DEPARTMENT OF HEALTH & HUMAN SERVICES **Office of Inspector General**

Washington, D.C. 20201

December 9, 2009

TO: Charlene Frizzera
Acting Administrator
Centers for Medicare & Medicaid Services

FROM: /Joseph E. Vengrin/
Deputy Inspector General for Audit Services

SUBJECT: Review of Medicare Outpatient Payments for Oxaliplatin in Virginia (A-04-09-06103)

Attached is an advance copy of our final report on Medicare outpatient payments for oxaliplatin in Virginia. We will issue this report to National Government Services (NGS) within 5 business days.

Oxaliplatin is a chemotherapy drug used to treat colorectal cancer. During our audit period (calendar year (CY) 2005), Medicare required hospital outpatient departments to bill one service unit for every 5 milligrams of oxaliplatin administered. Before July 2003, Medicare required billing one service unit for every 0.5 milligrams administered.

Our objective was to determine, for selected payments, whether hospitals billed NGS for the correct number of service units of oxaliplatin.

For all 57 payments reviewed, seven hospitals billed NGS for the incorrect number of service units of oxaliplatin. As a result, the hospitals received overpayments totaling $1,421,842 during CY 2005. These overpayments occurred primarily because the hospitals did not update their systems following a change in Medicare billing guidance.

We recommend that NGS recover the $1,421,842 in overpayments to the hospitals. In comments on our draft report, NGS agreed with our recommendation.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact George M. Reeb, Assistant Inspector General for the Centers for Medicare & Medicaid Audits, at (410) 786-7104 or through email at George.Reeb@oig.hhs.gov or Peter J. Barbera, Regional Inspector General for Audit Services, Region IV, at (404) 562-7750 or through email at Peter.Barbera@oig.hhs.gov. Please refer to report number A-04-09-06103.

Attachment

DEPARTMENT OF HEALTH & HUMAN SERVICES **OFFICE OF INSPECTOR GENERAL**

Office of Audit Services, Region IV
61 Forsyth Street, S.W., Suite 3T41
Atlanta, GA 30303

December 14, 2009

Report Number: A-04-09-06103

Mr. James Elmore
Director, Contract Administration
National Government Services, Inc.
8115 Knue Road
Indianapolis, Indiana 46250

Dear Mr. Elmore:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Review of Medicare Outpatient Payments for Oxaliplatin in Virginia." We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

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

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that 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 contact Andrew Funtal, Audit Manager, at (404) 562-7762 or through email at Andrew.Funtal@oig.hhs.gov. Please refer to report number A-04-09-06103 in all correspondence.

Sincerely,

/Peter J. Barbera/
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Ms. Nanette Foster Reilly
Consortium Administrator
Consortium for Financial Management & Fee for Service Operations
Centers for Medicare & Medicaid Services
601 East 12th Street, Room 235
Kansas City, Missouri 64106

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

REVIEW OF MEDICARE OUTPATIENT PAYMENTS FOR OXALIPLATIN IN VIRGINIA

Daniel R. Levinson
Inspector General

December 2009
A-04-09-06103

Office of Inspector General

http://oig.hhs.gov

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

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The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

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The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC
at http://oig.hhs.gov

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site.

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

Pursuant to Title XVIII of the Social Security Act, the Medicare program provides health insurance for people aged 65 and over and those who are disabled or have permanent kidney disease. The Centers for Medicare & Medicaid Services, which administers the program, contracts with fiscal intermediaries to process and pay Medicare Part B claims submitted by hospital outpatient departments. Medicare uses an outpatient prospective payment system to pay for hospital outpatient services.

Oxaliplatin is a chemotherapy drug used to treat colorectal cancer. During our audit period (calendar year (CY) 2005), Medicare required hospital outpatient departments to bill one service unit for every 5 milligrams of oxaliplatin administered. Before July 2003, Medicare required billing one service unit for every 0.5 milligrams administered.

During CY 2005, National Government Services, Inc. (NGS), was the fiscal intermediary for Virginia. We reviewed 57 payments totaling $1,631,698 that NGS made to seven hospitals in Virginia. Each of these payments amounted to less than $50,000 for 100 units or more of oxaliplatin.

OBJECTIVE

Our objective was to determine, for selected payments, whether hospitals billed NGS for the correct number of service units of oxaliplatin.

SUMMARY OF FINDING

For all 57 payments reviewed, the seven hospitals billed NGS for the incorrect number of service units of oxaliplatin. As a result, the hospitals received overpayments totaling $1,421,842 during CY 2005. These overpayments occurred primarily because the hospitals did not update their systems following a change in Medicare billing guidance.

RECOMMENDATION

We recommend that NGS recover the $1,421,842 in overpayments to the hospitals.

NATIONAL GOVERNMENT SERVICES COMMENTS

NGS agreed with our recommendation. NGS's comments, except for sensitive and personally identifiable information, are included as the Appendix.

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NATIONAL GOVERNMENT SERVICES COMMENTS

INTRODUCTION

BACKGROUND

Pursuant to Title XVIII of the Social Security Act, the Medicare program provides health insurance for people aged 65 and over and those who are disabled or have permanent kidney disease. The Centers for Medicare & Medicaid Services (CMS) administers the program.

Medicare Fiscal Intermediaries

CMS contracts with fiscal intermediaries to, among other things, process and pay Medicare Part B claims submitted by hospital outpatient departments. The intermediaries' responsibilities include determining reimbursement amounts, conducting reviews and audits, and safeguarding against fraud and abuse.[1]

Outpatient Prospective Payment System

Pursuant to the Balanced Budget Act of 1997, P.L. No. 105-33 § 4523, Social Security Act, § 1833, 42 U.S.C. § 1395l, CMS implemented an outpatient prospective payment system (OPPS) for hospital outpatient services. The OPPS applies to services furnished on or after August 1, 2000.

Under the OPPS, Medicare pays for services on a rate-per-service basis using the ambulatory payment classification group to which each service is assigned. The OPPS uses the Healthcare Common Procedure Coding System (HCPCS) to identify and group services into an ambulatory payment classification group.

Oxaliplatin

Oxaliplatin is a chemotherapy drug used to treat colorectal cancer. During our audit period (calendar year (CY) 2005), Medicare required hospital outpatient departments to bill one service unit for every 5 milligrams of oxaliplatin administered.

National Government Services

During CY 2005, National Government Services, Inc. (NGS), was the fiscal intermediary for West Virginia and Virginia. During that period, NGS made a total of 1,466 payments to hospitals in the two States for claims containing oxaliplatin.

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[1]Section 911 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, P.L. No. 108-173 § 911, Social Security Act, § 1842, 42 U.S.C. § 1395u, requires CMS to transfer the functions of fiscal intermediaries to Medicare administrative contractors by October 2011.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine, for selected payments, whether hospitals billed NGS for the correct number of service units of oxaliplatin.

Scope

We reviewed 57 payments totaling $1,631,698 that NGS made to seven hospitals in Virginia for oxaliplatin during CY 2005. Each of these payments amounted to less than $50,000.[2]

We did not review NGS's internal controls applicable to the 57 payments because our objective did not require an understanding of controls over the submission and processing of claims. Our review allowed us to establish reasonable assurance of the authenticity and accuracy of the data obtained from the National Claims History file, but we did not assess the completeness of the file.

We conducted fieldwork from January through June 2009. Our fieldwork included contacting NGS, located in Indianapolis, Indiana, and the seven hospitals that received the 57 payments.

Methodology

To accomplish our objective, we:

- reviewed applicable Medicare laws, regulations, and guidance;

- used CMS's National Claims History file to identify the Medicare fiscal intermediaries that, during CY 2005, processed outpatient claims with a paid amount of less than $50,000 and a utilization level of 100 units or more of oxaliplatin;

- selected for review the 57 outpatient claims paid by NGS to hospitals in Virginia with a paid amount of less than $50,000 and a utilization level of 100 units or more of oxaliplatin;[3]

- contacted the seven hospitals that received the 57 payments to determine whether the service units were billed correctly and, if not, why the service units were billed incorrectly; and

- confirmed with NGS that overpayments occurred and refunds were appropriate.

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[2]We limited our review to payments of less than $50,000 to avoid duplicating work done in other audits covering payments of $50,000 or more.

[3]For materiality purposes, we excluded payments for claims with fewer than 100 units of oxaliplatin.

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 findings and conclusions based on our audit objective.

FINDING AND RECOMMENDATION

For all 57 payments reviewed, the seven hospitals billed NGS for the incorrect number of service units of oxaliplatin. As a result, the hospitals received overpayments totaling $1,421,842 during CY 2005. These overpayments occurred primarily because the hospitals did not update their systems following a change in Medicare billing guidance.

MEDICARE REQUIREMENTS

Section 9343(g) of the Omnibus Budget Reconciliation Act of 1986, P.L. No. 99-509, requires hospitals to report claims for outpatient services using HCPCS codes. CMS's "Medicare Claims Processing Manual," Pub. No. 100-04, chapter 4, section 20.4, states: "The definition of service units . . . is the number of times the service or procedure being reported was performed." In addition, chapter 1, section 80.3.2.2, of this manual states: "In order to be processed correctly and promptly, a bill must be completed accurately."

For outpatient services furnished before July 1, 2003, CMS instructed hospitals to bill for oxaliplatin using HCPCS code J3490. The service unit for that code was 0.5 milligrams.

Through CMS Transmittal A-03-051, Change Request 2771, dated June 13, 2003, CMS instructed hospital outpatient departments to bill for oxaliplatin using HCPCS code C9205 for services furnished on or after July 1, 2003.[4] The description for HCPCS code C9205 was "Injection, oxaliplatin, per 5 mg." Therefore, for every 5 milligrams of oxaliplatin administered to a patient, hospital outpatient departments should have billed Medicare for one service unit during our audit period.[5]

INCORRECT NUMBER OF SERVICE UNITS BILLED

During CY 2005, the seven hospitals billed NGS for the incorrect number of service units on all 57 claims reviewed and, as a result, received overpayments totaling $1,421,842:

- For 54 overpayments totaling $1,401,380, hospitals billed 10 times the correct number of service units for oxaliplatin furnished to Medicare beneficiaries. Rather than billing one service unit for every 5 milligrams of oxaliplatin administered, as Medicare required,

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[4]Although the American Medical Association's 2004 HCPCS code book showed that code C9205 had been deleted as of 2004, CMS notified hospitals to continue using that code for oxaliplatin for services furnished in 2004 and 2005 (68 Fed. Reg. 63398, 63488 (Nov. 7, 2003); 69 Fed. Reg. 65682, 66104 (Nov. 15, 2004)).

[5]CMS instructed hospitals to bill for oxaliplatin using HCPCS code J9263 for services furnished on or after January 1, 2006 (70 Fed. Reg. 68516, 68632 (Nov. 10, 2005); CMS Transmittal 786, Change Request 4250 (Dec. 16, 2005)). The service unit for that code is 0.5 milligrams.

hospitals billed one service unit for every 0.5 milligrams administered. Hospital officials stated that they had not updated their systems to accommodate the billing change required by CMS Transmittal A-03-051.

- For three overpayments totaling $20,462, a hospital incorrectly billed approximately twice the correct number of service units for oxaliplatin because of a clerical error.

RECOMMENDATION

We recommend that NGS recover the $1,421,842 in overpayments to the hospitals.

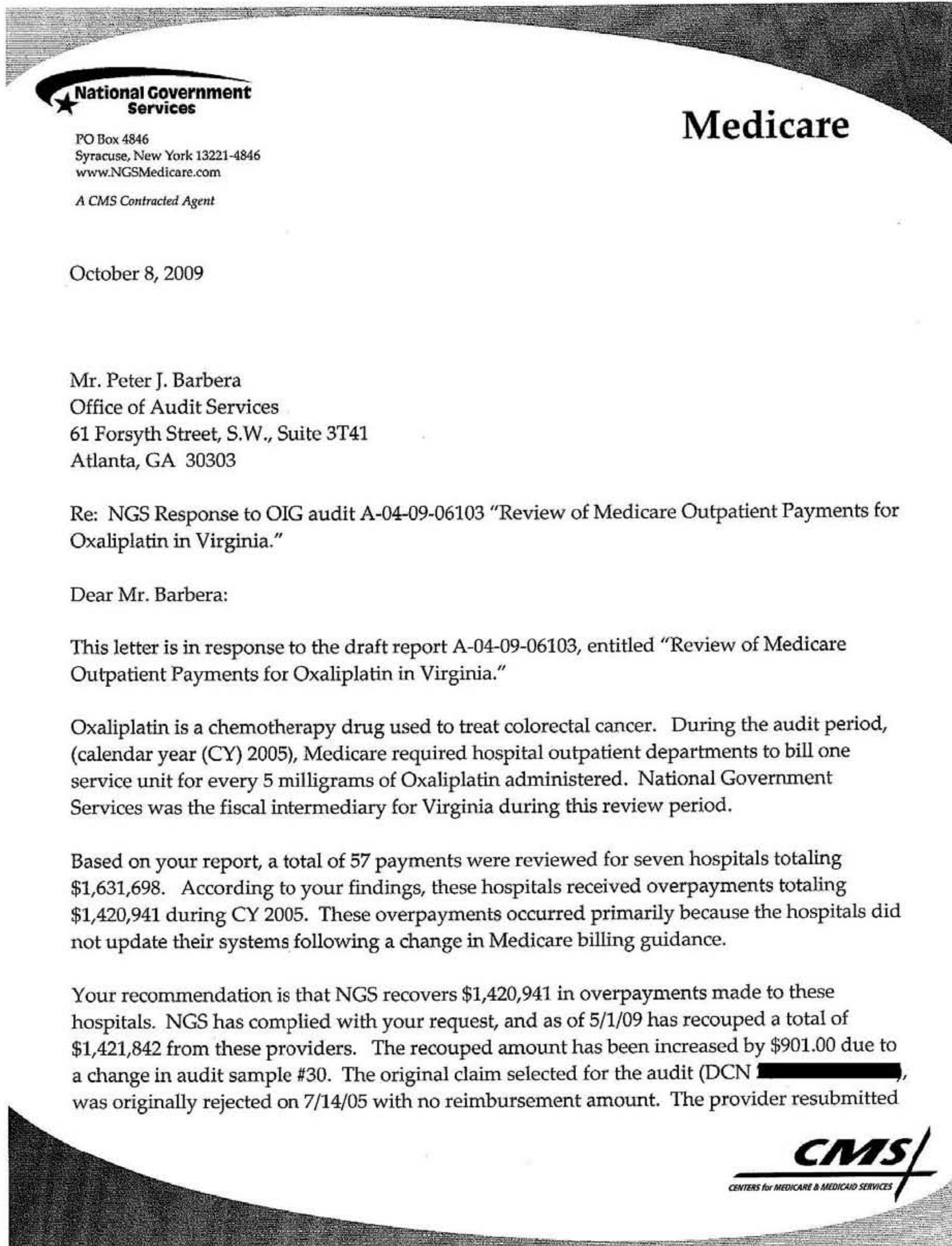
NATIONAL GOVERNMENT SERVICES COMMENTS

In comments on our draft report, NGS agreed with our recommendation and stated that it had recovered $1,421,842 in overpayments. NGS said that this amount included an additional $901 that was not reflected in our draft report because of a later claim resubmission. We revised this final report to reflect the claim resubmission.

NGS's comments, except for sensitive information and an attachment containing personally identifiable information, are included as the Appendix.

APPENDIX

APPENDIX: NATIONAL GOVERNMENT SERVICES COMMENTS



National Government Services

Medicare

PO Box 4846
Syracuse, New York 13221-4846
www.NGSMedicare.com

A CMS Contracted Agent

October 8, 2009

Mr. Peter J. Barbera
Office of Audit Services
61 Forsyth Street, S.W., Suite 3T41
Atlanta, GA 30303

Re: NGS Response to OIG audit A-04-09-06103 "Review of Medicare Outpatient Payments for Oxaliplatin in Virginia."

Dear Mr. Barbera:

This letter is in response to the draft report A-04-09-06103, entitled "Review of Medicare Outpatient Payments for Oxaliplatin in Virginia."

Oxaliplatin is a chemotherapy drug used to treat colorectal cancer. During the audit period, (calendar year (CY) 2005), Medicare required hospital outpatient departments to bill one service unit for every 5 milligrams of Oxaliplatin administered. National Government Services was the fiscal intermediary for Virginia during this review period.

Based on your report, a total of 57 payments were reviewed for seven hospitals totaling $1,631,698. According to your findings, these hospitals received overpayments totaling $1,420,941 during CY 2005. These overpayments occurred primarily because the hospitals did not update their systems following a change in Medicare billing guidance.

Your recommendation is that NGS recovers $1,420,941 in overpayments made to these hospitals. NGS has complied with your request, and as of 5/1/09 has recouped a total of $1,421,842 from these providers. The recouped amount has been increased by $901.00 due to a change in audit sample #30. The original claim selected for the audit (DCN [redacted]), was originally rejected on 7/14/05 with no reimbursement amount. The provider resubmitted

CMS
CENTERS for MEDICARE & MEDICAID SERVICES

Office of Inspector General Note: We have deleted sensitive information from this appendix.

the claim on 7/26/05 (DCN [redacted]); therefore, the adjustment was made to that DCN and not the original which resulted in the $901.00 difference (see attached spreadsheet for claim details).

You may submit any additional questions and/or concerns to the NGS Medicare mailbox; ngs.medicare@ anthem.com.

Sincerely,

David A. Marshall
Chief Operating Officer
National Government Services

Claims Management:
cc: [redacted], Part A/RHHI Claims Director,
[redacted], Claims Manager