Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

MEDICARE PART D RECONCILIATION PAYMENTS FOR 2006 AND 2007

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OBJECTIVE

1. To assess the reconciliation payments that Part D sponsors will owe to or receive from Medicare for 2007.
2. To determine the status of the reconciliation payments for 2006 and identify any outstanding issues.

BACKGROUND

The Medicare prescription drug program, known as Medicare Part D, provides outpatient prescription drug coverage for beneficiaries who choose to enroll in the program. The Centers for Medicare & Medicaid Services (CMS) contracts with private insurance companies, known as Part D sponsors, to provide this benefit. In 2007, 251 sponsors offered a total of 4,407 plans.

CMS makes monthly prospective payments to sponsors for providing prescription drug coverage to Medicare beneficiaries. These payments are based on estimates that sponsors provide in their bids prior to the beginning of the plan year. After the close of the plan year, CMS reconciles these payments with the sponsors' actual costs to determine whether sponsors owe money to Medicare or Medicare owes money to sponsors.

In October 2007, the Office of Inspector General (OIG) issued a report on Part D reconciliation that found that sponsors owed Medicare an estimated net total of $4.4 billion for 2006. These payments resulted generally because sponsors overestimated the cost of providing the benefit in their bids. However, as the report noted, 2006 was the first year of the benefit and sponsors had limited information about drug utilization and drug costs on which to base their bids. This study follows up on the issues identified in the previous report.

FINDINGS

Sponsors owe a net total of $18 million to Medicare for the 2007 Part D payment reconciliation. For 2007, 61 percent of sponsors owe a total of $1.81 billion to Medicare. The remaining 39 percent of sponsors will receive money from Medicare, amounting to $1.79 billion. Consequently, sponsors owe a net total of $18 million to Medicare,

which is significantly less than the net total of $4.4 billion that sponsors owed for 2006.

For 2007, sponsors owe a net total of $600 million for risk sharing. Specifically, 71 percent of the sponsors made unexpected profits large enough to trigger risk sharing. These sponsors overestimated the cost of providing the benefit in their bids. Sponsors will also receive a net total of $406 million for the low-income cost-sharing subsidy and $186 million for the reinsurance subsidy for 2007.

Sponsors continue to make large unexpected profits in addition to the expected profits they included in their bids. The majority of sponsors continue to make unexpected profits large enough to trigger risk sharing. These unexpected profits are in addition to the expected profits included in sponsors' bids. Based on our calculations, these 179 sponsors made at least $1.02 billion in unexpected profits for 2007. In addition, sponsors included an estimated net total of $1.07 billion of expected profits in their bids. Expected profits are not subject to risk sharing; therefore, sponsors keep all of these profits in addition to any unexpected profits that they retain after risk sharing. These expected profits may also offset any losses that sponsors have after risk sharing.

CMS collected almost all of the funds that sponsors owed to Medicare for 2006. CMS collected a net total of $4.37 billion that sponsors owed for 2006. Specifically, CMS collected most of the funds that sponsors owed by decreasing their monthly prospective payments for November and December 2007. CMS has not collected a total of $14 million from five sponsors for 2006.

CMS reopened the 2006 payment reconciliation in December 2007. As a result, Medicare owed sponsors a net total of $315 million and adjusted their June 2008 monthly prospective payments accordingly. After CMS completed the reopening, it announced that it considered the 2006 reconciliation closed. However, half of the 16 selected sponsors that we received information from reported that they have requested or were planning to request an additional reopening of the 2006 reconciliation.

RECOMMENDATIONS

Based on these findings, we recommend that CMS:

Ensure that sponsors' bids accurately reflect the cost of providing the benefit to Medicare beneficiaries. CMS should ensure that sponsors' bids more accurately reflect their costs of providing the benefit.

CMS should use available data from prior plan years to assist in the review of future bid submissions. CMS should also conduct additional checks on bids in which the sponsors owed or received large amounts for reconciliation.

Hold sponsors more accountable for inaccuracies in the bids. As we recommended in a previous report, CMS should modify its bid audit process to hold sponsors more accountable for material findings identified in bid audits. Specifically, CMS could seek the authority to impose sanctions against plan sponsors when bid audits have material findings that meet a specified threshold regardless of the reason for the material finding. CMS could also consider seeking the authority to correct payments to plan sponsors at the end of the plan year.

Determine whether changes to the risk corridors are appropriate. CMS should analyze all relevant data to determine whether it is appropriate to seek legislative changes to the risk corridors and risk-sharing percentages. The changes to risk sharing that begin with the 2008 reconciliation will decrease the Federal Government's share of sponsors' profits and increase the amount that sponsors retain. Therefore, if sponsors continue to make large unexpected profits in 2008 and beyond, they will return a smaller percentage to the Federal Government.

Determine whether alternative methodologies would better align payments with sponsors' costs for the low-income cost-sharing and reinsurance subsidies. CMS should analyze all relevant data to determine whether alternative methodologies to estimate and pay sponsors for the low-income cost-sharing and reinsurance subsidies would better align payments with costs. For instance, CMS should determine whether requiring sponsors to base their bid estimates for reinsurance on the number of beneficiaries who they anticipate will reach catastrophic coverage would better align payments with costs for this subsidy.

Follow up with sponsors that still owe funds for 2006. CMS should follow up with the three sponsors that owe funds for 2006 and are not in receivership. CMS collected funds from the other sponsors by adjusting their monthly prospective payments. If this is not possible for these sponsors, CMS should seek alternative methods for collecting funds from these sponsors.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

CMS concurred or agreed with three of our recommendations and did not state whether it concurred with the other two recommendations. In response to our first recommendation, CMS concurred and stated that it has already incorporated plan-level experience in its current bid-desk review.

In response to our second recommendation, CMS stated that it has the authority to ensure Part D sponsors' compliance with the operational requirements of the Part D program. We encourage CMS to use its current authority to hold sponsors more accountable for inaccuracies in their bids. However, we note that CMS's current authority may not allow it to impose sanctions in all situations that lead to inaccuracies in the bids. Further, we wish to clarify that as part of this recommendation, CMS could consider seeking the authority to enable it to correct payments to sponsors using methods other than adjusting their bids and reconciliation. These corrections would most likely occur at the end of the plan year and be coordinated with reconciliation.

In response to our third recommendation, CMS stated that it has reviewed the statutory risk corridors and risk-sharing percentages and does not believe that changes would be appropriate. Further, CMS noted that it estimates that, because plans' bids dropped significantly in 2008, the Government, on average, will owe plans for the 2008 reconciliation. We note that other factors affect risk-sharing payments, such as drug costs and rebates. Therefore, we remain concerned that sponsors may continue to make large profits in 2008 and beyond and that the Government will share less of these profits under the current risk corridors and risk-sharing percentages.

In response to our fourth recommendation, CMS agreed and stated that it is currently evaluating changing the method for paying the low-income cost-sharing subsidy. In response to our fifth recommendation, CMS noted that it has since collected amounts owed from all sponsors that are solvent. In response to other comments, we made changes to the final report as appropriate.

We ask that in its final management decision, CMS more clearly indicates whether it concurs with our second and third recommendations and what steps, if any, it will take to implement them.

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1. To assess the reconciliation payments that Part D sponsors will owe to or receive from Medicare for 2007.
2. To determine the status of the reconciliation payments for 2006 and identify any outstanding issues.

BACKGROUND

The Medicare prescription drug program, known as Medicare Part D, provides outpatient prescription drug coverage for beneficiaries who choose to enroll in the program.[1] The Centers for Medicare & Medicaid Services (CMS) contracts with private insurance companies, known as Part D sponsors, to provide this benefit. Sponsors may offer stand-alone prescription drug plans, or they may offer prescription drug coverage as a part of managed care plans. In 2007, 251 sponsors offered a total of 4,407 plans.

CMS makes monthly prospective payments to sponsors for providing prescription drug coverage to Medicare beneficiaries. These payments are based on estimates that sponsors provide in their bids prior to the beginning of the plan year.[2] After the close of the plan year, CMS reconciles these payments with the sponsors' actual costs to determine whether sponsors owe money to Medicare or Medicare owes money to sponsors.

In October 2007, the Office of Inspector General (OIG) issued a report on Part D reconciliation that found that sponsors owed Medicare an estimated net total of $4.4 billion for 2006.[3] These payments resulted generally because sponsors overestimated the cost of providing the benefit in their bids. However, as the report noted, 2006 was the first year of the benefit and sponsors had limited information about drug utilization and drug costs on which to base their bids. This study follows up on the issues identified in the previous report. It assesses the reconciliation payments that Part D sponsors will owe to or receive from

[1] The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), P.L. No. 108-173.

[2] A plan year runs from January 1 to December 31.

[3] OIG, "Medicare Part D Sponsors: Estimated Reconciliation Amounts for 2006" (OEI-02-07-00460).

Medicare for 2007. It also determines the status of the reconciliation payments for 2006 and identifies any outstanding issues.

Part D Benefit

Part D sponsors are required by law to offer, at a minimum, a basic prescription drug benefit that is either the standard prescription drug benefit (described below) or is "actuarially equivalent" to the standard benefit.[4] Most beneficiaries are responsible for certain costs, which may include a monthly premium, an annual deductible, and coinsurance. However, certain low-income beneficiaries are eligible to receive assistance to pay some or all of these costs. The portion that is paid by Medicare is referred to as the low-income cost-sharing subsidy. [5]

In 2007, the standard drug benefit had a deductible of $265.[6] In the initial phase of the Part D benefit, after the deductible is paid, beneficiaries contribute 25-percent coinsurance toward their drug costs and the plan pays the remaining 75 percent until combined beneficiary and plan payments reach a total of $2,400. Beneficiaries then enter the coverage gap phase of the benefit, in which they are responsible for 100 percent of their drug costs. The catastrophic coverage phase begins when a beneficiary's out-of-pocket costs reach $3,850.[7] From this point on, beneficiaries contribute approximately 5 percent toward their drug costs.[8] Of the remaining 95 percent of drug costs, the Part D sponsors are responsible for 15 percent and Medicare pays 80 percent. The amount paid by Medicare is referred to as the reinsurance subsidy.[9] See Appendix A for a chart of the standard benefit.

Plan Bids

Before the beginning of the plan year, sponsors are required to submit a bid for each plan that they intend to offer.[10] Each sponsor submits a

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[4] 42 U.S.C. § 1395w-102 and 42 CFR §§ 423.104(e) and (f). "Actuarially equivalent" means that the plan's benefits must be of a dollar value equivalent to that of the standard benefit.

[5] 42 CFR § 423.315(d).

[6] 42 U.S.C. § 1395w-102(b) and 42 CFR § 423.104(d).

[7] This amount includes a beneficiary's deductible and coinsurance payments. See 42 U.S.C. § 1395w-102(b)(4)(B)(i) and 42 CFR § 423-104(d)(5)(iii).

[8] Beneficiaries contribute either cost sharing that is greater than or equal to a copayment of $2 for generic or $5 for other drugs or coinsurance that is approximately 5 percent of their total drug costs.

[9] 42 U.S.C. § 1395w-102(b)(4)(A) and CFR § 423.315(c).

[10] 42 CFR § 423.265(c).

"standardized bid," which is an estimate of the average monthly revenue that the sponsor needs to provide the basic benefit per beneficiary.

This bid is based on the sponsor's estimate of its anticipated drug costs, as well as its administrative costs, which include nonpharmacy expenses and expected profit. Expected profit, also known as the gain/loss margin, is the additional revenue the sponsor requires above the amount needed to cover drugs costs and other expenses.[11] CMS requires sponsors to estimate their expected profits based on accepted actuarial techniques. Sponsors also provide estimates for the reinsurance subsidy and estimates for the low-income cost-sharing subsidy with their bids.

CMS reviews the information in the sponsor's bid and determines whether to approve the final bid.[12] CMS uses the final bids to determine beneficiary premiums and the monthly subsidy payments that CMS pays to each sponsor.

Beneficiary Premiums

CMS calculates each plan's beneficiary premium using the national average monthly bid and the plan's standardized bid.[13] The national average monthly bid is a weighted average of all plans' standardized bids. First, CMS sets the base beneficiary premium, which is a percentage of the national average monthly bid.[14] If a plan's bid is higher (or lower) than the national average monthly bid, then the beneficiary's premium will be higher (or lower) than the base premium by the amount of the difference. For example, if the national average monthly bid is equal to $100 and the base beneficiary premium is $26, then a plan with a bid of $90 ($10 less than the national average monthly bid) would have a beneficiary premium of $16.

Subsidy Payments

Throughout the year, CMS makes prospective payments to sponsors for three subsidies based on their approved bids. These subsidies are:

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[11] CMS, "Instructions for Completing the Medicare Prescription Drug Plan Bid Form for Contract Year 2007," April 5, 2006, p. 29.

[12] For the purposes of this report, we refer to the approved bids as bids.

[13] 42 CFR §§ 423.279 and 423.286.

[14] Section 1860D-13(3) of the Social Security Act mandates how the base beneficiary premium is calculated. In practice, it is equal to at least 25.5 percent of the national average monthly bid.

(1) the direct subsidy, (2) the reinsurance subsidy, and (3) the low-income cost-sharing subsidy.[15]

Direct subsidy. The direct subsidy, together with the beneficiary premium, is designed to cover the sponsor's cost of providing the benefit to each beneficiary. The direct subsidy is equal to the plan's standardized bid, adjusted for the health status of the beneficiary,[16] minus the beneficiary premiums. CMS makes monthly prospective payments to the sponsor for the direct subsidy for each beneficiary enrolled in the plan.

Reinsurance subsidy. The reinsurance subsidy covers the Federal Government's share of drug costs for beneficiaries who have reached catastrophic coverage. CMS makes monthly prospective payments to the sponsor based on the reinsurance estimate in the sponsor's bid, multiplied by the total number of beneficiaries enrolled in the plan.[17]

Low-income cost-sharing subsidy. The low-income cost-sharing subsidy covers the Federal Government's portion of the cost-sharing payments for certain low-income beneficiaries. CMS makes monthly prospective payments to the sponsor based on the low-income cost-sharing estimate in the sponsor's bid, multiplied by the total number of low-income beneficiaries enrolled in the plan.

Reconciliation

After the close of the plan year, CMS reconciles these prospective payments with the actual costs incurred by the sponsors. CMS calculates a reconciliation amount for the reinsurance subsidy and for the low-income cost-sharing subsidy. CMS also finalizes the direct subsidy payments based on updated information about the health status of enrolled beneficiaries.

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[15] 42 CFR § 423.315.

[16] Adjustments are made according to the health status of the beneficiary. CMS assigns a risk score to each enrolled beneficiary based on the individual's health status and demographic characteristics.

[17] CMS offers sponsors an alternative payment approach for reinsurance, called the Part D Reinsurance Payment Demonstration. It provides an incentive for Part D sponsors to offer supplement drug coverage to Medicare beneficiaries. Medicare pays participating sponsors a capitated reinsurance payment of which they may have to pay back a portion during reconciliation. This payment is referred to as the budget neutrality payment. CMS, "Updated Budget Neutrality Offsets for Reinsurance Payment Demonstration Plans in 2008," April 26, 2007.

CMS uses data submitted by the sponsors to complete reconciliation. Sponsors are required to submit prescription drug event records for all covered drugs that are dispensed to enrollees throughout the year. These records include cost data for all Part D-covered drugs.[18] Sponsors are also required to report direct and indirect remuneration. This includes any type of remuneration, such as discounts or rebates that affect the actual costs of the drugs paid for by sponsors.[19] CMS uses all of this information to determine the reconciliation payments that each sponsor will owe to or receive from Medicare for the plan year.

Risk Sharing

Risk sharing requires the Federal Government to share in sponsors' unexpected profits and losses.[20] The proportion of unexpected profits that sponsors must share with Medicare and the proportion of unexpected losses that sponsors are allowed to pass on to Medicare are based on risk corridors mandated by the MMA.

To determine whether risk-sharing payments are required, CMS compares the plan's "target amount" to the plan's allowable costs. The target amount is the sum of the prospective direct subsidy payments and the beneficiary premiums, reduced by the sponsor's administrative costs. The plan's allowable risk-corridor costs are its actual covered Part D drug costs incurred minus direct and indirect remuneration and the reinsurance subsidy. The difference between the target amount and the plan's allowable risk-corridor costs is the unexpected profit or loss.

In 2006 and 2007, as shown in Chart 1, if a plan's allowable costs are at least 2.5 percent above or below the target amount, then a portion of these profits or losses are subject to risk sharing. The risk sharing associated with each of the corridors, as mandated by the MMA, is described below:

- No risk-sharing payments are made if a plan's allowable costs are within 2.5 percent above or below its target amount.
- First risk corridor: If a plan's allowable costs are between 2.5 percent and 5 percent above its target amount, then sponsors

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[18] CMS, "2006 Prescription Drug Event Training Participant Guide," June 2007, p. 43.

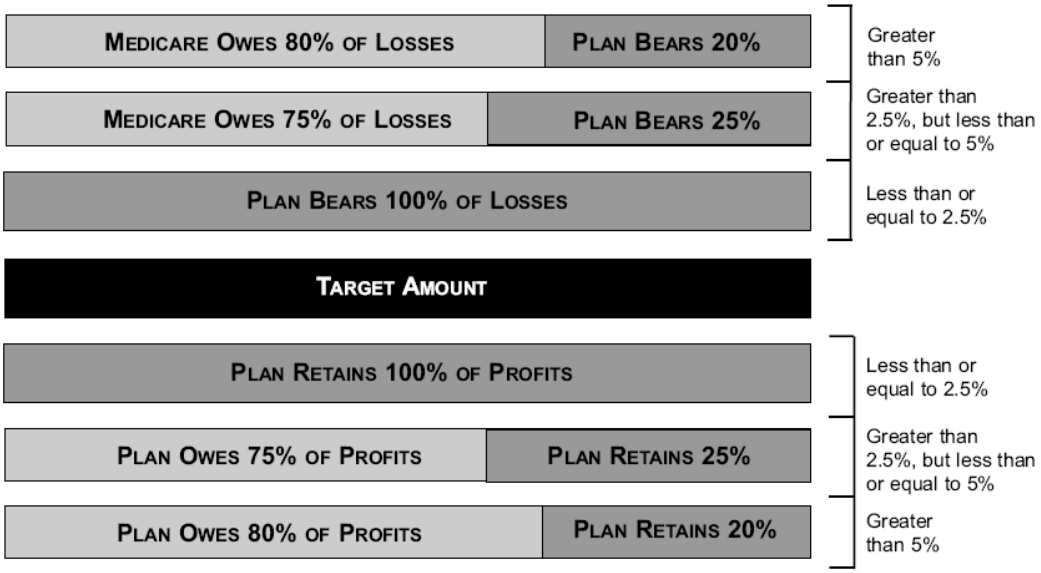
[19] CMS, "Final Medicare Part D Direct and Indirect Remuneration Reporting Requirements for 2007 Payment Reconciliation," June 13, 2008.

[20] 42 U.S.C. § 1395w-115(e).

receive payments from Medicare to cover 75 percent of these losses. Conversely, if a plan's allowable costs are between 2.5 percent and 5 percent below its target amount, then the sponsor owes Medicare 75 percent of these profits.

- Second risk corridor: If a plan's allowable costs are more than 5 percent above its target amount, then the sponsor receives payments from Medicare to cover 80 percent of these losses. Conversely, if a plan's allowable costs are more than 5 percent below its target amount, then the sponsor owes Medicare 80 percent of these profits.

CHART 1: 2006–2007 Statutorily Determined Risk Corridors



Beginning in 2008, the risk corridor thresholds and the risk-sharing percentages changed as mandated by the MMA.[21] These changes decrease the percentage of sponsors' unexpected profits that sponsors have to share with Medicare. These changes also decrease the percentage of sponsors' losses that sponsors are permitted to shift to Medicare. See Appendix B for a chart of the 2008–2011 statutorily determined risk corridors.

Beginning in 2012, the Secretary of the Department of Health and Human Services (the Secretary) is responsible for setting the risk corridor thresholds. These thresholds may not be lower than the

[21] 42 U.S.C. § 1395w-115.

2008–2011 thresholds. The Secretary does not have the authority to change the risk-sharing percentages.

Reopenings and Appeals

CMS may reopen and revise the reconciliation payment amounts at its own initiative or at the request of a Part D sponsor.[22] It may do so for any reason within 12 months from the date of the notice of final determination to the sponsor or for "good cause" within 4 years of the determination.[23] Although sponsors may request a reopening, these requests are granted at the discretion of CMS. In addition, a Part D sponsor may appeal its reconciliation payment amount if it believes that CMS did not apply its payment methodology correctly. [24]

Related Work

In November 2008, OIG released a report about CMS audits of Medicare Part D bids.[25] The report found that 25 percent of all bid audits identified at least one material finding, which is a significant issue that, if corrected, would affect payments or beneficiary benefits. These material findings most commonly focused on how sponsors estimated their administrative costs, which include nonpharmacy expenses and expected profit. Among other things, the report recommended that CMS modify the bid audit process to hold plan sponsors more accountable for material findings identified in the bid audits. Specifically, CMS could consider seeking the authority to impose sanctions against plan sponsors when material findings meet a specified threshold regardless of the reason for the material finding. In addition, CMS could consider seeking the authority to correct payments to sponsors at the end of the plan year.

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[22] 42 CFR § 423.346(a)(1). Also see CMS, "The Part D Reopening Process and the Part D Appeals Process," May 8, 2008.

[23] "Good cause" includes new and material evidence, a clerical error in the computation of payments, or evidence that an error was made. In addition, CMS may reopen final-payment determinations at any time in instances of fraud or similar fault of the Part D sponsor or any subcontractor of the Part D sponsor. See 42 CFR §423.350(b).

[24] 42 CFR §423.350(a).

[25] Bid audits are in-depth reviews of the actual assumptions used to calculate the bid amount. There are two types of bid-audit findings, material findings and observations. See OIG, "Centers for Medicare & Medicaid Services Audits of Medicare Part D Bids" (OEI-05-07-00560).

METHODOLOGY

This study was based primarily on data from three sources: (1) a review of CMS's data on reconciliation payments, (2) a review of data from selected sponsors, and (3) a structured interview with CMS officials.

CMS Data on Reconciliation Payments

We requested and reviewed data from CMS on the reconciliation payments that sponsors will owe to or receive from Medicare for 2007. We analyzed these data to determine the amounts that sponsors will owe or receive because of risk sharing and for the low-income cost-sharing and reinsurance subsidies.

In addition, we requested and reviewed CMS's data on reconciliation payments for 2006. We analyzed these data to determine what amounts CMS collected or paid to sponsors for 2006 and when these transactions occurred.

Data from Selected Sponsors

We requested and reviewed information from 16 selected sponsors. We used CMS's enrollment data for July 2007 to select these sponsors.[26] These sponsors included the 10 sponsors with the highest enrollment in stand-alone prescription drug plans and the 10 sponsors with the highest enrollment in Medicare managed care plans that offer prescription drug coverage. Four of these sponsors were in both groups.

We asked the selected sponsors for information on the reconciliation payments that they expected to owe to or receive from Medicare for 2007. We also asked for information on the amounts they paid to or received from Medicare for 2006. Lastly, we asked about the nature of any outstanding issues that they had for 2006 or 2007. We received the information from these sponsors in September 2008.

Structured Interview with CMS Officials

We conducted a structured interview with officials from CMS's Medicare Plan Payment Group within the Center for Drug and Health Plan Choice. Our questions focused on the reconciliation payments for 2006 and 2007 and any outstanding issues that may affect these payments. We conducted this interview in September 2008.

[26] CMS's "Annual Enrollment Report by Plan: Medicare Advantage/Part D Contract and Enrollment Data." Available online at http://www.cms.hhs.gov/MCRAdvPartDEnrolData/EP/list.asp#TopOfPage. Accessed June 30, 2008.

Analysis of Sponsors' Unexpected and Expected Profits

We calculated estimates of the unexpected profits and expected profits that sponsors earned for 2007.

Unexpected profits. We calculated a conservative estimate of sponsors' unexpected profits. Because we did not have sponsors' actual target amounts and costs, we could not calculate their actual unexpected profits. Instead, we calculated an estimate of sponsors' unexpected profits based on their risk-sharing payments. To accomplish this, we first determined the highest percentage of unexpected profits that a sponsor could owe Medicare based on the 2007 risk-sharing requirements. This amount is 77.875 percent. We then divided their actual risk-sharing payments by 0.77875 to determine—at a minimum—their unexpected profits. This estimate includes unexpected profits only for the sponsors that had profits large enough to trigger risk sharing, i.e., more than 2.5 percent of their target amounts. See Appendix C for a more detailed description of this calculation.

Expected profits. We estimated sponsors' expected profits based on each sponsor's 2007 bids. We obtained this information from the Health Plan Management System. To estimate sponsors' expected profits, we reviewed the amounts that sponsors specified in the gain/loss margin line item of their risk-adjusted bids. This amount represented the per member per month amount per plan that they expected to earn as profit. We multiplied this amount by each plan's enrollment based on CMS's July 2007 enrollment data. We then multiplied this amount by 12 and aggregated the amounts by sponsor to calculate an estimate of each sponsor's expected profit for the year.

Standards

This study was conducted in accordance with the "Quality Standards for Inspections" approved by the Council of the Inspectors General on Integrity and Efficiency.

Sponsors owe a net total of $18 million to Medicare for the 2007 Part D payment reconciliation

For 2007, 61 percent of sponsors (154 of 251) owe a total of $1.81 billion to Medicare. See Table 1. The remaining 39 percent of sponsors (97 of 251) will receive money from Medicare, amounting to $1.79 billion. Consequently, sponsors owe a net total of $18 million to Medicare. This includes the amounts that sponsors will owe or receive for risk sharing, the low-income cost-sharing subsidy, and the reinsurance subsidy.

The net total amount sponsors owe for 2007 is significantly less than the net total of $4.4 billion that sponsors owed for 2006. In addition, most sponsors owe less for 2007 than they did for 2006. Of the 221 sponsors that operated in both years, 56 percent owed Medicare in both years. Two-thirds of these sponsors owe Medicare less money for 2007 than they did for 2006.

Table 1: Total Reconciliation Payments by Number of Sponsors, 2007

	Number of Sponsors	Percentage of Sponsors	Total Reconciliation Payment Amounts
Sponsors That Owe Money to Medicare	154	61%	$1.81 billion
Sponsors That Will Receive Money From Medicare	97	39%	($1.79 billion)
Net Total	251	100%	$18 million*

* Difference because of rounding.

Source: OIG analysis of CMS's data on reconciliation payments, 2008.

Sponsors owe a net total of $600 million because of unexpected profits or losses that trigger risk sharing

For 2007, 71 percent (179 of the 251) of the sponsors made unexpected profits large enough to trigger risk sharing. In total, they owe Medicare $795 million. See Table 2 below and Table D-1 in Appendix D. Of this amount, one sponsor owes $192 million while five other sponsors owe more than $40 million each.

This is important because it means that Medicare's monthly prospective payments to sponsors and beneficiaries' premiums were too high. When sponsors owe money to Medicare for risk sharing, it means that they overestimated the cost of providing the benefit in their bids. When bids are too high, Medicare payments and premiums are higher than necessary. Medicare recoups a portion of these higher payments because of risk-sharing requirements. However, beneficiaries do not directly recoup any of the money that they paid in higher premiums.

Table 2: Total Reconciliation Payment by Type of Subsidy, 2007

	Risk Sharing	Low-Income Subsidy	Reinsurance Subsidy
Amount That Sponsors Owe to Medicare*	**$795 million**	**$826 million**	**$657 million**
Amount That Sponsors Will Receive From Medicare	**($195 million)**	**($1.23 billion)**	**($843 million)**
Net Total	**$600 million**	**($406 million)**	**($186 million)**

*In addition, 31 of the sponsors owe Medicare a total of $11 million for budget neutrality payments.
Source: OIG analysis of CMS's data on reconciliation payments, 2008.

In contrast, 24 percent (59 of 251) of the sponsors had losses that were large enough to trigger risk sharing. These sponsors will receive a total of $195 million, with four sponsors each receiving over $14 million. When bids are too low, Medicare payments and premiums are lower than necessary. Sponsors recoup a portion of these lower payments from Medicare, but not from beneficiaries. The remaining 5 percent of sponsors (13 of 251) had minimal gains or losses, so no risk-sharing payments are required.

It is important to note that changes to the risk-sharing requirements for 2008 will decrease the portion of sponsors' unexpected profits that the Federal Government will receive. The changes will also decrease the portion of sponsors' unexpected losses that the Federal Government will share.

Sponsors will receive a net total of $406 million for the low-income cost-sharing subsidy

The low-income cost-sharing subsidy payments are made on behalf of certain beneficiaries based on their income and assets. Medicare reimburses sponsors for their total costs for this subsidy.[27]

In total, 46 percent (116 of 251) of sponsors overestimated the cost of providing this subsidy to low-income beneficiaries in their bids and received prospective payments for this subsidy that were greater than their actual costs. See Table D-2 in Appendix D. As a result, these sponsors owe Medicare a total of $826 million for the low-income cost sharing subsidy. About 35 percent of this amount, totaling $290 million, is owed by one sponsor. Five other sponsors owe more than $40 million each.

Conversely, 53 percent (134 of 251) of sponsors underestimated the cost of providing this subsidy to low-income beneficiaries in their bids. These sponsors will receive a total of $1.2 billion from Medicare. One sponsor will receive about half of this amount ($593 million), while five other sponsors will receive more than $40 million each. For the remaining sponsor, no funds are owed by either Medicare or the sponsor for the low-income cost-sharing subsidy.[28]

Sponsors will receive a net total of $186 million for the reinsurance subsidy

The reinsurance subsidy covers the Federal Government's portion of drug costs for beneficiaries who reach catastrophic coverage.

In total, 59 percent (147 of 251) of sponsors overestimated their costs for the reinsurance subsidy in their bids. See Table D-3 in Appendix D. These sponsors owe Medicare a total of $657 million. Of this amount, one sponsor owes $149 million, while seven other sponsors owe more than $25 million each.

Conversely, 39 percent (98 of 251) of sponsors underestimated their reinsurance costs in their bids. These sponsors will receive a total of $843 million from Medicare. Of this amount, one sponsor will receive $167 million, while another five sponsors will receive over $50 million

[27] For the low-income cost-sharing subsidy and the reinsurance subsidy, Medicare reconciles the prospective payments that sponsors received from Medicare for the subsidy with the actual amounts that sponsors paid for the subsidy.

[28] This sponsor did not receive any prospective payments for the low-income cost-sharing subsidy for 2007.

each. For the remaining six sponsors, no funds are owed by either Medicare or the sponsor for the reinsurance subsidy.

CMS officials explained that a few sponsors significantly underestimated the proportion of their beneficiaries who reached catastrophic coverage. Because Medicare makes prospective payments for the reinsurance subsidy based on an estimate of all enrollees, as opposed to the actual number of enrollees who reach catastrophic coverage, these sponsors' monthly payments were substantially less than their costs. In fact, CMS officials reported that they made interim payments to two of these sponsors to cover their additional costs.

Sponsors continue to make large unexpected profits in addition to the expected profits they included in their bids

The majority of sponsors continue to make unexpected profits large enough to trigger risk sharing. These unexpected profits are in addition to the expected profits included in sponsors' bids.

As noted earlier, 71 percent (179 of the 251) of the sponsors made unexpected profits that triggered risk sharing. Based on our calculations, these 179 sponsors made at least $1.02 billion in unexpected profits for 2007.[29] This amounts to approximately $3.89 a month for each beneficiary enrolled in these sponsors' plans. Sponsors owe a portion of these unexpected profits to Medicare based on the risk-sharing requirements.

In addition, sponsors included an estimated $1.07 billion in expected profits in their bids

In addition to receiving the unexpected profits, sponsors included expected profits for 2007. More specifically, sponsors included a net total of approximately $1.07 billion of expected profits in their bids for 2007. This amounted to approximately $3.70 a month for each beneficiary enrolled in the Part D program.

Expected profits are not subject to risk sharing; therefore, sponsors keep all of these profits in addition to any unexpected profits they retain after risk sharing. These expected profits may also offset any losses that sponsors have after risk sharing.

[29] Because this is a conservative estimate, sponsors' unexpected profits for 2007 are likely higher.

CMS collected almost all of the funds that sponsors owed to Medicare for 2006

Sponsors owed a net total of $4.4 billion for the 2006 payment reconciliation. According to our previous report, 180 sponsors owed money to Medicare, while 44 sponsors received money from Medicare for 2006.

CMS collected a net total of $4.37 billion that sponsors owed for 2006

CMS collected most of the funds that sponsors owed by decreasing their monthly prospective payments for November and December 2007. In some cases, it took several months to collect the entire amount owed from each sponsor. At the same time, CMS paid most of the funds owed to sponsors for 2006 by increasing these sponsors' monthly prospective payments for November and December 2007. Specifically, CMS collected a net total of approximately $2.9 billion in November 2007 and $956 million in December 2007. CMS collected an additional $500 million between January and May 2008 for a net total of $4.37 billion.

CMS has not collected $14 million owed for 2006

According to CMS's data, CMS has not collected money owed from five sponsors for 2006. These sponsors owed between $15,000 and $7.9 million each. Two of these sponsors still contract with CMS as Part D sponsors. One has stopped participating in the Part D program. The remaining two sponsors are in receivership. CMS officials reported that CMS has filed claims with the bankruptcy courts for the 2006 reconciliation payment amounts for these two sponsors.

As a result of the reopening of the 2006 reconciliation, CMS paid sponsors a net total of $315 million

In December 2007, CMS reopened the 2006 payment reconciliation. As a result, Medicare owed sponsors a net total of $315 million and adjusted their June 2008 monthly prospective payments accordingly. After CMS completed the reopening, it announced that it considered the 2006 reconciliation closed.[30]

At the same time, half of the 16 selected sponsors that we received information from reported that they have requested or were planning to request an additional reopening of the 2006 reconciliation. Most commonly, sponsors reported that they were still resolving beneficiary

[30] CMS Memorandum, "Reopenings of the Final Part D Payment Reconciliation for 2006," May 8, 2008.

enrollment issues and receiving and paying claims for 2006. They reported that most frequently these claims were from States. For example, State Pharmacy Assistance Programs (SPAP) sometimes pay for Part D claims that should have been paid for by sponsors.[31] CMS requires sponsors to reconcile with other payers, including SPAPs.[32] Although CMS imposed a deadline on sponsors to submit claims for payment reconciliation, the deadlines did not apply to SPAPs, which have 3 years to submit these claims to sponsors based on State laws.[33] A number of the selected sponsors reported that they may have similar issues with these claims for 2007.

[31] SPAPs are State programs that provide assistance for prescription drugs to senior citizens and the disabled who have lower incomes but do not qualify for Medicaid.

[32] 42 CFR § 423.464. See also, CMS, "Prescription Drug Benefit Manual", ch. 14.

[33] Pursuant to the Social Security Act, § 1902(a)(25)(I)(iv), States must have laws requiring health insurers, as a condition of doing business in the State, not to deny claims from the State solely on the basis of the date of submission, as long as the claim is submitted with 3 years of the date of service.

For 2007, 61 percent of sponsors owe a total of $1.81 billion to Medicare, while the remaining 39 percent of sponsors will receive $1.79 billion from Medicare. Consequently, sponsors owe a net total of $18 million to Medicare for 2007, which is significantly less than the net total of $4.4 billion that sponsors owed for 2006.

Despite this improvement, sponsors continue to submit inaccurate bids and make large profits. For 2007, many sponsors owe money to Medicare for risk sharing. These sponsors overestimated the costs of providing the benefit in their bids. As a result, Medicare monthly prospective payments and beneficiary premiums were higher than necessary. Medicare recoups a portion of these higher payments because of risk-sharing requirements. However, beneficiaries do not directly recoup any of the money that they paid in higher premiums. In addition, sponsors inaccurately estimated their costs for the low-income cost-sharing subsidy and the reinsurance subsidy in their bids.

Further, sponsors continue to make large unexpected profits in addition to the expected profits included in their bids. We estimated that sponsors' unexpected profits were at least $1.02 billion, a portion of which they owe to Medicare because of the risk-sharing requirements. In addition, sponsors included approximately $1.07 billion of expected profits in their bids for 2007.

Finally, we found that CMS collected most of the $4.4 billion owed for 2006 in November and December 2007. However, CMS has not collected money owed from five sponsors totaling $14 million.

Based on these findings, we recommend that CMS:

Ensure That Sponsors' Bids Accurately Reflect the Cost of Providing the Benefit to Medicare Beneficiaries

CMS should ensure that sponsors' bids more accurately reflect their costs of providing the benefit. CMS should use available data from prior plan years to assist in the review of future bid submissions. CMS should also conduct additional checks on bids in which the sponsors owed or received large amounts for reconciliation.

Hold Sponsors More Accountable for Inaccuracies in the Bids

As we recommended in a previous report, CMS should modify its bid audit process to hold sponsors more accountable for material findings identified in bid audits. Specifically, CMS could seek the authority to impose sanctions against plan sponsors when bid audits have material findings that meet a specified threshold regardless of the reason for the material finding. CMS could also consider seeking the authority to correct payments to plan sponsors at the end of the plan year.

Determine Whether Changes to the Risk Corridors Are Appropriate

CMS should analyze all relevant data to determine whether it is appropriate to seek legislative changes to the risk corridors and risk-sharing percentages. The changes to risk sharing that begin with the 2008 reconciliation will decrease the Federal Government's share of sponsors' profits and increase the amount that sponsors retain. Therefore, if sponsors continue to make large unexpected profits in 2008 and beyond, they will return a smaller percentage to the Federal Government.

Determine Whether Alternative Methodologies Would Better Align Payments with Sponsors' Costs for the Low-Income Cost-Sharing and Reinsurance Subsidies

CMS should analyze all relevant data to determine whether alternative methodologies to estimate and pay sponsors for the low-come cost-sharing and reinsurance subsidies would better align payments with costs. For instance, CMS should determine whether requiring sponsors to base their bid estimates for reinsurance on the number of beneficiaries who they anticipate will reach catastrophic coverage would better align payments with costs for this subsidy.

Follow Up With Sponsors That Still Owe Funds for 2006

CMS should follow up with the three sponsors that owe funds for 2006 and are not in receivership. CMS collected funds from the other sponsors by adjusting their monthly prospective payments. If this is not possible for these sponsors, CMS should seek alternative methods for collecting funds from these sponsors.

AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

CMS concurred or agreed with three of our recommendations and did not state whether it concurred with the other two recommendations. In response to our first recommendation, CMS concurred and stated that it

has already incorporated plan-level experience in its current bid-desk review.

In response to our second recommendation, CMS did not indicate whether it concurred. CMS stated that it has the authority to ensure Part D sponsors' compliance with the operational requirements of the Part D program. It also stated that to the extent that the bid audit findings reflect a sponsor's substantial failure to comply with program requirements, including those related to annual bid submissions, CMS will pursue compliance (e.g., request corrective action plans) or enforcement (e.g., sanctions or contract termination) actions against those sponsors. CMS further stated that it does not have the authority to adjust plan sponsors' bid amounts, payments to the plan sponsors, or beneficiary premiums once a bid has been accepted. Lastly, CMS noted that it has accurately followed the statute that provides a framework for how discrepancies between plan sponsors' bids and costs should be reconciled.

We encourage CMS to use its current authority to hold sponsors more accountable for inaccuracies in their bids. However, we note that CMS's current authority may not allow it to impose sanctions in all situations that lead to inaccuracies in the bids. Further, we wish to clarify that as part of this recommendation, CMS could consider seeking the authority to enable it to correct payments to sponsors using methods other than adjusting their bids and reconciliation. These corrections would most likely occur at the end of the plan year and be coordinated with reconciliation.

In response to our third recommendation, CMS did not indicate whether it concurred. However, CMS stated that it has reviewed the statutory risk corridors and risk-sharing percentages and does not believe that changes would be appropriate. CMS stated that it believes that the widening of the risk corridors is appropriate given that plans now have sufficient actual data on Part D costs to develop more accurate bids. Further, CMS noted that it estimates that, because plans' bids dropped significantly in 2008, the Government, on average, will owe plans for the 2008 reconciliation.

We note that other factors affect risk-sharing payments, such as drug costs and rebates. Therefore, we remain concerned that sponsors may continue to make large profits in 2008 and beyond and that the Government will share less of these profits under the current risk corridors and risk-sharing percentages.

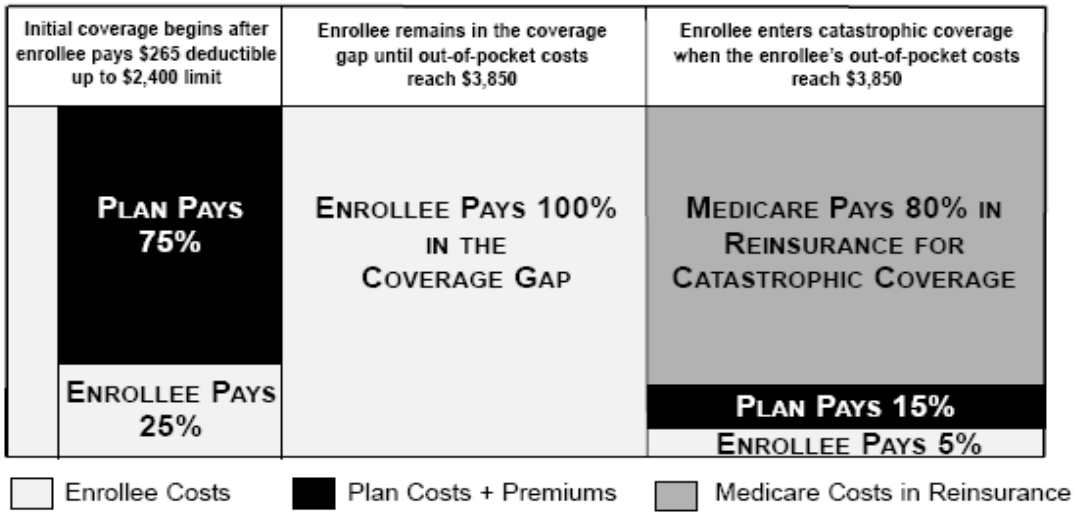
In response to our fourth recommendation, CMS agreed and stated that it is currently evaluating changing the method for paying the low-income cost-sharing subsidy. Specifically, it is reviewing the possibility of reconciling the low-income cost-sharing subsidy more frequently than on an annual basis.

In response to our fifth recommendation, CMS agreed and stated that follow up is important. CMS noted that it has since collected amounts owed from all sponsors that are solvent and that the remaining sponsors owe minimal amounts. CMS further stated that it has filed the appropriate documents with the applicable bankruptcy courts.

In response to other comments, we made changes to the final report as appropriate.

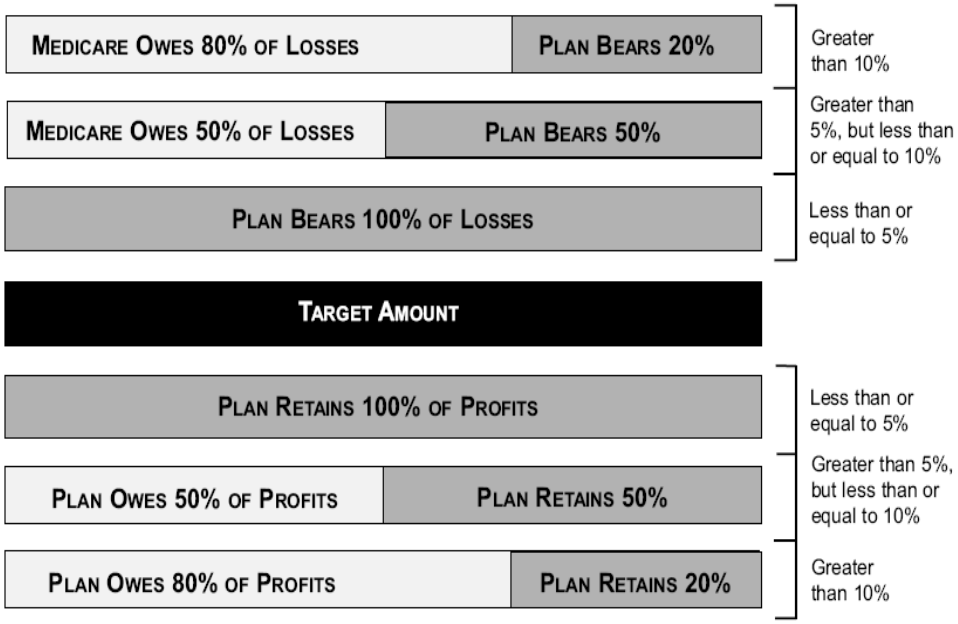
We ask that in its final management decision, CMS more clearly indicates whether it concurs with our second and third recommendations and what steps, if any, it will take to implement them. The full text of CMS's comments is provided in Appendix E.

CHART A-1
Standard Benefit for 2007



APPENDIX ~ B

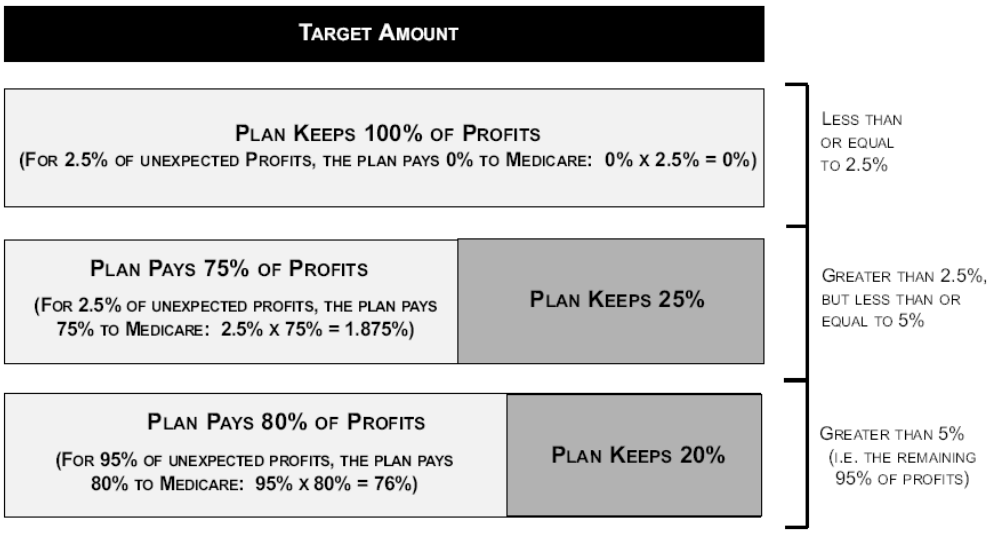
CHART B-1
2008–2011
Statutorily
Determined
Risk Corridors



Calculation of the Estimated Amount of Unexpected Profits

Unexpected profit is the difference between the target amount and the plan's allowable costs. To calculate the minimum amount of unexpected profits earned by Part D sponsors, we calculated the percentage that a sponsor would owe if it had the largest possible proportion of its unexpected profits within the second risk corridor (in which plans pay 80 percent of their unexpected profits to Medicare). This occurs in the unlikely event that the plan's allowable costs are $0 and, therefore, 100 percent of the target amount is unexpected profits.

CHART C-1: Calculation of Unexpected Profits Based on Risk Corridors



In this situation, the plan is required to pay Medicare 77.875 percent of unexpected profits. As shown in Chart 1, this percentage is calculated by adding the percentages owed in each of the three corridors:

(0% x 2.5%) + (75% x 2.5%) + (80% x 95%) = 77.875% of unexpected profits.

Knowing that a plan would owe Medicare—at most—77.875 percent of its unexpected profits, we calculated an estimate of the minimum amount of unexpected profits for the 179 sponsors that owe Medicare money for 2007 because of risk sharing.

According to CMS, the 179 sponsors owe Medicare a total of $794,561,159 as a result of risk-sharing requirements for 2007. Because we know that this amount represents—at most—77.875 percent of the plans' total unexpected profits, we calculated the minimum unexpected profits to be: $\frac{\$794,561,159}{0.77875} = \$1,020,368,767.$

APPENDIX ~ D

Reconciliation Amounts Owed or Received in 2007, Per Subsidy

Table D-1: Risk-Sharing Payments, 2007

	Number of Sponsors	Percentage of Sponsors	Total Risk-Sharing Amounts
Sponsors That Owe Money to Medicare	179	71%	$795 million
Sponsors That Will Receive Money	59	24%	($195 million)
Sponsors That Are Not Subject to Risk Sharing	13	5%	$0
Total	251	100%	$600 million

Source: Office of Inspector General (OIG) analysis of the Centers for Medicare & Medicaid Services' (CMS) data on reconciliation payments, 2008.

Table D-2: Low-Income Cost-Sharing Subsidy Amounts, 2007

	Number of Sponsors	Percentage of Sponsors	Total Low-Income Cost-Sharing Subsidy Amounts
Sponsors That Owe Money to Medicare	116	46%	$826 million
Sponsors That Will Receive Money From Medicare	134	53%	($1.23 billion)
Sponsors That Neither Owe Money to, Nor Will Receive Money From, Medicare	1	0.4%	$0
Total	251	100%	($406 million)

Source: OIG analysis of CMS's data on reconciliation payments, 2008.

Table D-3: Reinsurance Subsidy Payments, 2007

	Number of Sponsors	Percentage of Sponsors	Total Reinsurance Subsidy Amounts
Sponsors That Owe Money to Medicare	**147**	**59%**	**$657 million**
Sponsors That Will Receive Money From Medicare	**98**	**39%**	**($843 million)**
Sponsors That Neither Owe Money to, Nor Will Receive Money From, Medicare	**6**	**2%**	**$0**
Total	**251**	**100%**	**($186 million)**

Source: OIG analysis of CMS's data on reconciliation payments, 2008.

APPENDIX - E

Agency Comments

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

DATE: JUL 17 2009

TO: Daniel R. Levinson
Inspector General

FROM: Charlene Frizzera /S/
Acting Administrator

SUBJECT: Office of Inspector General (OIG) Draft Report: "Medicare Part D Reconciliation Payments for 2006 and 2007" (OEI-02-08-00460)

Thank you for the opportunity to review and comment on OIG's draft report entitled "Medicare Part D Reconciliation Payments for 2006 and 2007." OIG studied the 2007 Part D reconciliation focusing on amounts due to, and owed from, the Centers for Medicare & Medicaid Services (CMS). OIG also reviewed the status of 2006 reconciliation payments, which it noted that only $14 million of the original $4.4 billion is still outstanding.

We have concerns with the reports depiction of Part D sponsors bids as being inaccurate. Plan sponsors submit bids to CMS prior to a plan year. CMS reviews and, when appropriate, negotiates with plan sponsors to ensure that bids are submitted per CMS instructions and that bids are reasonable. What is ultimately owed to, or from, plan sponsors after the plan year closes depends upon the plan sponsor's experience during the year. Congress created the end-of-year reconciliation process specifically because it recognized the uncertainties involved in the prospective bidding process. This is discussed further below.

We have addressed the OIG recommendations below.

OIG Recommendation

The CMS should ensure that sponsors' bids accurately reflect the cost of providing the benefit to Medicare beneficiaries.

CMS Response

The CMS concurs with this recommendation. In fact, CMS already does this in its review of Part D bids, by incorporating plan level experience that has been submitted to CMS for reconciliation of prior years into the current bid desk review. OIG studied the reconciliations from 2006 and 2007, the first 2 years of the Part D program, a period when plan sponsors faced many unknown factors without actual program data to rely upon to develop bids. Bids were

based upon projections without actual experience, and this was reflected in the variance between bids and plans' actual performance. The year 2008 was the first year in which plans had a full year of actual program data on which to base their bids. As a result, the national average bid amount for 2008 was more than 12 percent lower than 2006. The Part D program has matured and more data is now available. That additional data is incorporated into CMS' Part D bid reviews.

OIG Recommendation

The CMS should hold sponsors more accountable for inaccuracies in the bids. Specifically, OIG recommends that CMS consider seeking authority to impose sanctions against plan sponsors when bid audits have material findings that meet a specified threshold. OIG also recommends that CMS consider seeking the authority to correct payments to plan sponsors at the end of the plan year.

CMS Response

The CMS has the authority to ensure Part D sponsors' compliance with the operational requirements of the Part D program. CMS takes seriously plans' obligations to submit timely and error-free bids. CMS conducts an aggressive bid desk review to ensure that bids are thoroughly reviewed before they are accepted, and CMS conducts audits of selected bids after they have been accepted. To the extent that bid audit findings reflect a sponsor's substantial failure to comply with program requirements, including those related to annual bid submissions, CMS will pursue compliance (e.g., request corrective action plan) or enforcement (e.g., sanctions or contract termination) actions against those sponsors. In addition, if CMS uncovers deliberate misrepresentations or fraud during the bid audits, it will report such findings to the appropriate authority.

The CMS does not have the authority to adjust plan sponsors' bid amounts, payments to plan sponsors, or beneficiary premiums once a bid has been accepted. In fact, once the bid is accepted and used to set plan premiums and payment levels, there is no legal authority to revise the accepted bid amount for any purpose, including adjusting plan payments. Even if CMS had the authority to adjust a bid after it is accepted, doing so could result in a variety of unintended consequences. For example, changing a plan's bid would require retroactively changing the premium under the Part D rules, in that plan. If the bid is revised at the end of a plan year then all premiums may be revised throughout the plan year. This means that the beneficiary would receive a bill from the plan sponsor for the difference in premiums, if the premium went up after revision. Due to Part D requirements relating to premium calculation, changing one plan's bid also has the potential to affect premiums charged to all Part D beneficiaries. Such a structure would be contrary to CMS' goals of promoting a benefit that establishes beneficiary protection and certainty, and program stability.

The statute provides a framework for how discrepancies between plan sponsors' bids and costs should be reconciled, including specific requirements on the extent to which the government and plan sponsors assume risk. CMS has accurately followed the reconciliation requirements in the statute in both the 2006 and 2007 plan years.

OIG Recommendation

The CMS should determine whether changes to the risk corridors are appropriate.

CMS Response

The CMS has reviewed the statutory risk corridors and risk sharing percentages, and does not believe that changes would be appropriate.

The statutory Part D risk corridors are symmetrical. That is, when a plan sponsor's costs are lower than estimated, the government shares in those unexpected savings. Likewise, when a plan sponsor's drug costs are higher than expected, the government assumes risk for those additional costs. The narrower the corridors and the higher the risk sharing percentages, the greater the chance that CMS will recoup funds; but also the greater the chance that CMS will owe risk-sharing payments.

For 2006 and 2007, plans had little or no actual program data on which to develop their bids. As a result, Congress established relatively narrow risk corridors to ensure that the government assumed a significant amount of risk if a plan's actual costs differed from the costs estimated in their bid. Having the government assume significant risk offered financial protection to both the plan sponsors and to the government in the early years of the program, i.e., plans whose estimates turned out to be too low and assured that the government would recoup a significant share of the savings for plans whose estimates turned out to be too high.

Starting in 2008, the Part D statute requires the risk corridors to be widened so that plans would assume more risk. We believe this widening of the risk corridors is appropriate given that plans now have sufficient actual data on Part D costs to develop more accurate bids. In 2006 and 2007, on average, plan sponsors owed the government as a result of the annual risk-sharing reconciliation. The Part D reconciliation for 2008 will occur later this year. We estimate that, because plans' bids dropped significantly in 2008, the government on average will owe plans. Therefore, if Congress were to narrow the risk corridors as suggested by OIG, the government would actually owe more to plans in risk sharing.

OIG Recommendation

The CMS should determine whether alternative methodologies would better align payments with sponsors' costs for low-income cost-sharing and reinsurance subsidies.

CMS Response

The CMS agrees with this recommendation. CMS is currently evaluating changing the method for paying the low-income cost-sharing subsidy. Specifically, we are reviewing the possibility of reconciling the low-income cost-sharing subsidy more frequently than on an annual basis.

OIG Recommendation

The CMS should follow up with sponsors that still owe funds for 2006.

CMS Response

The CMS agrees that follow up is important. Immediately following reconciliation, plan sponsors owed approximately $4.4 billion for 2006. CMS collected virtually all of this money soon after reconciling the plan year, leaving approximately $14 million or .03 percent of the original amount owed, outstanding. CMS has since collected amounts owed due to the 2006 reconciliation from all sponsors that are solvent. With respect to the plan sponsor that owed $7.9 million, CMS performed a reopening after plan submission of added data, and it was determined that the sponsor only owed $7.6 million. CMS collected the $7.6 million on April 30, 2009. Furthermore, CMS collected $252,000 from another of the applicable sponsors, which was the total amount owed by the sponsor for 2006. The remaining sponsors are insolvent and owe minimal amounts. CMS has filed the appropriate documents with the applicable bankruptcy courts.

Other Comment

On page 13 of the draft report, OIG discusses the average per member per month (PMPM) amount of profit that sponsors included in their Part D bids for 2007. The report also discusses the range of PMPM profit amounts. Release of this profit assumption information could seriously compromise the competitive nature of the bidding process and CMS' authority to review bid elements. We strongly encourage the OIG to remove specific references to PMPM profit amounts in the report.

We appreciate the effort that went into this report. Again, we thank you for the opportunity to review and comment.

ACKNOWLEGMENTS

This report was prepared under the direction of Jodi Nudelman, Regional Inspector General for Evaluation and Inspections in the New York regional office, and Meridith Seife, Deputy Regional Inspector General.

Miriam Anderson served as the team leader for this study. Staff from the Office of Audit Services who contributed to this report include Jeffrey Cohen and Amanda Fleck. Other principal Office of Evaluation and Inspections staff who contributed to this report include Levita Lowe, David Rudich, Megan Ruhnke, and Rita Wurm.