



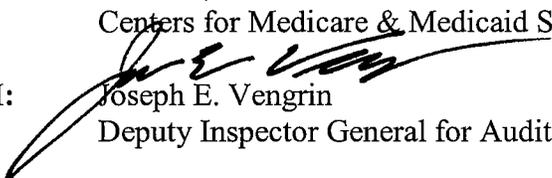
DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

MAY - 1 2006

**TO:** Wynethea Walker  
Director, Audit Liaison Staff  
Centers for Medicare & Medicaid Services

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

**SUBJECT:** Graduate Medical Education for Dental Residents Claimed by the New York University Hospitals Center for Calendar Years 2000 Through 2002 (A-02-04-01008)

Attached is an advance copy of our final report on Medicare graduate medical education (GME) payments for dental residents claimed by the New York University Hospitals Center (the Hospital) in New York, New York. We will issue this report to the Hospital within 5 business days.

Based on congressional interest, we undertook a review of 10 hospitals to determine the effect of the Balanced Budget Act of 1997 on direct and indirect GME payments for dental residents included in hospitals' counts of full-time equivalent (FTE) residents. That legislation permitted hospitals to count FTE residents who train in nonhospital settings in their calculations of indirect, in addition to direct, GME payments. This review focused on the Hospital and its arrangements with the New York University College of Dentistry (the Dental School). The Dental School is a nonhospital setting.

Our objective was to determine whether the Hospital included the appropriate number of dental residents in its FTE counts when computing Medicare GME payments for calendar years (CYs) 2000 through 2002.

The Hospital appropriately included dental residents in its FTE counts used to compute CYs 2000 and 2001 GME payments. However, for CY 2002, the Hospital inappropriately included dental residents in its FTE counts. Contrary to Federal regulations, the Hospital (1) inaccurately recorded resident days worked and (2) inappropriately claimed the time of a resident who had exceeded his initial residency period. We attribute these issues to inadvertent errors by Hospital staff. As a result, the Hospital overstated its direct GME claims by \$10,783 for CY 2002.

The number of FTE residents claimed by the Hospital included didactic time, i.e., classroom time, for the residents when working in nonhospital settings. There was no GME dollar effect in CYs 2000, 2001, or 2002 based on the cost reimbursement formula. Because of the rolling average, however, any FTE overstatement on the Hospital's 2002 Medicare cost report could result in excess reimbursement based on the as-filed 2003 and

2004 cost reports. We are reporting the FTEs corresponding to this didactic time for the Centers for Medicare & Medicaid Services (CMS) to determine whether there is a basis to disallow the FTEs based on current CMS guidance.

We recommend that the Hospital:

- file an amended cost report, which will result in a refund of \$10,783 associated with the overstated FTEs;
- use the results of this audit to help educate staff on the importance of accurately recording dates and considering resident periods;
- determine whether errors similar to those identified in our review occurred in Medicare cost reports after CY 2002 and refund any overpayments; and
- work with CMS to resolve the FTEs corresponding to the didactic time of residents assigned to nonhospital settings.

In its comments on our draft report, the Hospital concurred with three of our four recommendations. The Hospital acknowledged that it claimed the didactic time of residents assigned to nonhospital settings but believed that the time was allowable. The Hospital also provided a technical comment on its total average number of FTEs and requested that we include a discussion of dental residents who graduated from a foreign dental school in the final report.

We continue to recommend that the Hospital work with CMS to resolve the didactic time issue. We revised the total number of FTEs in our final report. Since the Hospital did not include dental residents who graduated from a foreign dental school in its GME counts on the cost reports, we did not include them in the scope of our review. We suggest the Hospital work with its fiscal intermediary on this issue.

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 James P. Edert, Regional Inspector General for Audit Services, Region II at (212) 264-4620. Please refer to report number A-02-04-01008.

Attachment



DEPARTMENT OF HEALTH & HUMAN SERVICES OFFICE OF INSPECTOR GENERAL

OFFICE OF AUDIT SERVICES

Region II

Jacob K. Javits Federal Building

New York, New York 10278

(212) 264-4620

MAY - 3 2006

Report Number A-02-04-01008

Mr. Richard T. Miller  
Chief Financial Officer  
New York University Hospitals Center  
One Park Avenue, 11<sup>th</sup> Floor  
New York, New York 10016-5802

Dear Mr. Miller:

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled "Graduate Medical Education for Dental Residents Claimed by the New York University Hospitals Center for Calendar Years 2000 Through 2002." A copy of this report will be forwarded to the action official noted on the next 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 the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act (5 U.S.C. § 522, as amended by Public Law 104-231), OIG reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent the information is not subject to exemptions in the Act that the Department chooses to exercise (see 45 CFR part 5).

Please refer to report number A-02-04-01008 in all correspondence.

Sincerely,

James P. Edert  
Regional Inspector General  
for Audit Services

Enclosures

**Direct Reply to HHS Action Official:**

Mr. James T. Kerr  
Regional Administrator  
Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
26 Federal Plaza, 38<sup>th</sup> Floor  
New York, New York 10278

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**GRADUATE MEDICAL  
EDUCATION FOR DENTAL  
RESIDENTS CLAIMED BY THE  
NEW YORK UNIVERSITY  
HOSPITALS CENTER FOR  
CALENDAR YEARS 2000  
THROUGH 2002**



Daniel R. Levinson  
Inspector General

May 2006  
A-02-04-01008

# ***Office of Inspector General***

<http://oig.hhs.gov>

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## **OAS FINDINGS AND OPINIONS**

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



## **EXECUTIVE SUMMARY**

### **BACKGROUND**

The Medicare program makes two types of payments to teaching hospitals to support graduate medical education (GME) programs for physicians and other practitioners. Direct GME payments are Medicare's share of the direct costs of training residents, such as salaries and fringe benefits of residents and faculty and hospital overhead expenses. Indirect GME payments cover the additional operating costs that teaching hospitals incur in treating inpatients, such as the costs associated with using more intensive treatments, treating sicker patients, using a costlier staff mix, and ordering more tests. Payments for both direct and indirect GME are based, in part, on the number of full-time equivalent (FTE) residents trained by the hospital. The number of FTEs used for the current year's payments is the 3-year "rolling average" of the FTE count for the current year and the preceding 2 cost-reporting years.

Based on congressional interest, we undertook a review of 10 hospitals to determine the effect of the Balanced Budget Act of 1997 on direct and indirect GME payments for dental residents included in hospitals' counts of FTE residents. That legislation permitted hospitals to count FTE residents who train in nonhospital settings in their calculations of indirect, in addition to direct, GME payments.

This report focuses on the New York University Hospitals Center (the Hospital) and its arrangements with the New York University College of Dentistry (the Dental School). The Dental School is a nonhospital setting. In December 1999, the Hospital entered into an agreement with the Dental School to allow the Hospital to claim GME payments for dental residents in return for reimbursing the Dental School for residents' salaries and related teaching faculty costs. For all FTEs, including dental FTEs, the Hospital claimed \$144.9 million in direct (\$53.9 million) and indirect (\$91 million) GME payments for calendar years (CYs) 2000 through 2002. FTEs used to calculate reimbursable GME costs averaged 336 per year.

### **OBJECTIVE**

Our objective was to determine whether the Hospital included the appropriate number of dental residents in its FTE counts when computing Medicare GME payments for CYs 2000 through 2002.

### **SUMMARY OF FINDINGS**

The Hospital appropriately included dental residents in its FTE counts used to compute CYs 2000 and 2001 GME payments. However, for CY 2002, the Hospital inappropriately included dental residents in its FTE counts. Contrary to Federal regulations, the Hospital (1) inaccurately recorded resident days worked and (2) inappropriately claimed the time of a resident who had exceeded his initial residency period. We attribute these issues to inadvertent errors by Hospital staff. As a result, the Hospital overstated its direct GME claims by \$10,783 for CY 2002.

The number of FTE residents claimed by the Hospital included didactic time, i.e., classroom time, for the residents when working in nonhospital settings. There was no GME dollar effect in CYs 2000, 2001, or 2002 based on the cost reimbursement formula. Because of the rolling average, however, any FTE overstatement on the Hospital's 2002 Medicare cost report could result in excess reimbursement based on the as-filed 2003 and 2004 cost reports. We are reporting the FTEs corresponding to this didactic time for the Centers for Medicare & Medicaid Services (CMS) to determine whether there is a basis to disallow the FTEs based on current CMS guidance.

## **RECOMMENDATIONS**

We recommend that the Hospital:

- file an amended cost report, which will result in a refund of \$10,783 associated with the overstated FTEs;
- use the results of this audit to help educate staff on the importance of accurately recording dates and considering resident periods;
- determine whether errors similar to those identified in our review occurred in Medicare cost reports after CY 2002 and refund any overpayments; and
- work with CMS to resolve the FTEs corresponding to the didactic time of residents assigned to nonhospital settings.

## **HOSPITAL'S COMMENTS**

In its comments on our draft report, the Hospital concurred with three of our four recommendations. The Hospital acknowledged that it claimed the didactic time of residents assigned to nonhospital settings but believed that the time was allowable. The Hospital also provided a technical comment on its total average number of FTEs and requested that we include a discussion of dental residents who graduated from a foreign dental school in the final report.

The complete text of the Hospital's comments is included in the Appendix.

## **OFFICE OF INSPECTOR GENERAL'S RESPONSE**

We continue to recommend that the Hospital work with CMS to resolve the didactic time issue. We revised the total number of FTEs in our final report. Since the Hospital did not include dental residents who graduated from a foreign dental school in its GME counts on the cost reports, we did not include them in the scope of our review. We suggest the Hospital work with its fiscal intermediary on this issue.

**TABLE OF CONTENTS**

	<u>Page</u>
<b>INTRODUCTION</b> .....	1
<b>BACKGROUND</b> .....	1
Medicare Payments for Graduate Medical Education .....	1
Balanced Budget Act of 1997 .....	1
New York University Hospitals Center .....	1
<b>OBJECTIVE, SCOPE, AND METHODOLOGY</b> .....	2
Objective.....	2
Scope.....	2
Methodology.....	2
<b>FINDINGS AND RECOMMENDATIONS</b> .....	3
<b>OVERSTATED FULL-TIME EQUIVALENTS</b> .....	3
Incorrect Assignment Periods.....	3
Residents Exceeding Initial Residency Period .....	4
<b>NON-PATIENT-CARE ACTIVITIES</b> .....	4
<b>RECOMMENDATIONS</b> .....	4
<b>HOSPITAL’S COMMENTS</b> .....	5
<b>OFFICE OF INSPECTOR GENERAL’S RESPONSE</b> .....	5
<b>APPENDIX</b>	
<b>NEW YORK UNIVERSITY HOSPITALS CENTER COMMENTS</b>	

## **INTRODUCTION**

### **BACKGROUND**

#### **Medicare Payments for Graduate Medical Education**

Since its inception in 1965, the Medicare program has shared in the costs of educational activities incurred by participating providers. Medicare makes two types of payments to teaching hospitals to support graduate medical education (GME) programs for physicians and other practitioners. Direct GME payments are Medicare's share of the direct costs of training residents, such as salaries and fringe benefits of residents and faculty and hospital overhead expenses. Indirect GME payments cover the additional operating costs that teaching hospitals incur in treating inpatients, such as the costs associated with using more intensive treatments, treating sicker patients, using a costlier staff mix, and ordering more tests. Payments for both direct and indirect GME are based, in part, on the number of full-time equivalent (FTE) residents trained by the hospital. The number of FTEs used for the current year's payments is the 3-year "rolling average" of the FTE count for the current year and the preceding 2 cost-reporting years.

#### **Balanced Budget Act of 1997**

The Balanced Budget Act of 1997 placed some controls on the continuing growth of GME reimbursement by imposing caps on the number of residents that hospitals are allowed to count for the purpose of direct and indirect GME payments. Dental FTEs are not included in the caps. The legislation also created incentives for hospitals to train residents in freestanding nonhospital settings, such as clinics and ambulatory surgical centers, by permitting hospitals to count FTE residents who train in nonhospital settings in their calculations of indirect, in addition to direct, GME payments.

Based on congressional interest, we undertook a review of 10 hospitals to determine the effect of the Balanced Budget Act on direct and indirect GME payments for dental residents included in hospitals' counts of FTE residents.

#### **New York University Hospitals Center**

The teaching components of the New York University Hospitals Center (the Hospital), located in New York, New York, include the Hospital, with 726 beds, and the New York University College of Dentistry (the Dental School), which provides dental services to the public through dental clinics. The Dental School is a nonhospital setting. In December 1999, the Hospital entered into an agreement with the Dental School to allow the Hospital to claim GME payments for dental residents in return for reimbursing the Dental School for residents' salaries and related teaching faculty costs.

For all FTEs, including dental FTEs, the Hospital claimed \$144.9 million in direct (\$53.9 million) and indirect (\$91 million) GME payments for calendar years (CYs) 2000 through 2002. FTEs used to calculate reimbursable GME costs averaged 336 per year.

## **OBJECTIVE, SCOPE, AND METHODOLOGY**

### **Objective**

Our objective was to determine whether the Hospital included the appropriate number of dental residents in its FTE counts when computing Medicare GME payments for CYs 2000 through 2002.

### **Scope**

We limited our review of the Hospital's internal control structure to understanding those controls used to determine the number of residents counted for claiming direct and indirect GME payments. We neither assessed the completeness of the Hospital's data files nor evaluated the adequacy of the input controls, except for limited testing of data from computer-based systems. The objective of our review did not require a complete understanding or assessment of the Hospital's internal control structure. We restricted our review to dental residents.

We performed the audit at both the Hospital and the Dental School in New York, New York. We obtained information documenting the dental FTEs reported on the Hospital's Medicare cost reports from the Hospital, the Dental School, and the fiscal intermediary.

### **Methodology**

To accomplish our objective, we:

- reviewed applicable Federal criteria, including section 1886 of the Social Security Act and 42 CFR parts 412 and 413;
- gained an understanding of the Hospital's procedures for identifying, counting, and reporting dental resident FTEs on the Medicare cost reports;
- reconciled the dental resident FTEs reported on the Hospital's CYs 2000 through 2002 Medicare cost reports to supporting documentation;
- reviewed supporting documentation to determine whether the Hospital appropriately included dental residents in the FTE resident counts when computing direct and indirect GME payments on the Medicare cost reports;
- reviewed financial records at the Hospital and the Dental School to determine whether the Hospital incurred all of the costs of training dental residents in nonhospital settings; and
- summarized the audit results and provided them to the fiscal intermediary to recompute GME payments on the CYs 2000 through 2002 cost reports.

We conducted this audit in accordance with generally accepted government auditing standards.

## **FINDINGS AND RECOMMENDATIONS**

The Hospital appropriately included dental residents in its FTE counts used to compute CYs 2000 and 2001 GME payments. However, for CY 2002, the Hospital inappropriately included dental residents in its FTE counts. Contrary to Federal regulations, the Hospital (1) inaccurately recorded resident days worked and (2) inappropriately claimed the time of a resident who had exceeded his initial residency period. We attribute these issues to inadvertent errors by Hospital staff. As a result, the Hospital overstated its direct GME claims by \$10,783 for CY 2002.

The number of FTE residents claimed by the Hospital included didactic time, i.e., classroom time, for the residents when working in nonhospital settings. There was no GME dollar effect in CYs 2000, 2001, or 2002 based on the cost reimbursement formula. Because of the rolling average, however, any FTE overstatement on the Hospital's 2002 Medicare cost report could result in excess reimbursement based on the as-filed 2003 and 2004 cost reports. We are reporting the FTEs corresponding to this didactic time for the Centers for Medicare & Medicaid Services (CMS) to determine whether there is a basis to disallow the FTEs based on current CMS guidance.

### **OVERSTATED FULL-TIME EQUIVALENTS**

For CY 2002, the Hospital inappropriately included dental residents in its FTE counts, resulting in Medicare overpayments to the Hospital of \$10,783.

#### **Incorrect Assignment Periods**

Pursuant to 42 CFR § 413.75(d), a hospital must provide specific information, including the period that a resident was assigned to the hospital, to include the resident in the FTE count for a cost-reporting period.<sup>1</sup>

For CY 2002, the Hospital inaccurately recorded the starting and/or ending assignment dates for 76 dental residents, which resulted in an overstatement of 0.34 direct and indirect FTEs. Specifically, the Hospital overstated the days worked by 40 residents by 31 days each, resulting in overstatements of 3.36 direct FTEs and 3.40 indirect FTEs. In addition, the Hospital understated the days worked by 36 dental residents by 31 days each, resulting in understatements of 3.02 direct FTEs and 3.06 indirect FTEs.

In addition, the Hospital inappropriately claimed 27 days worked by one dental resident who had been dismissed during his residency period. This resulted in an overstatement of 0.07 direct and indirect GME FTEs.

We attribute these issues to inadvertent errors by Hospital staff.

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<sup>1</sup>During our audit period, these requirements were found in 42 CFR § 413.86.

## **Residents Exceeding Initial Residency Period**

An initial residency period is “the minimum number of years required for board eligibility” (42 CFR § 413.79(a)).<sup>2</sup> For purposes of direct GME payments, residents in their initial residency period are counted at a full weighting factor of 1. Residents who have exceeded their initial residency period are weighted at a reduced 0.5 factor. Payments for indirect GME are not affected by weighting factors.

For CY 2002, the Hospital inappropriately reported 0.42 direct FTEs at a weighting factor of 1 rather than 0.5 for a resident who had exceeded the initial residency period. As a result, the Hospital overstated its direct GME claim by 0.21 FTEs.

The Hospital applied the incorrect weighting factor because, due to a clerical error, it did not include 2 years of training by the resident in a previous dental residency program at the Hospital.

## **NON-PATIENT-CARE ACTIVITIES**

The number of FTE residents claimed by the Hospital included didactic time, i.e., classroom time, for the residents when working in nonhospital settings. There was no GME dollar effect in CYs 2000, 2001, or 2002 based on the cost reimbursement formula. Because of the rolling average, however, any FTE overstatement on the Hospital’s 2002 Medicare cost report could result in excess reimbursement based on the as-filed 2003 and 2004 cost reports. We are reporting the FTEs corresponding to this didactic time for CMS to determine whether there is a basis to disallow the FTEs based on current CMS guidance.

## **RECOMMENDATIONS**

We recommend that the Hospital:

- file an amended cost report, which will result in a refund of \$10,783 associated with the overstated FTEs;
- use the results of this audit to help educate staff on the importance of accurately recording dates and considering resident periods;
- determine whether errors similar to those identified in our review occurred in Medicare cost reports after CY 2002 and refund any overpayments; and
- work with CMS to resolve the FTEs corresponding to the didactic time of residents assigned to nonhospital settings.

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<sup>2</sup>During our audit period, these requirements were found in 42 CFR § 413.86.

## **HOSPITAL'S COMMENTS**

In its comments on our draft report, the Hospital concurred with three of our four recommendations. The Hospital acknowledged that it claimed the didactic time of residents assigned to nonhospital settings but believed that the time was allowable. The Hospital also provided a technical comment on its total average number of FTEs and requested that we include a discussion of dental residents who graduated from a foreign dental school in the final report.

The complete text of the Hospital's comments is included in the Appendix.

## **OFFICE OF INSPECTOR GENERAL'S RESPONSE**

We continue to recommend that the Hospital work with CMS to resolve the didactic time issue. We revised the total number of FTEs in our final report. Since the Hospital did not include dental residents who graduated from a foreign dental school in its GME counts on the cost reports, we did not include them in the scope of our review. We suggest the Hospital work with its fiscal intermediary on this issue.

# **APPENDIX**



Richard T. Miller  
Chief Financial Officer

NYU Hospitals Center  
One Park Avenue, 11th Floor  
New York, NY 10016-5802  
Tel (212) 404-4101  
Fax (212) 404-4400

April 5, 2006

Mr. James P. Edert  
Regional Inspector General for Audit Services  
Office of Inspector General  
Office of Audit Services, Region II  
Jacob K. Javits Federal Building – Room 3900  
26 Federal Plaza, 39th Floor  
New York, New York 10278

Re: Response to Draft Report “Graduate Medical Education for Dental Residents Claimed by the New York University Hospitals Center for Calendar Years 2000 through 2002” (Report Number: A-02-04-01008)

Dear Mr. Edert:

We have received and reviewed the enclosed Office of Inspector General (OIG) draft report “Graduate Medical Education for Dental Residents Claimed by the New York University Hospitals Center for Calendar Years 2000 Through 2002” dated March 10, 2006. New York University Hospitals Center (NYUHC) is grateful to the OIG auditors for their review. NYUHC is pleased to learn that the OIG has concluded that dental residents were appropriately claimed in calendar years (CYs) 2000 and 2001 and that the limited issues identified by the OIG with respect to CY 2002 were the result of inadvertent errors. NYUHC further appreciates the opportunity to offer written comments on the draft report.

### **Comments on Recommendations**

Our comments on your recommendations are as follows:

- 1. File an amended cost report, which will result in a refund of \$10,783 associated with the overstated FTEs.** NYUHC has not yet been audited by its Medicare intermediary and has therefore not received a final settlement for CY 2002. We will provide the OIG audit findings to the Medicare auditors upon audit so that the auditors may determine what adjustments are appropriate. (As discussed below, under “Other Comments”, we do not believe that anticipated adjustments to resident FTEs will, in the aggregate, ultimately result in a refund.)
- 2. Use the results of this audit to help educate staff on the importance of accurately recording dates and considering resident periods.** NYUHC and New York University’s College of Dentistry staff responsible for documenting resident activities

received education during the OIG review on the general importance of recording resident time accurately and on the specific resident time issues identified by the OIG. Staff are now well trained in the reporting of starting and/or ending assignment dates and are sensitive to the need to ensure that no time is included once a resident leaves the residency program (although the reporting of days for one dental resident who had been dismissed during this residency period was an isolated case).

**3. Determine whether the errors similar to those identified in our review occurred in Medicare cost reports after CY 2002 and refund any overpayments.** Corrections of assignment dates for CY 2002 will be provided to the Medicare auditors upon audit. Corrections of assignment dates for subsequent cost report periods have already been made. Days will not be claimed if a resident ceases to participate in the program during the residency period.

**4. Work with CMS to resolve the FTEs corresponding to the didactic time of residents assigned to nonhospital settings.** NYUHC respectfully disagrees with this recommendation. We strongly believe that, consistent with 42 C.F.R. Parts 412 and 413, didactic time in a nonhospital setting is an allowable activity related to patient care that should be included in resident counts for both direct and indirect GME payment purposes. We further do not believe that NYUHC needs to work with CMS to resolve the allowability of didactic time. CMS has already directly addressed this issue in a September 24, 1999 letter (enclosed) from Mr. Tzvi M. Hefter, Director of the Division of Acute Care within the Plan and Provider Purchasing Policy Group of the Health Care Financing Administration (now CMS). In the letter, Mr. Hefter indicates that didactic time may be counted for both direct and indirect GME resident counts:

HCFA interprets the phrase 'patient care services' broadly to include any patient care oriented activities that are part of the residency program. . . .this can include. . .scholarly activities, such as educational seminars, classroom lectures, resident conferences, patient care related research as part of the residency program, and presentations of papers and research results to fellow residents, medical students, and faculty.

Didactic time of NYUHC residents involves activities consistent with those cited in the letter. The OIG has not referenced any later superceding guidance.

#### **Other Comments**

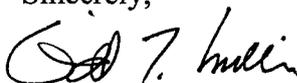
We respectfully request the OIG auditors to review the average FTEs of 671 per year as reported in the Background of the Executive Summary and in the Background of the Introduction. On average, we reported 347 FTEs for indirect GME payments and 345 FTEs for direct GME payments; therefore, the average per year is approximately 346 FTEs.

We respectfully request that the OIG auditors include in the final report a discussion of dental residents who graduated from a foreign dental school. We believe that such a

reference is appropriate. NYUHC did not include such foreign dental residents in its direct or indirect GME counts on cost reports for CYs 2000 through 2002. NYUHC has subsequently obtained guidance from CMS that such residents should be included in its indirect GME counts. In addition, its Medicare intermediary recently adjusted its CY 2000 cost report upon audit to include foreign dental residents. Foreign dental residents will be presented for inclusion in subsequent cost report periods. The OIG has noted under-reporting of dental residents in connection with assignment dates and inclusion of the foreign dental residents will affect the net reimbursement impact of adjustments to indirect GME resident counts.

Thank you again for the opportunity to provide comments. If you have any questions or require additional information, please contact me at (212) 404-4101.

Sincerely,



Richard T. Miller  
Chief Financial Officer  
NYU Hospitals Center

Enclosure

Cc: Richard Bing – NYU Central Administration  
Steven Donofrio – NYU College of Dentistry  
Annette Johnson – NYU Hospitals Center  
Robert Toso – NYU Hospitals Center