



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

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Region IX
Office of Audit Services
50 United Nations Plaza, Rm. 171
San Francisco, CA 94102-4912

Report Number: A-09-03-00053

Mr. Marty Lothes
Director
Provider Audit Department
United Government Services, LLC.
P.O. Box 9150
Oxnard, California 93031-9150

Dear Mr. Lothes:

Enclosed are two copies of the Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled "Audit of California Pacific Medical Center's Organ Acquisition Costs Claimed for the Period January 1, 1998, Through December 31, 2000." A copy of this report will be forwarded to the HHS action official noted below for review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the action official. We request that you respond to the 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.

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Please refer to report number A-09-03-00053 in all correspondence.

Sincerely,

Lori A. Ahlstrand
Regional Inspector General
for Audit Services

Enclosures -- as stated

Direct Reply to HHS Action Official:
Mr. Jeff Flick
Regional Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
75 Hawthorne Street, 4th Floor
San Francisco, California 94105

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**AUDIT OF CALIFORNIA PACIFIC
MEDICAL CENTER'S ORGAN
ACQUISITION COSTS CLAIMED
FOR THE PERIOD JANUARY 1, 1998,
THROUGH DECEMBER 31, 2000**



January 2005
A-09-03-00053

Office of Inspector General

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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

California Pacific Medical Center (California Pacific), located in San Francisco, is one of the largest private nonprofit academic medical centers in Northern California. On its calendar years (CY) 1998, 1999, and 2000 Medicare cost reports, California Pacific claimed \$24,676,657 for organ acquisition costs associated with kidney, liver, heart, and pancreas transplants. Medicare reimburses certified transplant programs for their proportionate share of costs associated with the acquisition of organs for transplant to Medicare beneficiaries. Medicare's share of the \$24,676,657 claimed for CYs 1998 through 2000 was \$10,271,297.

OBJECTIVE

The objective of this self-initiated audit was to determine whether organ acquisition costs claimed on the CYs 1998 through 2000 Medicare cost reports by California Pacific for its kidney, heart, liver, and pancreas transplant programs were allowable. Specifically, did California Pacific:

- comply with Medicare law, regulations, and guidelines for claiming organ acquisition costs?
- receive excess Medicare reimbursement for organ acquisition activities?

SUMMARY OF FINDINGS

California Pacific did not comply with Medicare law, regulations, and guidelines for claiming organ acquisition costs in the preparation of its Medicare Part A cost reports and received excess reimbursement for organ acquisition activities. Specifically, California Pacific did not have systems to accumulate certain costs of organ acquisition separate from the costs of post-transplant and other hospital activities. The table below summarizes the results of audit by cost category:

Results of Audit

<u>Cost Category</u>	<u>Claimed</u>	<u>Allowable</u>	<u>Unallowable</u>	<u>Unsupported</u>	<u>Unaudited¹</u>
Salaries	\$5,335,135	\$0	\$155,812	\$5,179,323	\$0
Medical Directors	913,760	37,423	285,464	590,873	0
Floor Space	1,734,669	0	117,206	1,617,463	0
Other Costs ²	16,693,093	58,724	151,975	0	16,482,394
Total	<u>\$24,676,657</u>	<u>\$96,147</u>	<u>\$710,457</u>	<u>\$7,387,659</u>	<u>\$16,482,394</u>

¹ We limited the scope of our audit based on our analysis of high-risk cost categories, a review of audits performed by the Medicare intermediary, and our survey work at California Pacific. We do not express an opinion on the \$16.5 million not audited.

² Other costs included organ purchases, recipient and donor evaluations, laboratory and other tests, organ excision fees, costs for hospital inpatient stays for donors, overhead and other direct costs of the organ transplant program, and Specific Purpose Funds.

The summary of audit adjustments and Medicare overpayments by cost category and calendar year is presented in Appendix A.

We limited our review of organ acquisition costs to \$8.2 million of the \$24.7 million claimed by California Pacific on its CYs 1998 through 2000 Medicare cost reports. We found that California Pacific claimed \$710,457 in unallowable costs and \$7,387,659 in unsupported costs.

The unallowable costs of \$710,457 were associated with activities that did not comply with Medicare's definition of organ acquisition. California Pacific officials said that they were not aware of the Medicare requirements pertaining to organ acquisition costs when the cost reports were filed and that they inadvertently claimed costs as organ acquisition. In addition, they believed that Medicare's reasonable compensation equivalents did not apply to transplant program medical directors. Based on the unallowable costs of \$710,457, Medicare overpaid California Pacific an estimated \$391,413.³

The unsupported costs of \$7,387,659 did not comply with Medicare's documentation requirements for reimbursement. California Pacific officials agreed that not all of the unsupported costs complied with Medicare's documentation requirements. They also said that they were not aware of the Medicare requirements pertaining to organ acquisition costs and that they inadvertently claimed some costs as organ acquisition. In addition, they believed that Medicare's reasonable compensation equivalents did not apply to transplant program medical directors. California Pacific has since initiated regular employee time studies to properly allocate salaries and related costs.

We recognize that some portion of the \$7,387,659 may have related to organ acquisition activities and would have been allowable if properly documented. However, based on Federal regulations and the Provider Reimbursement Manual, the unsupported costs were considered unallowable for Medicare reimbursement. Although California Pacific was unable to provide necessary documentation to support \$7,387,659 of costs it claimed for CYs 1998 through 2000, when settling the audit findings, the Centers for Medicare & Medicaid Services (CMS) and the Medicare intermediary may elect to use an allowable alternative methodology to estimate unsupported costs related to organ acquisition. If California Pacific cannot provide alternative support for the \$7,387,659, the Medicare intermediary should recover the related Medicare overpayment of \$3,340,339.³

RECOMMENDATIONS

We recommend that the Medicare intermediary:

- recover the Medicare overpayment of \$391,413 for the unallowable costs claimed as organ acquisition;

³ The Medicare intermediary determined the estimated Medicare overpayment amounts associated with our findings by using proprietary software to adjust California Pacific's Medicare cost reports.

- work with California Pacific to determine, if possible, what portion of the \$7,387,659 of unsupported costs and related Medicare payment of \$3,340,339 is associated with allowable organ acquisition activities, and recover that portion of the \$3,340,339 that California Pacific is unable to support with allowable organ acquisition costs;
- review organ acquisition costs claimed by California Pacific on its Medicare cost reports for any subsequent years for issues similar to those identified, and recover any Medicare overpayments;
- monitor future Medicare cost report claims for organ acquisition costs from California Pacific to ensure compliance with Medicare requirements; and
- instruct California Pacific to develop and maintain adequate time-and-effort reporting and accounting controls, and to provide clear direction to responsible personnel as to Medicare requirements for claiming and documenting organ acquisition costs.

MEDICARE INTERMEDIARY COMMENTS

In its written comments on the draft report, United Government Services, the Medicare intermediary, agreed with the findings and recommendations. United Government Services' comments are included in their entirety as Appendix B.

CALIFORNIA PACIFIC COMMENTS

In its written comments on the draft report, California Pacific generally agreed with the findings and recommendations. California Pacific stated that it identified additional documentation supporting payments to physicians who did pre-transplant evaluations. California Pacific estimated the Medicare overpayment related to unsupported costs to be about \$1.2 million. California Pacific's comments are included in their entirety as Appendix C.

OFFICE OF INSPECTOR GENERAL RESPONSE

California Pacific's additional documentation for payments to physicians supported pre-transplant costs that we did not question in our report. We appreciate California Pacific's acknowledgment that some portion of the unsupported costs resulted in an overpayment, which will be refunded to Medicare. However, we have not reviewed documentation supporting the estimate and continue to recommend that California Pacific work with the Medicare intermediary to determine the actual overpayment related to unsupported costs.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
BACKGROUND	1
California Pacific Medical Center	1
Medicare Reimbursement of Organ Acquisition and Transplant Costs.....	1
Medicare Allowable Organ Acquisition Costs.....	1
Medicare Supporting Documentation Rules	2
OBJECTIVE, SCOPE, AND METHODOLOGY	2
Objective	2
Scope	2
Methodology	3
FINDINGS AND RECOMMENDATIONS	4
UNALLOWABLE COSTS	4
Salaries.....	5
Transplant Employees.....	6
Manager and Staff.....	6
Medical Director Fees.....	6
Floor Space	7
Other Costs.....	7
UNSUPPORTED COSTS	8
Salaries.....	9
Transplant Employees.....	9
Manager and Staff.....	9
Medical Director Fees.....	10
Floor Space	10
SUMMARY OF ADJUSTMENTS AND MEDICARE OVERPAYMENTS	11
RECOMMENDATIONS	11
COMMENTS ON DRAFT REPORT AND OFFICE OF INSPECTOR GENERAL RESPONSE	12
APPENDIXES	
A – AUDIT RESULTS BY CATEGORY AND CALENDAR YEAR	
B – MEDICARE INTERMEDIARY COMMENTS	
C – CALIFORNIA PACIFIC COMMENTS	

INTRODUCTION

BACKGROUND

California Pacific Medical Center

California Pacific, located in San Francisco, is one of the largest private nonprofit academic medical centers in Northern California. California Pacific is an affiliate of Sutter Health, a not-for-profit network of over two dozen hospitals.

Our audit covered CYs 1998, 1999, and 2000 (January 1, 1998, through December 31, 2000). During this period, California Pacific operated kidney, heart, liver, and pancreas transplant programs. Medicare certified the kidney and heart transplant programs on July 15, 1987, and the liver transplant program on December 26, 1990. Medicare approved California Pacific's pancreas transplant program on July 1, 1999.

California Pacific claimed \$24,676,657 for organ acquisition costs associated with its kidney, heart, liver, and pancreas transplant programs during CYs 1998 through 2000. Of this amount, Medicare's share was \$10,271,297. California Pacific classified an additional \$139,471 as nonreimbursable costs during CY 1998 associated with pancreas transplants, because Medicare approval for the transplantation of this organ was not received until July 1, 1999.

Medicare Reimbursement of Organ Acquisition and Transplant Costs

Medicare reimburses hospitals that are certified transplant centers for their reasonable costs associated with organ acquisition. Costs that qualify as organ acquisition are reimbursed outside of the Medicare prospective payment system and are in addition to the hospital's payment for the transplant itself.

Medicare reimbursed California Pacific for organ acquisition costs as pass-through costs under Medicare Part A, based on the ratio of Medicare transplants to total transplants. Under this retrospective cost reimbursement system, Medicare makes interim payments to hospitals throughout the year. At the end of the year, each hospital files a cost report and its interim payments are reconciled with allowable costs, which are defined in Medicare regulations and policy.

The Medicare program also reimbursed California Pacific for transplant surgery, inpatient, and post-transplant costs for the recipients, but through different payment systems. Medicare Part A paid for the cost of transplant surgeries and certain follow-up care through diagnosis-related group payments to the hospital. These payments were set at a predetermined rate per discharge for groups of patients that demonstrate similar resource consumption and length-of-stay patterns. Medicare Part B paid for the physician services furnished to a live donor or recipient during and after the transplant.

Medicare Allowable Organ Acquisition Costs

Medicare allows as organ acquisition costs all costs associated with the organ donor and recipient before admission to a hospital for the transplant operation (i.e., pre-transplant services) and the hospital inpatient costs associated with the donor. Allowable organ acquisition costs include

tissue typing, recipient registration fees, recipient and donor evaluations, organ purchases and transportation, and inpatient stays for organ donors.

Medicare also limits the allowable amounts of certain physician costs. The costs claimed for medical directors on the Part A cost report must be limited to Medicare's reasonable compensation equivalents as stated in 42 CFR § 415.70. Medicare's reasonable compensation equivalent calculation considers medical specialty and geographic area to determine allowable costs. The reasonable compensation equivalent rules require that these amounts be adjusted on a pro rata basis for part-time and more than full-time physicians. Amounts in excess of the reasonable compensation equivalent are considered unallowable.

Medicare Supporting Documentation Rules

Medicare rules require that hospitals maintain separate cost centers for each type of organ. Only the portion of salaries that relates to time spent on allowable organ acquisition activities may be included as organ acquisition costs on the Medicare cost report. If an employee performs both pre-transplant and other activities (post-transplant or nontransplant), the related salary should be allocated to the appropriate cost centers using a reasonable basis. The documentation must be current, accurate, and in sufficient detail to support payments made for services rendered to beneficiaries. This documentation includes all ledgers, books, records, and original evidences of cost (e.g., labor timecards, payrolls, and bases for apportioning costs) that pertain to the determination of reasonable cost.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objective of this self-initiated audit was to determine whether organ acquisition costs claimed on the CYs 1998 through 2000 Medicare cost reports by California Pacific for its kidney, heart, liver, and pancreas transplant programs were allowable. Specifically, did California Pacific:

- comply with Medicare law, regulations, and guidelines for claiming organ acquisition costs?
- receive excess Medicare reimbursement for organ acquisition activities?

To the extent that the costs claimed were unallowable or unsupported, we disclosed the related estimated Medicare overpayment.

Scope

The scope of our audit included kidney, heart, liver, and pancreas organ acquisition costs claimed by California Pacific on its CYs 1998 through 2000 Medicare cost reports. Based on our analysis of audits performed by the Medicare intermediary and our survey work at California Pacific, we identified higher risk cost categories and limited our scope to an audit of \$8,194,263 claimed for certain salaries, medical director fees, space costs, and other costs. We did not review the remaining \$16,482,394 claimed and do not express an opinion on this amount. In addition, we did not audit the total number of organs transplanted, the Medicare eligibility of the recipients, inpatient days, or the ratio of costs to charges used on the Medicare Part A cost reports to

determine certain costs. We did not audit the costs included in the indirect cost pools, but did review the reasonableness of the statistics used to allocate the indirect costs.

Our review of internal controls at California Pacific was limited to a review of California Pacific's procedures for claiming costs as organ acquisition and allocating costs between pre-transplant and other activities. We performed our fieldwork from November 2003 to August 2004, which included visits to California Pacific and the Sutter Health home office in Sacramento.

Methodology

To accomplish our objective, we:

- obtained an understanding of Medicare reimbursement principles for organ acquisition costs;
- reviewed the documentation supporting organ acquisition costs claimed by California Pacific for CYs 1998 through 2000;
- reviewed accounting records and reports;
- reviewed time studies conducted during CYs 2002 and 2003;
- reviewed payroll records, which included time-and-effort reporting;
- interviewed California Pacific employees, managers, and medical directors;
- toured the transplant center;
- reviewed floor plans and floor studies from CYs 1995 and 2000;
- obtained documentation from the Medicare intermediary;
- reviewed working papers from prior Medicare intermediary audits; and
- discussed our recommended adjustments with the Medicare intermediary.

The Medicare intermediary determined the estimated Medicare overpayment amounts associated with our findings by using proprietary software to adjust California Pacific's Medicare cost reports. The Medicare intermediary determined the impact on Medicare reimbursement for each adjustment by running an Audit Adjustment Impact Report. Since some adjustments can affect intermediate allocations within the cost report process, which in turn affect the overall amount reimbursed by Medicare, the cumulative effect on Medicare reimbursement will differ from the summation of the individual adjustments computed by the Audit Adjustment Impact Report. We found that the differences between the cumulative effect of our adjustments and the effects of our adjustments in the Audit Adjustment Impact Report were immaterial.

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

FINDINGS AND RECOMMENDATIONS

California Pacific did not comply with Medicare law, regulations, and guidelines in the preparation of its Medicare Part A cost reports and received excess reimbursement for organ acquisition activities. Specifically, California Pacific did not have systems to accumulate certain costs of organ acquisition separate from the costs of post-transplant and other hospital activities. The table below summarizes the results of audit by cost category:

Results of Audit		
Cost Category	Unallowable	Unsupported
Salaries	\$155,812	\$5,179,323
Medical Directors	285,464	590,873
Floor Space	117,206	1,617,463
Other Costs	151,975	0
Total	\$710,457	\$7,387,659

The unallowable costs of \$710,457 were associated with activities that did not comply with Medicare's definition of organ acquisition, were incurred for departments unrelated to organ transplantation, or were for medical director fees that exceeded Medicare's reasonable compensation equivalent limits. California Pacific officials said that, when the cost reports were filed, they were not aware of the Medicare requirements pertaining to organ acquisition costs, they inadvertently claimed costs as organ acquisition, and they believed that Medicare's reasonable compensation equivalents did not apply to transplant program medical directors. Based on the unallowable costs of \$710,457, Medicare overpaid California Pacific an estimated \$391,413.

The unsupported costs of \$7,387,659 did not comply with Medicare's documentation requirements for reimbursement. California Pacific officials agreed that not all of the unsupported costs complied with Medicare's documentation requirements. They also said that they were not aware of the Medicare requirements pertaining to organ acquisition costs, they inadvertently claimed some costs as organ acquisition, and they believed that Medicare's reasonable compensation equivalents did not apply to transplant program medical directors. California Pacific has since initiated regular employee time studies to properly allocate salaries and related costs.

We recognize that some portion of the \$7,387,659 may have related to organ acquisition activities and would have been allowable if properly documented. However, based on Federal regulations and the Provider Reimbursement Manual, the unsupported costs are considered unallowable for Medicare reimbursement. Although California Pacific was unable to provide necessary documentation to support \$7,387,659 of costs it claimed for CYs 1998 through 2000, when settling the audit findings, CMS and the Medicare intermediary may elect to use an allowable alternative methodology to estimate unsupported costs related to organ acquisition. If California Pacific cannot provide alternative support for the \$7,387,659, the Medicare intermediary should recover the related Medicare overpayment of \$3,340,339.

UNALLOWABLE COSTS

California Pacific's cost reports included \$710,457 of unallowable costs that were (1) associated with activities that did not comply with Medicare's definition of organ acquisition in the Provider

Reimbursement Manual, part 1, §§ 2771.B and 2771.C, and the Intermediary Manual, part 3, §§ 3178.3 through 3178.16; (2) incurred for departments unrelated to organ transplantation as explained at 45 CFR, part 74, Appendix E, iv; or (3) related to medical director fees that exceeded Medicare’s reasonable compensation equivalent limits. The estimated Medicare overpayment for these unallowable costs is \$391,413. The balance of this section of the report details the unallowable costs shown in the table below:

Unallowable Costs		
<u>Cost Category</u>	<u>Unallowable Costs</u>	<u>Estimated Medicare Overpayment</u>
Salaries	\$155,812	\$111,835
Medical Directors	285,464	130,434
Floor Space	117,206	46,108
Other Costs	151,975	103,036
Total	<u>\$710,457</u>	<u>\$391,413</u>

Salaries

California Pacific claimed \$155,812 in unallowable salary costs for:

- transplant department employees and
- transplant manager and administrative salaries.

Medicare costs claimed must be reasonable, properly allocated, and supported by proper documentation. Only the portion of salaries that relates to time spent on allowable organ acquisition activities may be included as organ acquisition costs on the Medicare cost report. If an employee performs both pre-transplant and other activities (post-transplant or nontransplant), the related salary should be allocated to the appropriate cost centers using a reasonable basis.

The claim for \$155,812 in unallowable costs resulted in an estimated Medicare overpayment of \$111,835. The table below summarizes the unallowable salary costs for transplant employees and the transplant manager and administrative staff:

Unallowable Salary Costs		
<u>Cost Category</u>	<u>Unallowable Costs</u>	<u>Estimated Medicare Overpayment</u>
Transplant Employees	\$148,380	\$105,719
Manager and Staff	7,432	6,116
Total	<u>\$155,812</u>	<u>\$111,835</u>

Transplant Employees

The unallowable transplant employee salary costs of \$148,380 consisted of \$103,550 that was related to post-transplant duties and \$44,830 that was not properly allocated to pancreas acquisition.

California Pacific claimed as organ acquisition all the salary costs for transplant assistants during CYs 1998 through 2000. However, at least one transplant assistant performed only post-transplant duties. As a result, the related \$103,550 in salary costs is unallowable as organ acquisition.

California Pacific did not properly allocate salary costs to pancreas acquisition for CY 1998. All direct pancreas acquisition costs and a portion of the combined kidney and pancreas acquisition costs should have been allocated to pancreas acquisition based on the total number of transplants for these organ types. Since California Pacific was not Medicare-approved for pancreas transplants until July 1, 1999, it properly claimed direct pancreas acquisition costs and some overhead costs on its CY 1998 Medicare cost report as “other organ acquisition,” a nonreimbursable cost center. Transplant employee salaries of \$44,830 should have been allocated to “other organ acquisition.” California Pacific should have also allocated a portion of management and administrative staff salaries, kidney medical director fees, and some other overhead costs to “other organ acquisition.”

California Pacific officials said that they were unaware of the need to allocate transplant department salaries between pre-transplant and post-transplant until they received a management letter from the Medicare intermediary in October 2002. California Pacific began conducting time studies in December 2002 to properly allocate salary costs.

Manager and Staff

Transplant management and support staff salary costs of \$7,432 in CY 1998 also should have been allocated to “other organ acquisition” based on the ratio of pancreas and kidney transplants. California Pacific officials said that management salaries were inadvertently claimed entirely as kidney acquisition.

Medical Director Fees

California Pacific claimed a total of \$285,464 of unallowable medical director fees: \$180,183 for activities not related to organ acquisition and \$105,281 for excess costs because it did not properly limit all of the medical director fees to Medicare’s reasonable compensation equivalent amounts.⁴ As a result of claiming these unallowable costs, California Pacific received an estimated Medicare overpayment of \$130,434.

California Pacific incorrectly claimed \$180,183 as organ acquisition costs for fees paid to a physician for serving as chair of the Department of Transplantation. This physician agreed that these fees should not have been claimed as organ acquisition. California Pacific officials said that these costs were inadvertently claimed as organ acquisition.

⁴ California Pacific incorrectly applied the reasonable compensation equivalent limits to some fees for CY 1998, resulting in an underclaim of \$4,335. The \$105,281 in excess costs is the net amount after a credit for the \$4,335.

California Pacific claimed \$105,281 in medical director fees that were not reduced to Medicare's reasonable compensation equivalents. As a result, California Pacific received excess reimbursement for organ acquisition costs. The reasonable compensation equivalent rules required that physician fees be limited to the lower of actual compensation and the reasonable compensation equivalent amount. There were additional medical director fees that California Pacific did not limit to the reasonable compensation equivalent amounts, but California Pacific did not provide us with the necessary information to determine the appropriate limits. As a result, we classified these physician fees as unsupported and discussed them in the "Unsupported Costs" section of this report. Although California Pacific officials agree that the transplant department medical director fees should have been subject to the reasonable compensation equivalent limits, at the time the cost reports were submitted, they thought that these limits did not apply to the medical directors of the transplant program.

Floor Space

California Pacific claimed \$117,206 in unallowable organ acquisition costs for floor space for CYs 1998 and 1999, which resulted in an estimated Medicare overpayment of \$46,108. The amount of floor space occupied by each department was the basis used in the Medicare cost reports for allocating certain overhead costs. Overhead costs that must be allocated using square footage of floor space included buildings and fixtures, movable equipment, maintenance and repairs, operation of plant, and housekeeping. If floor space that is used for both pre-transplant and post-transplant activities, and for different transplant programs, is not properly allocated among the activities and programs, associated overhead costs will not be appropriately charged to those activities and programs.

California Pacific claimed 897 square feet in CY 1998 and 758 square feet in CY 1999 for activities that did not qualify as organ acquisition, including research and private physician offices. California Pacific officials told us that this space had inadvertently been claimed as organ acquisition on the cost reports.

California Pacific failed to allocate 438 square feet of floor space to pancreas acquisition on the CY 1998 cost report. A portion of the combined kidney acquisition and pancreas acquisition floor space should have been allocated between pancreas acquisition and kidney acquisition based on the total number of transplants for these organ types. Since California Pacific was not Medicare-approved for pancreas transplants until July 1, 1999, pancreas acquisition costs were properly claimed as "other organ acquisition," a nonreimbursable cost center, on the CY 1998 Medicare cost report. California Pacific officials said that no floor space was allocated to pancreas acquisition because no square footage was included for it in the 1995 square footage study.

Other Costs

California Pacific claimed \$149,459 in unallowable costs reclassified from a special fund used to pay for activities that did not qualify as organ acquisition, and it did not allocate \$2,516 of overhead costs to pancreas acquisition. As a result, California Pacific received an estimated Medicare overpayment of \$103,036.

California Pacific adjusted its Medicare cost reports to include costs from a special fund during CYs 1998 through 2000 even though not all of the costs were related to allowable organ acquisition activities. The Medicare intermediary disallowed \$170,645 of these costs during its

audits of California Pacific’s cost reports. We found that an additional \$149,459 should be removed because the costs were related to research, new program development, and home hospice, all of which are not allowable as organ acquisition. California Pacific officials agreed that these costs were not allowable on the Medicare cost reports.

California Pacific did not allocate \$2,516 of overhead costs for four cost centers to pancreas acquisition on its CY 1998 cost report. A portion of the combined kidney and pancreas acquisition costs should have been allocated to pancreas acquisition based upon the total number of transplants for these organ types. Since California Pacific was not Medicare-approved for pancreas transplants until July, 1, 1999, pancreas acquisition costs were properly claimed on the CY 1998 Medicare cost report as “other organ acquisition,” a nonreimbursable cost center. California Pacific officials said that these overhead costs were not allocated to pancreas acquisition because no pancreas allocation statistics were reported for the four overhead cost centers.

UNSUPPORTED COSTS

California Pacific’s cost reports included \$7,387,659 of costs that were not properly supported with current, accurate documentation that differentiated between pre-transplant and post-transplant activities as required by Medicare regulations. Costs claimed must be reasonable, properly allocated, and supported by proper documentation. Only the portion of salaries that relates to time spent on allowable organ acquisition activities may be included as organ acquisition costs on the cost report. If an employee performs both pre-transplant and other activities (post-transplant or nontransplant), the related salary should be allocated to the appropriate cost centers using a reasonable basis. Costs incurred to supervise or support organ transplant employees should be allocated on a basis consistent with the time allocation of the supervised and supported staff.

We recognize that some portion of the \$7,387,659 may have related to organ acquisition activities and would have been allowable if properly documented. However, based on 42 CFR §§ 413.24(a) and 413.24(c), and the Provider Reimbursement Manual, part 1, § 2304, these unsupported costs were considered unallowable for Medicare reimbursement. Although California Pacific was unable to provide necessary documentation to support \$7,387,659 of costs it claimed for CYs 1998 through 2000, when settling the audit findings, CMS and the Medicare intermediary may elect to use an allowable alternative methodology to estimate unsupported costs related to organ acquisition. If California Pacific does not provide alternative support for the \$7,387,659, the Medicare intermediary should recover the related Medicare overpayment of \$3,340,339. The balance of this section of the report details the unsupported costs shown in the table below:

Unsupported Costs		
Cost Category	Unsupported Costs	Estimated Medicare Overpayment
Salaries	\$5,179,323	\$2,322,128
Medical Directors	590,873	295,160
Floor Space	1,617,463	723,051
Total	\$7,387,659	\$3,340,339

Salaries

California Pacific claimed \$5,179,323 in salary costs that were unsupported for:

- transplant department employees and
- transplant manager and administrative staff.

If California Pacific does not provide alternative support for the unsupported salary costs, the Medicare intermediary should recover the estimated overpayment of \$2,322,128. The table below summarizes the unsupported salary costs for transplant employees, and the transplant manager and administrative staff:

Unsupported Salary Costs		
Cost Category	Unsupported Costs	Estimated Medicare Overpayment
Transplant Employees	\$4,764,717	\$2,027,044
Manager and Staff	414,606	295,084
Total	\$5,179,323	\$2,322,128

Transplant Employees

Although California Pacific's transplant employees did some post-transplant work, California Pacific claimed as organ acquisition all of the salary costs for transplant employees, except for some kidney physician assistant and kidney transplant coordinator salaries. During its review of the CYs 1998 through 2000 cost reports, the Medicare intermediary disallowed a total of \$1,530,926 as organ acquisition based on a review of transplant employee job descriptions and recommended that the costs claimed on future cost reports be split between organ acquisition and organ transplant based on acceptable time studies.

California Pacific began conducting quarterly time studies of its transplant employees in December 2002. As a result, we had additional information about how the salaries should be allocated that was not available to the Medicare intermediary auditors. We reviewed the salary costs claimed during CYs 1998 through 2000, the amounts disallowed by the Medicare intermediary, and the time study results and found that some additional reclassifications were necessary to properly allocate the transplant employee salaries. California Pacific officials said that they were unaware of the need to allocate transplant department salaries between pre-transplant and post-transplant until they received a management letter from the Medicare intermediary in October 2002.

Manager and Staff

The transplant department manager and administrative staff salaries were charged entirely to kidney acquisition, even though these positions provided support to the entire transplant department. In addition, the salaries were not properly allocated between pre-transplant and post-transplant as reflected by the duties of the department as a whole. The salary costs for the transplant department manager and administrative staff members should be allocated among the

various transplant programs and between pre-transplant and post-transplant using a reasonable basis, such as the allocation of the transplant employee salaries. California Pacific officials said that management salaries were inadvertently claimed entirely as kidney acquisition.

Medical Director Fees

California Pacific claimed \$590,873 in medical director fees that were not properly supported, which resulted in an estimated Medicare overpayment of \$295,160. Although the medical directors performed some post-transplant duties, all of the medical director fees were charged to organ acquisition. In addition, the reasonable compensation equivalent limits were not applied to some medical director fees. California Pacific did not have a method in place during the audit period to properly allocate medical director fees between pre-transplant and post-transplant. If California Pacific does not provide alternative support for these costs, the Medicare intermediary should recover the estimated Medicare overpayment of \$295,160.

Medical director fees should be properly allocated between pre-transplant and post-transplant, using a reasonable basis that is supported by auditable documentation, and Medicare's reasonable compensation equivalent limits should be applied to all transplant department medical director fees. California Pacific officials said that when the cost reports were filed they were not aware of the need to allocate these costs between pre-transplant and post-transplant, and they thought that the reasonable compensation equivalent limits were not applicable to the medical directors of the transplant program.

Floor Space

California Pacific claimed \$1,617,463 of floor space costs as organ acquisition for CYs 1998 through 2000 that was not properly allocated between pre-transplant and post-transplant. California Pacific also did not properly allocate floor space between kidney and pancreas acquisition. If California Pacific does not provide alternative support for these costs, the Medicare intermediary should recover the estimated Medicare overpayment of \$723,051.

The amount of floor space occupied by each department is the basis used in the Medicare cost report for allocating certain overhead costs. Overhead costs that must be allocated using square footage of floor space included buildings and fixtures, movable equipment, maintenance and repairs, operation of plant, and housekeeping. If floor space that is used for both pre-transplant and post-transplant activities, and for different transplant programs, is not properly allocated among the activities and programs, associated overhead costs will not be appropriately charged to those activities and programs.

California Pacific claimed 11,899 square feet of floor space as organ acquisition for both CYs 1998 and 1999, and 6,286 square feet for CY 2000.⁵ California Pacific should have allocated this space between pre-transplant and post-transplant using a reasonable basis, such as the allocation of the transplant employee salaries. California Pacific officials said that, when the cost

⁵ California Pacific's organ transplant department occupied most of the second and fourth floors of one building. The floor space claimed as organ acquisition for CY 2000 was 5,613 square feet less than the amount claimed for CYs 1998 and 1999. This reduction was partially caused by the use of a revised floor space analysis for CY 2000, but was mostly because California Pacific did not claim any of the space on the second floor as organ acquisition.

reports were filed, they were not aware of the need to allocate floor space between pre-transplant and post-transplant. They also said that the omission of floor space in CY 2000 was inadvertent.

California Pacific did not properly allocate square feet of floor space between kidney acquisition and pancreas acquisition on the CYs 1999 and 2000 cost reports.⁶ Although California Pacific did allocate 500 square feet of floor space to pancreas acquisition in both CYs 1999 and 2000, this amount was not based upon the number of organs transplanted. The combined kidney acquisition and pancreas acquisition floor space should have been allocated between pancreas acquisition and kidney acquisition based upon the total number of transplants for these organ types.

SUMMARY OF ADJUSTMENTS AND MEDICARE OVERPAYMENTS

The following table summarizes the unallowable and unsupported costs and the related estimated Medicare overpayments:

Summary of Adjustments and Medicare Overpayments

Cost Category	Unallowable		Unsupported	
	Costs	Estimated Medicare Overpayment	Costs	Estimated Medicare Overpayment
Salaries	\$155,812	\$111,835	\$5,179,323	\$2,322,128
Medical Directors	285,464	130,434	590,873	295,160
Floor Space	117,206	46,108	1,617,463	723,051
Other Costs	151,975	103,036	0	0
Total	\$710,457	\$391,413	\$7,387,659	\$3,340,339

Note: California Pacific claimed unsupported costs of \$7,387,659 that did not comply with Medicare's documentation requirements. Some portion of this amount may have related to organ acquisition activities and would have been allowable if properly documented. If California Pacific cannot provide alternative support for these costs, the Medicare intermediary should recover the entire Medicare overpayment of \$3,340,339.

The summary of audit adjustments and Medicare overpayments by cost category and calendar year is presented in Appendix A.

RECOMMENDATIONS

We recommend that the Medicare intermediary:

- recover the Medicare overpayment of \$391,413 for the unallowable costs claimed as organ acquisition;
- work with California Pacific to determine, if possible, what portion of the \$7,387,659 of unsupported costs and related Medicare payment of \$3,340,339 is associated with allowable organ acquisition activities, and recover that portion of the \$3,340,339 that California Pacific is unable to support with allowable organ acquisition costs;

⁶ The CY 1998 allocation of floor space between kidney and pancreas acquisition was classified as unallowable and is discussed in the "Unallowable Costs" section of this report.

- review organ acquisition costs claimed by California Pacific on its Medicare cost reports for any subsequent years for issues similar to those identified, and recover any Medicare overpayments;
- monitor future Medicare cost report claims for organ acquisition costs from California Pacific to ensure compliance with Medicare requirements; and
- instruct California Pacific to develop and maintain adequate time-and-effort reporting and accounting controls, and to provide clear direction to responsible personnel as to Medicare requirements for claiming and documenting organ acquisition costs.

COMMENTS ON DRAFT REPORT AND OFFICE OF INSPECTOR GENERAL RESPONSE

We obtained written comments on the draft report from United Government Services, the Medicare intermediary, and California Pacific. The comments and our response to them are summarized below.

Medicare Intermediary Comments

In its written comments on the draft report, United Government Services, the Medicare intermediary, agreed with the findings and recommendations. United Government Services' comments are included in their entirety as Appendix B.

California Pacific Comments

In its written comments on the draft report, California Pacific generally agreed with the findings and recommendations. California Pacific stated that it identified additional documentation supporting payments to physicians who did pre-transplant evaluations. California Pacific estimated the Medicare overpayment related to unsupported costs to be about \$1.2 million. California Pacific's comments are included in their entirety as Appendix C.

Office of Inspector General Response

California Pacific's additional documentation for payments to physicians supported pre-transplant costs that we did not question in our report. We appreciate California Pacific's acknowledgment that some portion of the unsupported costs resulted in an overpayment, which will be refunded to Medicare. However, we have not reviewed documentation supporting the estimate and continue to recommend that California Pacific work with the Medicare intermediary to determine the actual overpayment related to unsupported costs.

APPENDIXES

AUDIT RESULTS BY CATEGORY AND CALENDAR YEAR

Table A-1: Results of Audit by Cost Category

Cost Category	Claimed	Allowable	Unallowable	Unsupported	Unaudited	Medicare Overpayment		Note
						Unallowable	Unsupported	
Salaries	\$5,335,135	\$0	\$155,812	\$5,179,323	\$0	\$111,835	\$2,322,128	1
Medical Directors	913,760	37,423	285,464	590,873	0	130,434	295,160	2
Floor Space	1,734,669	0	117,206	1,617,463	0	46,108	723,051	3
Other Costs	16,693,093	58,724	151,975	0	16,482,394	103,036	0	4
Total	\$24,676,657	\$96,147	\$710,457	\$7,387,659	\$16,482,394	\$391,413	\$3,340,339	

Notes

- 1: For Salaries detail, see Table A-3.
2: For Medical Directors detail, see Table A-4.
3: For Floor Space detail, see Table A-5.
4: For Other Costs detail, see Table A-6.

Table A-2: Results of Audit by Calendar Year

Calendar Year	Claimed	Allowable	Unallowable	Unsupported	Unaudited	Medicare Overpayment	
						Unallowable	Unsupported
1998	\$6,906,643	\$41,020	\$267,346	\$1,963,412	\$4,634,865	\$164,150	\$980,504
1999	8,458,826	25,869	221,309	2,631,978	5,579,670	143,079	1,291,760
2000	9,311,188	29,258	221,802	2,792,269	6,267,859	84,184	1,068,075
Total	\$24,676,657	\$96,147	\$710,457	\$7,387,659	\$16,482,394	\$391,413	\$3,340,339

Table A-3: Salaries Detail

Category and Calendar Year	Claimed	Allowable	Unallowable	Unsupported	Unaudited	Medicare Overpayment	
						Unallowable	Unsupported
Transplant Employees:							
1998	\$1,303,714	\$0	\$77,257	\$1,226,457	\$0	\$49,247	\$585,989
1999	1,748,414	0	37,827	1,710,587	0	31,393	820,423
2000	1,860,969	0	33,296	1,827,673	0	25,079	620,632
Subtotal	4,913,097	0	148,380	4,764,717	0	105,719	2,027,044
Manager and Staff:							
1998	112,307	0	7,432	104,875	0	6,116	85,825
1999	135,336	0	0	135,336	0	0	102,220
2000	174,395	0	0	174,395	0	0	107,039
Subtotal	422,038	0	7,432	414,606	0	6,116	295,084
Total	\$5,335,135	\$0	\$155,812	\$5,179,323	\$0	\$111,835	\$2,322,128

Table A-4: Medical Directors Detail

Calendar Year	Claimed	Allowable	Unallowable	Unsupported	Unaudited	Medicare Overpayment	
						Unallowable	Unsupported
1998	\$122,376	\$0	\$55,764	\$66,612	\$0	\$39,280	\$46,910
1999	219,415	14,674	90,866	113,875	0	63,670	35,559
2000	571,969	22,749	138,834	410,386	0	27,484	212,691
Total	\$913,760	\$37,423	\$285,464	\$590,873	\$0	\$130,434	\$295,160

Table A-5: Floor Space Detail

<u>Calendar Year</u>	<u>Claimed</u>	<u>Allowable</u>	<u>Unallowable</u>	<u>Unsupported</u>	<u>Unaudited</u>	<u>Medicare Overpayment</u>	
						<u>Unallowable</u>	<u>Unsupported</u>
1998	\$636,941	\$0	\$71,473	\$565,468	\$0	\$30,870	\$261,780
1999	717,913	0	45,733	672,180	0	15,238	333,558
2000	379,815	0	0	379,815	0	0	127,713
Total	<u>\$1,734,669</u>	<u>\$0</u>	<u>\$117,206</u>	<u>\$1,617,463</u>	<u>\$0</u>	<u>\$46,108</u>	<u>\$723,051</u>

Table A-6: Other Costs Detail

<u>Category and Calendar Year</u>	<u>Claimed</u>	<u>Allowable</u>	<u>Unallowable</u>	<u>Unsupported</u>	<u>Unaudited</u>	<u>Medicare Overpayment</u>	
						<u>Unallowable</u>	<u>Unsupported</u>
Specific Purpose Funds:							
1998	\$58,422	\$5,518	\$52,904	\$0	\$0	\$36,605	\$0
1999	58,078	11,195	46,883	0	0	32,778	0
2000	56,181	6,509	49,672	0	0	31,621	0
Subtotal	<u>172,681</u>	<u>23,222</u>	<u>149,459</u>	<u>0</u>	<u>0</u>	<u>101,004</u>	<u>0</u>
Other Overhead:							
1998	38,018	35,502	2,516	0	0	2,032	0
1999	0	0	0	0	0	0	0
2000	0	0	0	0	0	0	0
Subtotal	<u>38,018</u>	<u>35,502</u>	<u>2,516</u>	<u>0</u>	<u>0</u>	<u>2,032</u>	<u>0</u>
Unaudited:							
1998	4,634,865	0	0	0	4,634,865	0	0
1999	5,579,670	0	0	0	5,579,670	0	0
2000	6,267,859	0	0	0	6,267,859	0	0
Subtotal	<u>16,482,394</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>16,482,394</u>	<u>0</u>	<u>0</u>
Total	<u>\$16,693,093</u>	<u>\$58,724</u>	<u>\$151,975</u>	<u>\$0</u>	<u>\$16,482,394</u>	<u>\$103,036</u>	<u>\$0</u>

UNITED GOVERNMENT SERVICES COMMENTS



PART A INTERMEDIARY

NATIONAL FQHC INTERMEDIARY

MEDICARE

REGIONAL HOME HEALTH INTERMEDIARY

PHONE 510-633-4200

December 2, 2004

Ms. Lori A. Ahlstrand
 Regional Inspector General for Audit Services
 Department of Health & Human Services
 Office of Inspector General
 50 United Nations Plaza, Room 171
 San Francisco, CA 94102-4912

SUBJECT: Audit of Organ Acquisition Costs

Provider Name: California Pacific Medical Center
Provider No.: 05-0047
FYEs: 12/31/98, 12/31/99 and 12/31/00
Report No.: A-09-03-00053

Dear Ms. Ahlstrand:

This is in response to your letter to Marty Lothes, dated October 14, 2004, regarding the above referenced report.

We have reviewed the draft audit of California Pacific Medical Center's Organ Acquisition Costs claimed for the period January 1, 1998 through December 31, 2000, and have the following comments:

A. Unallowable Costs:*1. Salary Costs:*

	1998	1999	2000	Total
Transplant Employees salaries				
100% Post-transplant	\$ 32,427	\$ 37,827	\$ 33,296	\$ 103,550
Pancreas-related	44,830			44,830
Admin salaries (pancreas-related)	<u>7,432</u>			<u>7,432</u>
Total unallowable salary costs	<u>\$ 84,689</u>	<u>\$ 37,827</u>	<u>\$ 33,296</u>	<u>\$ 155,812</u>
Total				

We agree with the OIG auditor's findings that the above salary costs are not related to organ acquisition. We will reopen the cost reports for FYEs 12/31/98, 12/31/99 and 12/31/00 to reclassify post-transplant salary costs of \$103,550 from the "Kidney Acquisition" cost center to "Adults and Pediatrics" cost center. An additional adjustment for FYE 12/31/98 will be made to reclassify pancreas-related salary costs of \$52,262 from the "Kidney Acquisition" cost center to "Other Organ Acquisition" cost center.

UNITED GOVERNMENT SERVICES, LLC.

333 Hegenberger Road, Suite 825, Oakland, CA 94621 • Corporate Headquarters located in Milwaukee, WI
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Ms. Lori A.Ahlstrand
Page 2
December 2, 2004

2. *Medical Director Fees:*

	1998	1999	2000	Total
Non-organ acquisition related	\$ 60,099	\$ 90,866	\$ 29,218	\$ 180,183
Fees in excess of the RCE	<u>(4,335)</u>		<u>109,616</u>	<u>105,281</u>
Total	<u>\$ 55,764</u>	<u>\$ 90,866</u>	<u>\$138,834</u>	<u>\$ 285,464</u>

We agree with the OIG auditor's findings regarding the unallowable medical director fees. We will propose adjustments to the cost reports for FYEs 12/31/98, 12/31/99 and 12/31/00 to reclassify the medical director fees of \$ 180,183 from the "Kidney Acquisition" cost center to "Adults and Pediatrics" cost center, since such fees are not related to organ acquisition.

We will also propose an adjustment for FYE 12/31/00 to disallow the medical director fees of \$109,616 in excess of the reasonable compensation equivalent (RCE). In addition, we will adjust the FYE 12/31/98 cost report to add back \$4,335 for improper application of RCE limits on some medical director fees.

3. *Floor Space:*

The square feet statistics used on the as-filed cost reports for FYEs 12/31/98 and 12/31/99 were based on a study conducted in 1995. The Intermediary issued a management letter for these 2 cost reporting periods advising provider to update its square feet statistics.

During its audit, the OIG auditor toured the transplant center and reviewed floor plans and noted the following:

	1998	1999	2000	Total
Space used for research and physician offices	897	758		1,655
Allocation of space to Pancreas	438			438

We will propose adjustments to the cost reports for FYEs 12/31/98 and 12/31/99 to reclassify square feet statistics totaling 1,655 from the various organ acquisition cost centers to a non-reimbursable cost center. An additional adjustment will be proposed for FYE 12/31/98 to reclassify 438 square feet statistics from "Kidney Acquisition" cost center to "Other Organ Acquisition" cost center.

4. *Other Costs (Specific Purpose Funds):*

	1998	1999	2000	Total
Total costs claimed by provider	\$ 199,701	\$ 87,444	\$ 56,181	\$ 343,326
Amount disallowed at FI audit	<u>(141,279)</u>	<u>(29,366)</u>		<u>(170,645)</u>
Total per Audited Cost Report	\$ 58,422	\$ 58,078	\$ 56,181	\$ 172,681
Allowable, per OIG Audit	<u>(5,518)</u>	<u>(11,198)</u>	<u>(6,509)</u>	<u>(23,222)</u>
Net unallowable per OIG Audit	<u>\$ 52,904</u>	<u>\$ 46,880</u>	<u>\$ 49,672</u>	<u>\$ 149,459</u>

Ms. Lori A. Ahlstrand
 Page 3
 December 2, 2004

The amounts disallowed by the Intermediary (FI) were based on review of selected invoices, without extrapolation to the total costs claimed by the provider.

We agree with the OIG auditor's findings to disallow additional costs of \$ 149,459 since such costs are not related to organ acquisition. We will propose adjustments to the cost reports for FYEs 12/31/98, 12/31/99 and 12/31/00.

B. Unsupported Costs:

1. Salary Costs

	1998	1999	2000	Total
Unsupported Salary Costs	\$1,331,332	\$1,845,923	\$2,002,068	\$5,179,323

The unsupported salaries represent the amount claimed in the cost report net of costs determined by the OIG auditor as unallowable and net of costs disallowed by Intermediary during its audit.

The salaries are supported by payroll registers, and therefore are allowable in terms of reportable salaries. The unsupported issue is that the salaries cannot be split between pre-transplant and post-transplant activities.

During its audit of the FYE 12/31/98 cost report, the Intermediary reconciled the salary costs between the payroll registers and the general ledger, with minor variances due to timing differences. The Intermediary also obtained the job descriptions of all employees whose names were reflected in the payroll registers. Based on review of the individual job descriptions, the Intermediary determined the percentages of activities related to post-transplant. The Intermediary used these percentages to disallow salary costs in the cost reports for FYEs 12/31/98, 12/31/99 and 12/31/00, as follows:

FYE:		Salary costs disallowed
12/31/98		\$ 409,448
12/31/99		\$ 430,017
12/31/00		\$ 454,097

The Intermediary also made adjustments to allocate the gross salaries and the FTE B-1 statistics to post-transplant activities, using the same percentages as mentioned above.

The Intermediary issued management letters for all the three cost reporting periods advising the provider to maintain time studies to properly allocate salary costs between pre-transplant and post-transplant. Copies of the management letters are attached for your reference.

Ms. Lori A. Ahlstrand
Page 4
December 2, 2004

To comply with the Intermediary's management letter, the provider started maintaining time studies in FYE 12/31/03, covering all its employees at the Organ Transplant Center. The provider used the following time allocation percentages in its FYE 12/31/03 as filed cost report:

	Pre-transplant	Post Transplant	Physician Support	Total
Heart Transplant	51%	42%	7%	100%
Kidney Transplant	62%	37%	1%	100%
Liver Transplant	63%	34%	3%	100%

We will review the provider's time studies for FYE 12/31/03, as follows:

- (a) Ensure that the time studies were prepared in accordance with the Medicare regulations and instructions.
- (b) Determine the employee names or the job titles that prepared the time studies and compare them with the employee names and/or job titles that existed in FYEs 12/31/98, 12/31/99 and 12/31/00.

If the organization structure and job titles did not materially change from 1998 to 2003, we propose to use the FYE 12/31/03 time studies to allocate the salaries for FYEs 12/31/98, 12/31/99 and 12/31/00 among pre-transplant, post-transplant and physician support. Otherwise, we will propose an adjustment to reclassify or remove the unsupported salary costs.

2. Medical Directors:

	1998	1999	2000	Total
Unsupported medical director fees	\$ 66,612	\$ 113,875	\$ 410,389	\$ 590,873

As with the salaries, we will review the time studies prepared by the provider for FYE 12/31/03. If there were no changes in the medical directors from 1998 to 2003, we propose to use the FYE 12/31/03 time studies to allocate the medical director fees for FYEs 12/31/98, 12/31/99 and 12/31/00 among pre-transplant, post-transplant and physician support. Otherwise, we will propose an adjustment to reclassify or remove the unsupported medical director fees.

3. Floor Space:

	1998	1999	2000	Total
Unsupported floor space costs	\$ 565,468	\$ 672,180	\$ 379,815	\$1,617,463

As mentioned above, we will review the time studies prepared by the provider for FYE 12/31/03. If found acceptable and applicable, we will use these time studies to allocate the square feet statistics for FYEs 12/31/98, 12/31/99 and 12/31/00 among pre-transplant, post-transplant and physician support. Otherwise, we will propose an adjustment to reclassify or remove the unsupported floor space costs.

Ms. Lori A. Ahlstrand
Page 5
December 2, 2004

We will be contacting the provider to request the following documentation that will be necessary to review the unsupported costs:

- a. copies of the individual time studies for FYE 12/31/03 .
- b. copies of the organization chart of the Transplant Center as well as a comparison of employees names and job titles from 1998 to 2003.

Once the requested documentation is received and reviewed, adjustments will be proposed accordingly. We will then discuss the adjustments with the provider and give them an opportunity to review our proposal, and prepare any additional documentation that would support their position. We will be reviewing any additional documentation to be submitted by the provider, meeting and discussing with their representatives and making determinations regarding the unsupported costs and revising the cost reports. We anticipate that we will be able to accomplish these tasks before 9/30/05.

If you have any questions, please call me at (510) 633-4201.

Sincerely,



Bejan Malbari, Manager
Provider Audit Department
BM/nlo

Enclosures

cc: Marty Lothes, Director – UGS Provider Audit Department
David Poulson – OIG Auditor

CALIFORNIA PACIFIC COMMENTS



California Pacific
Medical Center

A Sutter Health Affiliate

Mailing Address:
P.O. Box 7999
San Francisco, CA 94120

(415) 600-6000

By Messenger

November 15, 2004

Ms. Lori A. Ahlstrand
Regional Inspector General of Audit Services, Region IX
Department of Health & Human Services, Office of Audit Services
50 United Nations Plaza, Room 171
San Francisco, CA 94102-4912

California Campus
3700 California Street

Davies Campus
Castro & Duboce

Pacific Campus
Clay at Buchanan Street

Re: Report Number: A-09-03-00053

Dear Ms. Ahlstrand:

We are submitting our formal response to the draft report dated October 14, 2004, entitled *Audit of California Pacific Medical Center's Organ Acquisition Costs Claimed for the Period January 1, 1998 Through December 31, 2000* (the "Report"). The findings in the draft Report relate to the review by the Office of Inspector General, Office of Audit Services (OIG) to determine whether the organ acquisition costs claimed by California Pacific Medical Center (CPMC) in its FY 1998, FY 1999, and FY 2000 Medicare cost reports were properly stated in accordance with Medicare reimbursement criteria.

Summary:

In general, CPMC agrees with the OIG's findings that it did not comply with Medicare laws, regulations, and guidelines for claiming organ acquisition costs in the preparation of its Medicare Part A cost report and received excess reimbursement for organ acquisition activities.

Prior to this review, CPMC believed it was preparing and filing Medicare cost reports in compliance with Medicare guidelines related to organ acquisition costs (OAC). Subsequent to the audit, the OIG's recommendations have been incorporated in the most recently filed cost report for FY 2003, and the FY 2001 and FY 2002 cost reports are being revised to incorporate the recommendations. CPMC will be working with its fiscal intermediary, United Government Services (UGS), to address and resolve the audit findings and recommendations.

Preliminary Statements Regarding Findings and Recommendations

According to the draft Report, CPMC did not have a system in place to accumulate certain costs of organ acquisition separate from the costs of post-transplant and other hospital activities. The OIG audited \$8.2 million of the \$24.7 million OAC claimed by CPMC in its Medicare cost reports for FY 1998 to 2000. Of the \$8.2 million audited costs, OIG auditors concluded that \$710,457 of the costs are unallowable and \$7.4 million are unsupported.

The draft Report allocates the costs and the estimated Medicare overpayments to the following categories:

OIG Summary of Adjustments and Medicare Overpayments FY 1998 through 2000

Cost Category	<u>Unallowable</u>		<u>Unsupported</u>	
	<u>Costs</u>	<u>Estimated Medicare Overpayment</u>	<u>Costs</u>	<u>Estimated Medicare Overpayment</u>
Salaries	\$155,812	\$111,835	\$5,179,323	\$2,322,128
Medical Directors	285,464	130,434	590,873	295,160
Floor Space	117,206	46,108	1,617,463	723,051
Other Costs	<u>151,975</u>	<u>103,036</u>	<u>0</u>	<u>0</u>
Total	\$710,457	\$391,413	\$7,387,659	\$3,340,339

It is worth noting that during the routine Medicare audit of FY1998, it came to CPMC's attention that it was not appropriately splitting organ acquisition costs between pre- and post-transplant activities. In order to apportion pre- and post-transplant activities and costs, UGS extensively reviewed transplant employee and medical director job descriptions during the audit. Based on its review, UGS adjusted the cost report to carve out the post-transplant costs. UGS's audit was completed and the NPR issued on September 25, 2001.

UGS issued a Management Letter dated September 25, 2001. The letter instructed CPMC to implement OAC time studies that would split pre- and post-transplant activities. CPMC did not receive the Management Letter until October 8, 2002, when its

existence came to CPMC’s attention through the OIG auditors who were conducting the initial OIG survey audit of OAC at CPMC.

CPMC has historically and consistently complied with UGS’s instructions to incorporate the latest audit adjustments in its next “as filed” cost report. In the case of the FY1998 proposed adjustments to the OAC, the earliest cost reporting period that CPMC would have incorporated the pre- and post-transplant cost adjustments was in the FY2000 cost report.¹ In its “as filed” FY2000 cost report, CPMC incorporated the UGS’s FY1998 audit findings and applied the same methodology as that used by UGS, i.e., apportioning pre- and post-transplant activities based on job descriptions for employees and medical directors.

Upon receipt of the Management letter in late 2002, CPMC implemented time studies and used them to allocate pre- and post-transplant costs when filing the FY2003 Medicare cost report and will continue to do so for future cost reports.

A. CPMC Responses to Specific OIG Findings Regarding Unallowable Costs

1. Transplant employees (p. 6)

CPMC agrees with the OIG findings related to transplant salary costs that were related to post-transplant duties. CPMC began conducting time studies in late 2002 in order to determine the appropriate allocation of salary costs.

CPMC agrees with the OIG findings related to transplant salary costs not properly allocated to pancreas acquisition for CY 1998.

2. Manager and staff (p. 6)

CPMC agrees that management salaries were inadvertently claimed entirely as kidney acquisition rather than “other organ acquisition.”

3. Medical Director Fees (pp. 6-7)

CPMC agrees with the OIG findings related to medical director fees for costs claimed that were determined to not relate to organ acquisition and for excess costs because CPMC did not properly limit all of the medical director fees to Medicare’s reasonable compensation equivalent (RCE) amounts. .

	FI Audit	FI Audit	CPMC
	<u>Start</u>	<u>Completed</u>	<u>CR Filed</u>
FY 1998	09/15/00	08/03/01	
FY 1999	09/17/01	09/05/02	05/31/00
FY 2000	03/17/03	10/07/03	06/14/02

Subsequent to the completion of the audit, CPMC identified additional documentation supporting allocation of payments for physicians who performed pre-transplant evaluations to potential transplant donors. The documentation has been provided to the OIG auditors.

4. Floor Space (p. 7)

CPMC agrees with the OIG audit findings that 897 square feet in CY 1998 and 758 square feet in CY 1999 did not qualify as organ acquisition. The space was inadvertently claimed as OAC on the cost report.

5. Other Costs (pp. 7 – 8)

CPMC agrees that costs from a special purpose fund that were used to pay for activities that did not qualify as organ acquisition are unallowable.

B. CPMC Responses to Specific OIG Findings Regarding Unsupported Costs

OIG defines “unsupported” costs as those that may have related to organ acquisition activities that would have been allowable if properly documented.

1. Salaries (p. 9)

CPMC agrees that salaries for employees, managers and administrative staff were not supported by time studies allocating time between pre- and post-transplant activities.

CPMC implemented time studies in late 2002 and will work with UGS to determine the reasonable allocation of salaries pre- and post-transplant for FY1998 through 2000.

2. Transplant employees (pp. 9 – 1)

CPMC agrees that salaries for the transplant department employees were not properly allocated between pre- and post-transplant activities because they were not supported by time studies

3. Manager and staff (p. 10)

CPMC agrees that salaries for the transplant department manager and administrative staff were charged entirely to kidney acquisition, although they provided support to the entire transplant department. CPMC also agrees that these salaries were not properly allocated between pre- and post-transplant activities.

4. Medical Director Fees (p. 10)

CPMC agrees that medical director fees should be allocated between pre- and post-transplant activities, using a reasonable basis supported by auditable documentation

5. Floor space (p. 10 – 11)

CPMC agrees that floor space costs for CY 1998 through 2000 were not properly allocated between pre- and post-transplant activities and did not properly allocate floor space between kidney and pancreas acquisition on FYs 1999 and 2000.

CPMC's Estimated Medicare Overpayment

To estimate the portion of the unsupported costs that relate to organ acquisition activities, CPMC has proposed that UGS apply FY2003 time studies to the FY98-2000 cost report recalculation. Based on this methodology, CPMC has determined that \$2.9 million of the \$8.2 million audited by the OIG relates to post-transplant activities. The reimbursement impact of this \$2.9 million post-transplant cost is \$1.2 million due to the Medicare program.

The following table summarizes the OIG findings and CPMC's proposed resolution:

California Pacific Med Ctr								
	FI Audited Allow Costs				Provider Proposed Resolution			
	1998	1999	2000	Total	1998	1999	2000	Total
Kidney	4,074,262	4,488,529	4,708,114	13,270,905	3,548,217	3,895,922	4,351,290	11,795,429
Heart	526,424	531,975	707,934	1,766,333	477,973	456,267	628,150	1,562,390
Liver	2,303,879	2,990,568	3,397,737	8,692,184	2,015,140	2,560,096	2,822,999	7,398,235
Pancreas	-	447,754	497,403	945,157	-	452,501	512,458	964,959
Total	6,904,565	8,458,826	9,311,188	24,674,579	6,041,330	7,364,786	8,314,897	21,721,013

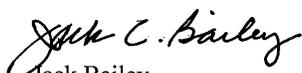
	FI Audited Mcare Reimbursement				Provider Proposed Mcare Reimb			
	1998	1999	2000	Total	1998	1999	2000	Total
Kidney	2,555,047	2,810,573	2,679,416	8,045,036	2,225,154	2,439,502	2,476,345	7,141,001
Heart	143,570	199,491	265,475	608,536	130,356	171,100	235,556	537,012
Liver	392,504	721,860	320,543	1,434,907	343,003	617,953	266,322	1,227,278
Pancreas	-	40,705	142,115	182,820	-	41,136	146,416	187,552
Total	3,091,121	3,772,629	3,407,549	10,271,299	2,698,513	3,269,691	3,124,639	9,092,843

Summary:	Non-OAC	Overpay	
1998	863,235	392,608	
1999	1,094,040	502,938	
2000	996,291	282,910	
Total	2,953,566	1,178,456	39.90%
Per OIG	8,098,116	3,731,752	46.08%

Conclusion:

CPMC appreciates the opportunity to respond to this draft Report. We would also acknowledge the professionalism and cooperation of your staff during the audit and note they have been helpful in making suggestions for enhancements of future reporting.

Sincerely,



Jack Bailey
Executive Vice President and Chief Operating Officer, CPMC

CC: Martin Brotman, M.D., President and CEO, CPMC
Michael Holdsworth, Vice President Finance and CFO, CPMC
Jeffrey Miller, Director, Department of Transplantation, CPMC
Karen Sulenski, Director Corporate Compliance, CPMC
Elizabeth Tello, Senior Reimbursement Analyst, Sutter Health
Michael Bass, Reimbursement Manager, Sutter Health
Judy S. Ireland, Director, Compliance Program, Sutter Health