San Antonio during July 1990.

Conceivably, HHSA could have combined several of the units with lower occupancy rates to free up additional floor space for the new heart institute.

Hospital Walk-Through

On December 16, 1991, we walked through the HHSA hospital to determine the current amount of vacant space. We observed the corridor being built that will connect the first floor of the existing hospital to the first floor of the heart institute. We noted no vacant space on the first floor. The first floor mezzanine was comprised of storerooms and plant facilities.

The second floor contained a full cardiology unit which occupied about 75 percent of the second floor space. The remainder of the second floor was occupied by nursing administration. We observed the door that will lead to the walkway connecting the hospital's second floor to the institute's third floor.

The third floor contained full urology and renal/urology units which occupied about 75 percent of the third floor space. The remainder of the third floor was used by kidney transplant patients (ambulatory patients, no overnight patients) and staff offices.

The fourth floor contained a closed full unit (1/2 floor, 10,116 square feet). The remaining full unit contained offices for personnel, medical staff, operating room, and quality assurance. The fifth floor contained a full orthopedics unit and a full cancer unit.

The sixth floor contained a closed full unit (1/2 floor, 10,253 square feet) and a full diabetes unit.

In summary, we found the equivalent of one vacant floor (about 20,369 square feet). We did not determine whether the occupied space was properly utilized.

New Heart Institute

According to HHSA officials, the new three-story heart institute will not be a free-standing facility. Physically, the institute will be attached to HHSA by a corridor on the first floor, a common wall on the northeast side of the existing HHSA building and the southwest side of the institute, and a walkway from the second floor of HHSA to the third floor of the institute.

Operationally, the institute will use HHSA's existing surgical/operating room located on the first floor of the hospital. The HHSA will also continue to use the cardiology space located on the second floor of the hospital.

The new construction for the heart institute will be approximately 56,000 square feet. Two 10-bed cardiovascular units, three cardiac catheterization laboratories, several recovery areas, and all admitting functions will be located on the first floor (approximately 26,000 square feet). A cardiac transplant clinic, rehabilitation center, education department, and electrodiagnostics will be located on the second floor(approximately 15,000 square feet). The third floor (approximately 15,000 square feet) will be for physician offices.

In addition, approximately 20,000 square feet of the existing hospital's second floor will become a part of the heart institute. The heart institute is expected to be completed by September 1992.

Conclusion

While we saw evidence of unused space in HHSA's present facility, HHSA may have had considerable difficulty in converting an additional 56,000 square feet of existing space to create the new heart treatment facility without new construction.

Humana Comments

Humana did not respond to our review of the new heart institute.

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Gary E. Mann
Vice President
Reimbursement
Financial Planning

Humana

February 13, 1992

Donald L. Dille
Regional Inspector General
Office of Inspector General
Office of Audit Services
110 Commerce, Room 4E1A
Dallas, TX 75242

Re: Common Identification Number A-06-92-00019

Dear Mr. Dille:

The OIG's audit identified $1709 in Medicare reimbursement and $254 in Medicaid reimbursement which it suggests may be in excess of the amounts properly payable by the Medicare and Medicaid programs for HHSA's 1990 Fiscal year.

Virtually all of the amounts above relate to three issues -- meals and beverages for employees, meals and beverages for certain physician functions, and certain discount items offered to employees.

Of the items in question, HHSA concedes that certain items including theater and sports tickets given to non-employees, and an awards dinner, with a total Medicare and Medicaid reimbursement effect of $185 are appropriate adjustments.

HHSA believes all of the other questioned items are allowable either as ordinary and necessary expenses related to operating a health care facility, or are reasonable employee fringe benefits related to patient care and of types long recognized as proper by the Medicare program.

Finally, the audit gratuitously identified three types of costs which were not claimed on the cost report -- physician recruitment, public relations and charitable contributions -- and questioned their necessity. HHSA cannot fathom the purpose of these comments, since these expenses do not impact the Medicare or Medicaid program in any manner.

Very truly yours,

HUMANA INC.

Gary E. Mann
Vice President of Reimbursement

GEM/clp

cc: Jon Koch

OIG NOTE: The HHSA was originally asked to comment on our findings in a draft document designated as Common Identification Number A-06-92-00019. However, HHSA's parent company, Humana Inc., responded rather than HHSA. While this final report to HHSA carries a different common identification number, the issues cited are the same.

Humana Inc.
Response to OIG Statement of Facts
Humana Hospital San Antonio
8/31/90

Following is Humana Inc.'s response to the Statement of Facts issued by the Office of Inspector General (OIG) concerning the administrative and general costs and fringe benefits at Humana Hospital San Antonio (HHSA).

Allowability of G & A Costs Subject to Allocation to Federal Programs

Four areas were highlighted by the OIG report as unallowable costs claimed for reimbursement.

Hospital Meal Costs

Two specific general ledger accounts were cited as being nonallowable - accounts 90024 and 90071, totaling $54,645. Of these amounts, $41,350 relates to meals to non-hospital personnel and $13,115 for meals to hospital personnel. Reference is made to Section 2105.2 of the Provider Reimbursement Manual (PRM) and to a HCFA Administrator decision in support of this conclusion.

With regards to meals for non-hospital personnel, three recent Provider Reimbursement Review Board (PRRB) decisions (91-D46, 91-D47 and 91-D48) dated May 3, 1991, overturned the intermediary disallowances of the unrecovered cost of meals provided to attending physicians. The majority of the PRRB rejected the intermediary's arguments that these costs were not related to patient care. To quote, "The majority of the Board finds such a position difficult to understand in light of the Medicare program's recognition of costs associated with free parking, medical staff meetings and physician lounges in determining Medicare reimbursement for a provider of services." These PRRB decisions continue by stating that "while attending physicians are not employees, they are certainly different from visitors and other non-hospital personnel....moreover attending physicians are essential in developing and maintaining the operation of patient care facilities and activities and certainly cannot be deemed to be 'non-provider personnel'."

Thus there is still much dispute over Section 2105.2 of the PRM even among the so-called reimbursement experts. Additionally, the 8/31/89, audited cost report for HHSA does not reflect adjustments removing these costs. Consequently the provider is not claiming costs which have previously been denied on audit.

The remaining $13,115 in meal charges for HHSA employees have been deemed not solely for the hospital's benefit and not related to patient care. Humana takes issue with this stance. Generally the cost of meals provided to hospital personnel, where reasonable, are reimbursable. These meals were provided by the dietary department of the hospital, usually to staff meetings held by various departments. During these meetings patient care, quality and administrative issues were discussed. The results of these meetings inure to the benefit of the patients and allow the hospital to function successfully on a day-to-day basis. To say that these meal costs provide no benefit to the hospital and patients would be highly assumptive. It appears the criteria being used to determine allowability or nonallowability is whether these costs are "hands-on" or not.

Humana also believes that the methodology used by the OIG to determine the amount of cost incurred by hospital versus non-hospital personnel is questionable. Audit workpapers show that a sample of meetings was reviewed and an interview done with the dietary director to estimate a percentage of personnel that were present at these meetings. If the meeting was primarily physician oriented it was considered 100% non-hospital, but if the meeting was not physician oriented it was deemed to have 100% hospital personnel in attendance.

The problem with OIG's methodology is that OIG has not taken into consideration that 3 to 4 hospital employees are present at medical staff meetings. Following is an example of how the OIG methodology is flawed:

Number of People in Attendance

	Actual Count			OIG Estimation	
	Physicians	Hospital Personnel	Total	Physicians	Hospital Personnel
	15	4	19	19	
	15	4	19	19	
	15	4	19	19	
	4	15	19	__	19
Totals	49	27	76	57	19
% of Total	64%	36%	100%	75%	25%

As can be seen, the OIG estimation skews the count to more heavily weigh physicians in attendance than other provider personnel.

Humana believes that all of these scenarios are usual and customary in the industry. As previously indicated, administrative reviews have determined this as well. To classify these amounts as nonallowable would violate Section 2145 of the PRM.

Meals and Entertainment

The OIG report identified $22,524 in meals and entertainment costs that were deemed unallowable because they were not related to patient care. Following is a summary of these costs.

- Physician Christmas Party - Expenditures for this party included food, alcoholic beverages, entertainment and other costs. Approximately 29.2% of the total expenses charged to HHSA were for alcoholic beverages. Thus of the $11,415 claimed on the as-filed Medicare cost report, approximately $3,333 pertained to alcohol.

  PRRB Decision 85-D62 overturned an intermediary's adjustments disallowing the costs of a provider's Christmas party held for selected personnel and their guests. The Board held that these costs are necessary and proper and "helpful in developing and maintaining the operation of patient care facilities and activities and are common and accepted occurrences in the field of the provider's activity." Regulation 405.451 is cited as support for the Board's decision. This decision was affirmed without comment by the HCFA Deputy Administrator on August 13, 1985.

  HHSA can find no references in the law, regulations or PRM that specifically exclude the cost of alcohol from inclusion in allowable costs.

- Golf/Tennis charity tournament costs of $1,950, a $1,200 registration fee for a charity golf tournament, theater tickets costing $1,196 and San Antonio Spur tickets costing $2,860 should have been reclassified and excluded from allocation to the Federal programs.

- Executive Director Meals and Entertainment - Costs amounting to $2,555 incurred by the Executive Director were deemed nonallowable by the OIG because they "are not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities and activities." (PRM Section 2102.3). Humana believes that these costs associated with the Executive Director are allowable, as the costs were being incurred for the provider's benefit and indirectly for patient care.

- Heart Institute Medical Director Meeting - Costs of $699 were incurred for meals consumed during meetings to select a medical director for the new HHSA Heart Institute. The provider believes that a non-sterile atmosphere is more conducive to determining qualifications of a medical director. Therefore, since PRM allows the administrative portions of a hospital based physician's salary, these recruitment costs are also allowable.

- Musician Fee - Costs of $350 for music during a department manager meeting should be allowable. Background music contributed to the productivity of the dinner meeting.

- Alcohol/Decorations - Costs of $129 were incidental to a meeting to recognize HHSA's department managers and should be deemed allowable.

- Awards Dinner Costs - Costs of $170 for dinner during a ceremony to recognize HHSA were inadvertently included in allowable costs.

Workers Compensation Seminar

- HHSA incurred $1,590 in costs to sponsor a worker's compensation seminar. The OIG has determined these costs are nonallowable. However, the hospital received $3,450 in fees from the participants which was recorded in account 53100. This account was offset 100% against allowable costs on the HHSA 8/31/90 cost report.

General Supplies

- The OIG has highlighted expenditures of $293 for Christmas cards, $768 for Christmas ornaments and $381 for trophies at a golf tournament as nonallowable. Humana believes that the Christmas card costs are allowable for the same reasons the PRRB has ruled that Christmas party costs for selected personnel are allowable. This is a usual and customary activity.

  Of the $768 spent on Christmas ornaments, $295 was collected via sales to employees. This income was recorded in account 58200 and offset against A & G costs on the cost report. Originally, 96 ornaments were charged to HHSA @ $8.00 each. The hospital sold 59 @ $5.00 each. Of those remaining, 24 are still at the hospital and 13 are unaccounted for. The remaining 24 should be moved from cost to an inventory account, but the differential in cost and amount collected from sales should be deemed a fringe benefit and claimed as allowable cost. The $381 golf trophies should be disallowed.

Allowability of Fringe Benefit Costs Subject to Allocation to Federal Programs

Three areas were highlighted by the OIG report as unallowable costs claimed for reimbursement.

Employee Health Care Costs

Regulation 413.17 provides the criteria for determining the relatedness of organizations furnishing services, facilities and supplies to one another. In general, if parties are deemed to be related organizations under this principle, these services, facilities and supplies may be included in allowable cost of the provider at the cost to the related organization.

Regulation 413.17 (d) provides an exception to this general principle if the provider can demonstrate that the following four criteria are met.

1. The supplying organization is a bona fide separate organization,

2. A substantial part of its business activity of the type carried on with the provider is transacted with others than the provider and organizations related to the supplier by common ownership or control and there is an open, competitive market for the type of services, facilities or supplies furnished by the organization,

3. The services, facilities, or supplies are those which commonly are obtained by institutions such as the provider from other organizations and are not a basic element of patient care ordinarily furnished directly to patients by such institutions, and

4. The charge to the provider is in line with the charge for such services, facilities, or supplies in the open market and no more than the charge made under comparable circumstances to others by the organization for such services, facilities, or supplies.

If these criteria are met, the charge by the supplying organization shall be allowed as cost.

Humana complies with these four criteria as follows:

1. PRM Part 1, Section 1010 further expounds on this point by indicating the supplier must be "a separate sole proprietorship, partnership, joint venture, association or corporation and not merely an operating division of the provider organization." HHSA is incorporated under Humana Hospital Corporation, Inc. The insurance companies supplying coverage to HHSA are incorporated under Group Health Insurance, Inc. Both are owned by Humana Inc., but are separately organized and incorporated and not operating divisions of one another.

2. The Humana insurance companies are involved in an open and competitive market, and the majority of business transacted by these companies are with people not employed by Humana. During fiscal 1990 the Humana insurance claims centers processed claims and administered health benefit programs for 763,260 members and their dependents. Of these members, only 50,776 (6.7%) were employees of corporations affiliated with Humana Inc. The remaining 93.3% of the members were employees of the entities which were not related to Humana Inc. There were 620 employees of HHSA (1.2% of Humana affiliated employees and .08% of total employees in health plans administered by Humana's Group Health Insurance, Inc.) that had their health insurance covered through the Group Health Insurance, Inc.

3. Hospitals typically do not provide health insurance coverage for their employees and must obtain these services from outside sources, rather than producing them internally.

4. Finally the charges for these services are based upon open, competitive market conditions and are no more than the charge made to non-hospital employees.

The report states that Humana has not given the OIG "a definitive description on the costing methodology for these costs." First, a December 16, 1991, letter from Humana provided a comparison of rates charged to subscribers in the HMO versus rates charged to other subscribers in the San Antonio area. This comparison clearly showed a level of rates for HHSA enrollees similar to enrollees from outside of Humana.

Secondly, discussions were held over the telephone with OIG representatives concerning the indemnity insurance expenses incurred by HHSA, and numerous detailed discussions were held with OIG representatives at the Humana corporate office on this matter. Detailed computation schedules were supplied and explained to the OIG auditors.

Third, memorandums were supplied on January 28 and January 31, 1992, further explaining these costs and Humana's general position on their allowability.

Humana believes that all documentation requested has been supplied. All questions posed have been answered in a timely and open manner.

Alcohol Costs

Alcohol costs of $3,791 incurred at a Christmas party and an awards dinner were deemed nonallowable. HHSA has been unable to determine where such costs are unallowable under program guidelines, and refers to its prior stance on Christmas party costs.

NBA Basketball Tickets

The HHSA purchased season tickets to San Antonio Spur games and resold them to employees at a 15% discount, resulting in $1,436 remaining in cost allocated to the programs. The OIG has cited a HCFA Administrator decision (on PRRB case 91-D60), that ruled the cost of football tickets and alcoholic beverages were not allowable. It is interesting to note two aspects of this decision.

First, the decision is a reversal of a PRRB ruling that indicates these costs "help to increase employee morale and reduce employee turnover; and the costs were reasonable in accordance with 2102.1 of the PRM. Therefore, the Board concludes that the entertainment costs are allowable costs for Medicare purposes."

Secondly, the issues at hand in this case are not identical to the Spur ticket arrangement because of the introduction of alcohol costs into the case. These issues were considered together and the alcohol costs may have been an overriding factor in the Administrator's decision.

Humana contends that these costs were incurred as a fringe benefit for its employees, as these tickets were available to all employees. These costs are reasonable and were incurred for the same reasons cited by the PRRB in decision 91-D60, thus complying with PRM Section 2144.

Necessity of Costs not Subject to Allocation to Federal Programs

Three areas were identified by the OIG as not being allocated to Federal programs, but still unnecessary in providing patient care.

Physician Recruitment/Professional Relations

The OIG report states that physician recruiting and professional relations expenditures amounting to $194,847 were "not necessary for the provision of patient care." The report however, does not explain why or how these costs do not enhance patient care. HHSA self-disallowed these costs in compliance with the PRM. These costs though, are integrally related to patient care. It is critical for every provider to maintain a base of physicians to provide the diagnostic, recuperative and administrative skills necessary to ensure the quality of patient care. To ignore these costs as necessary would be to say that physicians have nothing to do with patient care.

Public Relations

The hospital contributed $7,500 in support of a San Antonio Performing Arts Association concert and $1,050 for a billboard advertisement at a local baseball field. The hospital properly self-disallowed these costs and believes that a commitment to the community is part of its mission in being a responsible corporate citizen.

Contributions to Charitable Organizations

The OIG report discloses $7,700 in contributions that are deemed unnecessary in providing patient care. These contributions were made to the San Antonio Youth Literacy Foundation, American Heart Association, Make-A-Wish Foundation, Palmer Drug Abuse Program, Ronald McDonald House, the Opera Guild and the Children's Transplant Association. Humana believes strongly in its commitment to sponsoring local and national charities, many which sponsor causes that directly impact the future of medical care and research. Albeit the Medicare program does not consider contributions to charitable organizations an allowable cost, the Internal Revenue Service does recognize these contributions as legitimate business deductions.