September 8, 2010

TO: Donald M. Berwick, M.D.
Administrator
Centers for Medicare & Medicaid Services

FROM: /George M. Reeb/
Acting Deputy Inspector General for Audit Services

SUBJECT: Review of Medicare Parts A and B Services Billed With Dates of Service After Beneficiaries' Deaths (A-01-09-00519)

The attached final report provides the results of our review of Medicare Parts A and B services billed with dates of service after beneficiaries' deaths.

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that the Office of Inspector General (OIG) post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at http://oig.hhs.gov.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact Robert A. Vito, Acting Assistant Inspector General for the Centers for Medicare & Medicaid Audits, at (410) 786-7104 or through email at Robert.Vito@oig.hhs.gov. We look forward to receiving your final management decision within 6 months. Please refer to report number A-01-09-00519 in all correspondence.

Attachment

Department of Health & Human Services

OFFICE OF INSPECTOR GENERAL

REVIEW OF MEDICARE PARTS A AND B SERVICES BILLED WITH DATES OF SERVICE AFTER BENEFICIARIES' DEATHS

Daniel R. Levinson
Inspector General

September 2010
A-01-09-00519

Office of Inspector General

http://oig.hhs.gov

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

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

EXECUTIVE SUMMARY

BACKGROUND

Title XVIII of the Social Security Act, as amended, established Medicare, a health insurance program administered by the Centers for Medicare & Medicaid Services (CMS). Federal regulations state that Medicare will not pay for any expenses incurred for items or services that are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member. Because medically necessary services cannot be provided after a beneficiary dies, payments for claims with dates of service after a beneficiary's death are overpayments.

To identify Medicare overpayments for claims for services, medical equipment, and supplies with dates of service after beneficiaries' deaths, CMS relies on information in its Enrollment Database. CMS uses two primary sources to update the date-of-death field on a beneficiary's record in the Enrollment Database: (1) information from claims submitted by institutional providers (i.e., inpatient hospitals, skilled nursing facilities, hospices, and home health agencies) and (2) information from the Social Security Administration (SSA).

Because of the inherent difficulties in receiving timely and accurate information from third parties, Medicare can make overpayments for claims for services, equipment, and supplies with dates of service after beneficiaries' deaths. To identify such overpayments, CMS requires its program safeguard contractors (PSC) to perform annual deceased-beneficiary postpayment reviews. The PSCs obtain data for these reviews from their own beneficiary eligibility records or from CMS deceased-beneficiary files, which contain the dates of death for all beneficiaries who died in the preceding 2 calendar years.

Our review covered Medicare Part A and Part B paid claims totaling $171.9 million for 69,081 deceased beneficiaries. These claims had dates of service in calendar years 2006 and 2007 after the beneficiaries' deaths.

OBJECTIVE

Our objective was to determine whether CMS identified and recovered overpayments for Medicare claims with dates of service after the beneficiaries' deaths.

SUMMARY OF FINDING

CMS did not make or had already recovered overpayments for Medicare claims on behalf of 96 of the 150 beneficiaries in our sample, including all of the Part A claims sampled. However, CMS did not identify and recover all overpayments for Part B (durable medical equipment and physician/supplier) claims with dates of service after the remaining 54 sampled beneficiaries' deaths. These Part B overpayments totaled $15,082.

Based on the results of our sample, we estimated that CMS did not identify and recover $8.2 million in overpayments for Medicare Part B claims with dates of service after the beneficiaries' deaths.

CMS did not identify and recover these overpayments because (1) the date-of-death information that the PSCs received was incomplete or inaccurate and (2) the recovery efforts were not timely.

RECOMMENDATIONS

We recommend that CMS:

- recoup the $15,082 in overpayments identified in our sample,
- use our Part B data to identify and collect potential overpayments estimated at $8,227,550 for the nonsampled beneficiaries,
- provide PSCs with complete date-of-death information,
- correct the Common Working File (CWF) process to ensure that dates of death from home health claims are entered in the CWF,
- work with SSA to obtain verified dates of death to assist in identifying overpayments, and
- establish a CWF edit to check all prior claims for a deceased beneficiary for overpayments once a date of death is added to the CWF.

CENTERS FOR MEDICARE & MEDICAID SERVICES COMMENTS

In comments on our draft report, CMS concurred with our recommendations and described the corrective actions that it was taking or planned to take. CMS requested that we provide the data necessary to recover overpayments for the sampled and nonsampled services. With respect to the nonsampled services, CMS stated that it would share this report and the additional claims with the recovery audit contractors. CMS's comments are included in their entirety as Appendix D.

We will provide CMS with the requested data.

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INTRODUCTION

BACKGROUND

Title XVIII of the Social Security Act (the Act), as amended, established Medicare, a health insurance program administered by the Centers for Medicare & Medicaid Services (CMS). Part A of the Medicare program helps cover inpatient care in hospitals, including critical access hospitals, skilled nursing facilities, and hospice and certain home health care. Part B of the Medicare program helps pay for physician services, outpatient care, and other medical services that Part A does not cover, such as certain services offered by physical and occupational therapists.

Federal regulations state that Medicare will not pay for any expenses incurred for items or services that are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member. Because medically necessary services cannot be provided after a beneficiary dies, payments for claims with dates of service after a beneficiary's death are overpayments.

Sources for Determining Dates of Death

To identify Medicare overpayments for claims for services, medical equipment, and supplies with dates of service after beneficiaries' deaths, CMS relies on information in its Enrollment Database. The Enrollment Database contains personal and demographic information on every beneficiary ever enrolled in Medicare. CMS uses two primary sources to update the date-of-death field on a beneficiary's record in the Enrollment Database: (1) information from claims submitted by institutional providers (i.e., inpatient hospitals, skilled nursing facilities, hospices, and home health agencies) and (2) information from the Social Security Administration (SSA).

Every institutional claim submitted to CMS's Common Working File (CWF) contains a discharge status code, which indicates the beneficiary's status as of the claim's last date of service. If the discharge status code indicates that the beneficiary has died, the CWF is designed to enter the claim's last service date as the date of death. The Enrollment Database receives daily date-of-death updates from the CWF. Once the beneficiary's date of death is entered in the CWF, any claims submitted with dates of service after the beneficiary's death should be denied.

For beneficiaries who die outside institutional settings, CMS obtains date-of-death information from SSA. The Enrollment Database receives daily updates to a beneficiary's personal information, including the date of death, from SSA's Master Beneficiary Record, the principal file of Social Security and Medicare beneficiary information. If SSA has not verified the day of the month on which the beneficiary died, the Enrollment Database enters in the date-of-death field the last day of the month of death, as reported by SSA. If information from an institutional claim is available and differs from SSA's information, CMS uses the date of death from the institutional claim.

Postpayment Reviews To Recover Overpayments

Because of the inherent difficulties in receiving timely and accurate information from third parties, Medicare can make overpayments for claims for services, equipment, and supplies with dates of service after beneficiaries' deaths. To identify such overpayments, CMS requires its program safeguard contractors (PSC)[1] to perform annual deceased-beneficiary postpayment reviews.[2]

The PSCs obtain data for these reviews from their own beneficiary eligibility records, which are based on the Enrollment Database, or from CMS deceased-beneficiary files, which contain the dates of death for all beneficiaries who died in the preceding 2 calendar years. The CMS files are generated from beneficiary records in the Enrollment Database. The PSCs are required to forward identified overpayments to CMS's claim-processing and payment contractors,[3] which are responsible for recovering the overpayments as soon as administratively possible.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether CMS identified and recovered overpayments for Medicare claims with dates of service after the beneficiaries' deaths.

Scope

Our review covered Medicare Part A and Part B paid claims totaling $171.9 million for 69,081 beneficiaries with dates of death in SSA's Death Master File (a subset of the Master Beneficiary Record). These claims had dates of service in calendar years 2006 and 2007 after the beneficiaries' deaths as recorded in SSA's Death Master File.

Although we did not assess the completeness of the National Claims History file from which we obtained claim data, we established reasonable assurance that the data were verifiable and accurate. We limited our review of internal controls to obtaining an understanding of CMS's process for identifying and recovering overpayments for claims for services dated after beneficiaries' deaths.

We performed our fieldwork from September through December 2009 at CMS headquarters in Baltimore, Maryland, and at National Heritage Insurance Company (a MAC) in Hingham, Massachusetts.

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[1] CMS is replacing PSCs with Zone Program Integrity Contractors.

[2] *Medicare Program Integrity Manual*, Pub. No. 100-08, chapter 4, section 4.27.

[3] Section 911 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, P.L. No. 108-173, required CMS to transfer the claim-processing and payment functions of fiscal intermediaries and carriers to Medicare administrative contractors (MAC) between October 2005 and October 2011.

Methodology

To accomplish our objective, we:

- reviewed applicable Medicare laws, regulations, and guidance;
- matched date-of-death information from SSA's Death Master File to National Claims History data for calendar years 2006 and 2007 to identify paid claims with dates of service after the beneficiaries' deaths;
- selected a stratified random sample of 150 of the 69,081 beneficiaries whose claims were identified by our match (Appendix A) and, for the sampled beneficiaries:
    - validated the accuracy of the National Claims History data (e.g., dates of service and beneficiaries' health insurance claim numbers);
    - obtained death certificates from VitalChek[4] to verify the dates of death obtained from SSA's Death Master File;
    - analyzed claims in the CWF to determine whether they had correct dates of death and whether CMS had already recovered any overpayments;
    - requested medical records from all 670 providers/suppliers for the 150 beneficiaries in our sample to validate the beneficiaries' dates of death, if available, and dates of service; and
    - determined the amount of Medicare overpayments based on our comparison of the verified dates of death with the dates of service on claims;
- estimated the overpayments based on our sample results (Appendix B);
- tested the CWF processes for recording beneficiaries' dates of death in the CWF from institutional claims and the CWF edits for preventing payments for claims for services dated after beneficiaries' deaths;
- analyzed CMS's deceased-beneficiary files to determine whether CMS made all relevant date-of-death information available to the PSCs;
- interviewed officials from two PSCs to gain an understanding of the PSCs' responsibilities and procedures for annual postpayment reviews;

[4] VitalChek provides official certificates of death on behalf of State and local government agencies to legally entitled parties.

- interviewed officials from two MACs to gain an understanding of their responsibilities and procedures for recovering overpayments made on behalf of deceased beneficiaries; and

- discussed the results of our review with CMS.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our finding and conclusions based on our audit objective.

FINDING AND RECOMMENDATIONS

CMS did not make or had already recovered overpayments for Medicare claims on behalf of 96 of the 150 beneficiaries in our sample, including all of the Part A claims sampled. However, CMS did not identify and recover all overpayments for Part B (durable medical equipment (DME) and physician/supplier) claims with dates of service after the remaining 54 sampled beneficiaries' deaths. These Part B overpayments totaled $15,082.

Based on the results of our sample, we estimated that CMS did not identify and recover $8.2 million in overpayments for Medicare Part B claims with dates of service after the beneficiaries' deaths.

CMS did not identify and recover these overpayments because (1) the date-of-death information that the PSCs received was incomplete or inaccurate and (2) the recovery efforts were not timely.

FEDERAL REQUIREMENTS

Pursuant to section 1862(a)(1)(A) of the Act, "no payment may be made under part A or part B for any expenses incurred for items or services … [that] are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member …." Because medically necessary items or services cannot be provided after beneficiaries' deaths, no items or services are allowable after beneficiaries' deaths. Accordingly, payments for items or services claimed to have been provided after a Medicare beneficiary's death are overpayments.

UNIDENTIFIED AND UNRECOVERED OVERPAYMENTS

CMS did not identify and recover $15,082 in overpayments for 54 of the 150 sampled beneficiaries. Of the unrecovered overpayments, approximately two-thirds were for DME, and the remainder were for physician/supplier services:

- CMS did not identify and recover $9,963 for DME claims with dates of service after the beneficiaries' deaths.

- CMS did not identify and recover overpayments totaling $5,119 for physician/supplier claims with dates of service after the beneficiaries' deaths.

CAUSES OF UNIDENTIFIED AND UNRECOVERED OVERPAYMENTS

CMS relies on the PSC postpayment review process to identify and recover overpayments made for claims with dates of service after beneficiaries' deaths. CMS did not identify and recover the overpayments that we found during our review for the following reasons:

- CMS excluded from the deceased-beneficiary files sent to the PSCs those beneficiaries whose dates of death had not been verified by SSA. For each such beneficiary, CMS recorded the date of death in the Enrollment Database as the last day of the month in which the beneficiary died. For a beneficiary who had both an unverified date of death from SSA and a date of death from an institutional claim, CMS recorded the actual date of death in its Enrollment Database.

- Tests of the CWF showed that beneficiaries' dates of death from home health agency claims were not entered in the Enrollment Database even though such claims are considered institutional.

- The Enrollment Database contained the beneficiaries' correct dates of death, and CMS provided that information to the PSCs. However, either the PSCs did not identify the overpayments (because of conflicts between the dates of death from the CWF and the deceased-beneficiary files, for example), or the MACs did not make the recovery (because the dollar amount to be recovered was below the MAC's recovery threshold, for example).

- After dates of death are entered in the CWF, no automated process examines claim histories for possible overpayments.

- The postpayment review is performed only annually and is based on information in the PSC's deceased-beneficiary files, which are created each January. As a result, there is often a significant delay between a claim's payment date and the MAC's attempt to recover the overpayment. This delay can result in the MAC's inability to recoup the overpayment if the physician/supplier has gone out of business or left the Medicare program.

For specific examples of some of these causes, see Appendix C.

ESTIMATE OF UNALLOWABLE PAYMENTS

Based on the results of our sample, we estimated that CMS did not identify and recover $8.2 million in overpayments for Medicare Part B claims with dates of service after the beneficiaries' deaths (Appendix B).

RECOMMENDATIONS

We recommend that CMS:

- recoup the $15,082 in overpayments identified in our sample,
- use our Part B data to identify and collect potential overpayments estimated at $8,227,550 for the nonsampled beneficiaries,
- provide PSCs with complete date-of-death information,
- correct the CWF process to ensure that dates of death from home health claims are entered in the CWF,
- work with SSA to obtain verified dates of death to assist in identifying overpayments, and
- establish a CWF edit to check all prior claims for a deceased beneficiary for overpayments once a date of death is added to the CWF.

CENTERS FOR MEDICARE & MEDICAID SERVICES COMMENTS

In comments on our draft report, CMS concurred with our recommendations and described the corrective actions that it was taking or planned to take. CMS requested that we provide the data necessary to recover overpayments for the sampled and nonsampled services. With respect to the nonsampled services, CMS stated that it would share this report and the additional claims with the recovery audit contractors. CMS's comments are included in their entirety as Appendix D.

We will provide CMS with the requested data.

APPENDIXES

APPENDIX A: SAMPLE DESIGN AND METHODOLOGY

POPULATION

The population consisted of beneficiaries on whose behalf Medicare paid claims for services dated after their deaths during calendar years 2006–2007.

SAMPLING FRAME

The sampling frame was an Access database containing the health insurance claim numbers and types of services claimed for dates of service after 69,081 beneficiaries' dates of death as shown in the Social Security Administration's Death Master File.

SAMPLE UNIT

The sample unit was a deceased beneficiary.

SAMPLE DESIGN

Our sample design was a stratified random sample with the following three strata:

- beneficiaries with only durable medical equipment (DME) services;
- beneficiaries with only physician/supplier services; and
- beneficiaries with only Part A services or a combination of Part A, DME, and physician/supplier services.

SAMPLE SIZE

The sample consisted of 150 beneficiaries with 50 beneficiaries in each stratum.

SOURCE OF THE RANDOM NUMBERS

We used the Office of Inspector General, Office of Audit Services (OIG/OAS), random number generator to generate the random numbers.

METHOD OF SELECTING SAMPLE ITEMS

We consecutively numbered the sample units in each stratum. After generating 50 random numbers for each of the 3 strata, we selected the corresponding frame items.

ESTIMATION METHODOLOGY

We used the OIG/OAS statistical software to estimate the potential overpayments.

APPENDIX B: SAMPLE RESULTS AND ESTIMATES

Stratum	Frame Size	Frame Value	Sample Size	Value of Sample	Beneficiaries With Overpayments	Value of Overpayments
DME	42,246	$7,486,825	50	$12,178	39	$7,221
Physician/supplier	14,311	5,133,067	50	22,258	7	4,823
Part A or a combination of Part A, DME, and physician/supplier services	12,524	159,323,887	50	600,731	8[1]	3,038
Total	**69,081**	**$171,943,779**	**150**	**$635,167**	**54**	**$15,082**

Estimated Value of Overpayments
(Limits calculated for a 90-percent confidence interval)

Point estimate	$8,242,632
Lower limit	5,172,733
Upper limit	11,312,531

[1] All unallowable payments were for DME and physician/supplier claims.

APPENDIX C: EXAMPLES OF CAUSES OF UNRECOVERED OVERPAYMENTS

Incomplete and Inaccurate Data for Postpayment Review

For a beneficiary who died on July 11, 2007, the Centers for Medicare & Medicaid Services (CMS) received the correct date of death from information in a hospice claim submitted on August 6, 2007. In the meantime, a DME claim for $152 was billed and paid with a date of service of July 17, 2007. Although CMS recorded the correct date of death from the hospice claim in the Enrollment Database, the beneficiary was excluded from the program safeguard contractor's (PSC) deceased-beneficiary file for calendar year 2007 because the Social Security Administration's date of death was unverified. As a result, the overpayment was neither identified nor recovered.

Lack of Timely Recovery Efforts

For a beneficiary who died on January 6, 2006, a DME supplier submitted a claim with a January 10, 2006, date of service and was paid on January 15, 2006. An inpatient claim with the beneficiary's date of death was submitted on February 8, 2006, and the correct date was added to the Enrollment Database. This beneficiary was included in the January 2007 PSC deceased-beneficiary file. However, in the year that elapsed between the overpayment and the recovery attempt, the supplier had gone out of business. As a result, this overpayment was never recovered.

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Office of the Administrator
Washington, DC 20201

DATE: JUL 2 9 2010

RECEIVED
2010 AUG -2 PM 3:14
GENERAL

TO: Daniel R. Levinson
Inspector General

FROM: Donald M. Berwick, M.D.
Administrator

SUBJECT: Office of Inspector General (OIG) Draft Report: "Review of Medicare Parts A and B Services Billed With Dates of Service After Beneficiaries' Deaths" (A-01-09-00519)

Thank you for the opportunity to review and comment on the OIG's draft report, "Review of Medicare Parts A and B Services Billed With Dates of Service After Beneficiaries' Deaths". The Centers for Medicare & Medicaid Services (CMS) appreciates the time and resources the OIG has invested to review the occurrence of payment after the beneficiary's death.

The CMS collects a beneficiary's date of death from third parties such as institutional providers or the Social Security Administration (SSA). As soon as a date of death is entered into the Common Working File (CWF) or a discharge status defined as deceased is entered into the CWF, an edit exists that prevents the future payment of claims. However, as mentioned in the draft report there are delays in the information coming from the third parties which impacts the timeliness of the data in our systems. Since the delay is inevitable, CMS established a process and created annual reports that identified potential overpayments based on beneficiary's death and dates of service. Through FY 2009 the reports were shared with the Program Safeguard Contractors (PSCs). In FY 2010 CMS began sharing the data run with the Recovery Audit Contractors (RACs). Since the primary task of the RACs was the identification and recoupment of improper payments this transition was appropriate and allows the PSCs to focus on their primary task of fraud identification.

Based on identifications by the RACs, CMS is developing a CWF systems edit which will identify potential claims paid after the beneficiary's date of death. This edit will not be fully automated, but it will provide a report for contractors to review and perform additional review if necessary in order to determine if the payment was improper.

Our detailed comments on the report recommendations follow.

OIG Recommendation

The OIG recommend CMS recoup the $15,082 in overpayments identified in this sample.

CMS Response

The CMS concurs. CMS agrees that the $15,082 in overpayments should be recovered. CMS plans to recover the overpayments identified consistent with the Agency's policies and procedures. The CMS requests that the OIG furnish for each overpayment or potential overpayment the data necessary (Medicare contractor numbers, provider numbers, claims information including the paid date, HIC numbers, etc.) to initiate and complete recovery action. In addition, CMS requests that Medicare contractor specific data be written to separate CD-ROMs or separate hardcopy worksheets in order to better facilitate the transfer of information to the appropriate contractors.

OIG Recommendation

The OIG recommend CMS use the OIG Part B data to identify and collect potential overpayments estimated at $8,227,550 for the nonsampled beneficiaries.

CMS Response

The CMS concurs. Upon receipt of the files from the OIG, CMS will share the OIG report and all additional claims with the RACs. The CMS will encourage the RACs to consider the issue in the report and to consider reviewing the additional claims subject to their Statement of Work and any regulatory restrictions.

The CMS requests that the OIG furnish for each potential overpayment the data necessary (Medicare contractor numbers, provider numbers, claims information including the paid date, HIC numbers, etc.) to initiate and complete recovery action. In addition, CMS requests that Medicare contractor specific data be written to separate CD-ROMs, separate hardcopy worksheets, or sent to CMS electronically using the secure HHS/OIG web portal in order to better facilitate the transfer of information to the appropriate contractors. The CMS requests these files be sent separately from the files mentioned in Recommendation 1.

OIG Recommendation

The OIG recommend CMS provide PSCs with complete date-of-death information.

CMS Response

The CMS concurs. However, CMS has transitioned the date of death workload from the PSCs to the RACs. The CMS will work to ensure RACs have complete date of death information so that they can conduct reviews on a post payment basis. On a prepayment basis, the Medicare Administrative Contractors (MACs) deny claims before they are paid based on the most current date of death information in CWF.

OIG Recommendation

The OIG recommend CMS correct the CWF process to ensure that dates of death from home health claims are entered in the CWF.

CMS Response

The CMS concurs with this recommendation. We will develop the appropriate contractor instructions and educational materials, and target implementation for April 2011. Given contractors need 5 months lead time to implement quarterly system changes and CMS is about to release fully developed and cleared instructions for the January 2011 quarter, April 2011 is the first quarter for which system hours are available for implementing the changes required by this recommendation.

OIG Recommendation

The OIG recommend CMS work with SSA to obtain verified dates of death to assist in identifying overpayments.

CMS Response

The CMS concurs. CMS and SSA exchange data on a daily basis. SSA maintains information about a beneficiary's date of death on the SSA Master Beneficiary Record (MBR). Data is extracted from the MBR and data is sent to CMS via the Combined Exchange Record (CER). To the extent that SSA knows about a beneficiary's date of death, then that information is provided to CMS. The CER contains the complete date of death (day, month, year). In the past SSA may have sent to CMS dates of death with just the month and year. This should no longer be occurring, except in extremely rare instances.

OIG Recommendation

The OIG recommend CMS establish a CWF edit to check all prior claims for a deceased beneficiary for overpayments once a date of death is added to the CWF.

CMS Response

The CMS concurs. CMS is developing a CWF systems edit which will identify potential claims paid after the beneficiary's date of death. This edit will not be fully automated, because there are some situations such as inpatient claims where medical review would be necessary to determine if the claim should be paid or not. However the edit will provide a report of identified claims that the contractors shall be required to take action on and perform additional review if necessary to determine if the payment was improper.

Again, we thank you for the opportunity to review and comment on this draft report.