



Office of Audit Services  
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January 24, 2008

Report Number: A-01-07-00603

Mr. Alan Maltz  
Chief Financial Officer  
MS 01-08  
Blue Cross Blue Shield of Massachusetts, Inc.  
401 Park Drive  
Boston, Massachusetts 02215

Dear Mr. Maltz:

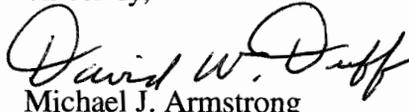
Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Review of Retiree Drug Subsidy Plan Sponsor Blue Cross Blue Shield of Massachusetts, Inc., for Plan Year Ended December 31, 2006." We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

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

Pursuant to the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, OIG reports generally are made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5). Accordingly, within 10 business days after the final report is issued, it will be posted on the Internet at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me, or contact Leah A. Scott, Audit Manager, at (617) 565-2679 or through e-mail at [Leah.Scott@oig.hhs.gov](mailto:Leah.Scott@oig.hhs.gov). Please refer to report number A-01-07-00603 in all correspondence.

Sincerely,

*for*   
Michael J. Armstrong  
Regional Inspector General  
for Audit Services

Enclosure

Page 2 – Mr. Alan Maltz

Direct Reply to HHS Action Official:

Thomas W. Lenz, Consortium Administrator  
Consortium for Financial Management and Fee For Service Operations  
Centers for Medicare & Medicaid Services  
601 E. 12<sup>th</sup> Street, Room 235  
Kansas City, MO 64106

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF  
RETIREE DRUG SUBSIDY  
PLAN SPONSOR  
BLUE CROSS BLUE SHIELD OF  
MASSACHUSETTS, INC.,  
FOR PLAN YEAR ENDED  
DECEMBER 31, 2006**



Daniel R. Levinson  
Inspector General

January 2008  
A-01-07-00603

# ***Office of Inspector General***

<http://oig.hhs.gov>

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In accordance with the principles of the Freedom of Information Act (5 U.S.C. 552, as amended by Public Law 104-231), Office of Inspector General, Office of Audit Services reports are made available to members of the public to the extent the information is not subject to exemptions in the act. (See 45 CFR Part 5.)

## **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**

Section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) established a Retiree Drug Subsidy (RDS) program effective January 1, 2006. Under the program, subsidy payments are made to sponsors (employers and unions) of qualified retiree prescription drug plans for each qualifying retiree covered under the plan. A qualifying covered retiree is a Part D eligible individual who is not enrolled in a Part D plan but who is covered by a qualified retiree prescription drug plan. The subsidy payments for each qualifying covered retiree generally equal 28 percent of allowable retiree drug costs.

Medicare requires that the sponsor of a qualified retiree prescription drug plan submit an RDS application to CMS each year. As part of the application process, plan sponsors must submit a list of qualifying covered retirees. The submitted list should include retiree identification information as well as the plan sponsor's coverage effective and termination dates. Plan sponsors, or their vendors, must accumulate retiree drug costs and prepare and submit cost reports to CMS before requesting subsidy payments. CMS created the RDS secure Web site as a secure portal for plan sponsors participating in the subsidy program to submit RDS applications and requests for payment.

Blue Cross Blue Shield of Massachusetts, Inc., (BCBSMA) is a not-for-profit health care company headquartered in Boston, Massachusetts, that offers prescription drug coverage to its retired employees. BCBSMA uses a third-party vendor to report prescription drug costs to CMS. BCBSMA received approximately \$460,000 in plan year 2006 interim subsidy payments based on reported gross retiree drug costs of approximately \$2.2 million and allowable retiree costs of approximately \$1.6 million.

### **OBJECTIVES**

The objectives of our review were to determine whether BCBSMA (1) met the requirements to be a plan sponsor, (2) established controls to ensure that drug subsidy costs were correctly reported, and (3) established administrative safeguards over retiree data included in the RDS secure Web site.

### **SUMMARY OF FINDINGS**

BCBSMA's employment-based retiree health coverage met the requirements to be considered a qualified retiree prescription drug plan. However, BCBSMA did not establish sufficient controls to prevent incorrect costs from being reported under the newly established RDS program. BCBSMA included gross retiree costs for retirees who were not qualifying covered retirees for all or a portion of plan year 2006. As a result, BCBSMA overstated its gross retiree costs reported to CMS. Using a judgmental sample that contained retirees at high risk of having overstated costs, we found that BCBSMA had overstated costs by \$12,798 for 6 of the 50 retirees sampled.

In addition, BCBSMA did not establish adequate administrative safeguards over retiree data. Specifically, BCBSMA did not revoke a former employee's access to RDS information. As a result, the confidentiality, integrity, and availability of electronic protected health information could be diminished. This lack of administrative safeguards was due to management oversight.

## **RECOMMENDATIONS**

We recommend that BCBSMA:

- revise its 2006 plan year cost report at reconciliation to eliminate the \$12,798 in overstated gross retiree costs for the six retirees that we identified,
- work with its vendor to ensure that all costs that its vendor submitted to CMS for plan year 2006 were incurred for qualifying covered retirees within both the retiree's plan coverage dates and the subsidy period approved by CMS,
- establish procedures to ensure that costs that its vendor submits in future years are incurred for qualifying covered retirees within both the retiree's plan coverage dates and the subsidy period approved by CMS, and
- follow CMS procedures to ensure that only eligible employees have access to the RDS secure Web site.

## **AUDITEE'S COMMENTS**

In its written comments on our draft report, BCBSMA agreed with our findings and recommendations. We have included BCBSMA's comments in their entirety in the Appendix.

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## INTRODUCTION

### BACKGROUND

#### Retiree Drug Subsidy

Section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) established a Retiree Drug Subsidy (RDS) program effective January 1, 2006. Under the program, the Centers for Medicare & Medicaid Services (CMS) makes subsidy payments to sponsors (employers and unions) of qualified retiree prescription drug plans for each qualifying retiree covered under the plan.

The subsidy payments for each qualifying covered retiree generally equal 28 percent of allowable retiree drug costs. The allowable retiree drug costs are based on gross retiree costs between a cost threshold and a cost limit, minus any price concessions such as discounts or rebates.

#### Plan Sponsor Requirements

Medicare requires that the sponsor of a qualified retiree prescription drug plan submit an RDS application to CMS each year. The application must include identifying information for the plan sponsor, an actuarial attestation that the actuarial value of the retiree prescription drug coverage under the plan is at least equal to the actuarial value of the defined standard prescription drug benefit under Part D, a list of qualifying covered retirees and identifying information, and a sponsor agreement signed by an authorized representative of the plan sponsor.

#### Qualifying Covered Retirees

As part of the application process, plan sponsors must submit a list of qualifying covered retirees. The submitted list should include retiree identification information, as well as the plan sponsor's coverage effective and termination dates.<sup>1</sup> To process a retiree file, CMS queries the Medicare Beneficiary Database and determines whether each individual is a qualifying covered retiree eligible for the subsidy based on Medicare entitlement. CMS then determines the periods of time during the plan year when the retiree is eligible for the subsidy. CMS includes the subsidy effective and termination dates in the retiree response file that it returns to the plan sponsor.

CMS recommends that plan sponsors submit updated retiree files on a periodic basis to reflect (1) new retirees not reported previously, (2) updates to previously accepted retiree records, (3) deletions for previously accepted retiree records, and (4) resubmissions. Each time a plan sponsor submits an updated retiree file, CMS prepares a response file.

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<sup>1</sup>The plan sponsor's coverage effective and termination dates represent the dates that the plan sponsor provided the retiree with coverage under the qualified retiree prescription drug plan.

CMS also sends plan sponsors a notification file when an event occurs—such as a retiree’s death or enrollment in Medicare Part D—that may affect a plan sponsor’s ability to receive the subsidy for a retiree.

Plan sponsors, or their vendors, must accumulate retiree drug costs and prepare and submit cost reports to CMS before requesting subsidy payments. Plan sponsors can elect to receive interim subsidy payments based on costs reported to date. A plan sponsor receiving interim payments is required to reconcile interim subsidy payments within 15 months after the end of its plan year. CMS will make any necessary adjustments to interim payments for the plan year when the reconciliation is completed.

Because plan sponsors submit retiree costs to CMS on an aggregate (rather than an individual retiree) basis, plan sponsors must carefully manage retiree response and notification files to ensure that costs are accumulated only for qualifying covered retirees during valid subsidy periods.

### **Retiree Drug Subsidy Secure Web Site**

CMS, through its contractor ViPS, Inc., created the RDS secure Web site as a secure portal for plan sponsors participating in the subsidy program to submit RDS applications and requests for payment. Plan sponsor personnel requiring access to the secure Web site are assigned roles, including authorized representative, account manager, actuary, and designee. The authorized representative or account manager can assign designees various duties including completing portions of the RDS application, submitting retiree data, and requesting subsidy payments.

### **Blue Cross Blue Shield of Massachusetts**

Blue Cross Blue Shield of Massachusetts, Inc., (BCBSMA) is a not-for-profit health care company headquartered in Boston, Massachusetts. Through its benefits department, BCBSMA offers prescription drug coverage to its retired employees.

BCBSMA creates retiree lists using information from its medical plan enrollment file. BCBSMA’s outside vendor then downloads information from the medical plan enrollment file to accumulate retiree costs and to prepare and submit cost reports to CMS on BCBSMA’s behalf. BCBSMA submitted a list of 1,039 retirees with its plan year 2006 application and received approximately \$460,000 in plan year 2006 interim subsidy payments based on reported gross retiree drug costs of approximately \$2.2 million and allowable retiree costs of approximately \$1.6 million. BCBSMA must reconcile its plan year 2006 interim subsidy payments by March 31, 2008.

## **OBJECTIVES, SCOPE, AND METHODOLOGY**

### **Objectives**

The objectives of our review were to determine whether BCBSMA (1) met the requirements to be a plan sponsor, (2) established controls to ensure that drug subsidy costs were correctly reported, and (3) established administrative safeguards over retiree data included in the RDS secure Web site.

### **Scope**

We reviewed BCBSMA's plan year 2006 RDS application, retiree lists, retiree response and notification files, and cost reports. Our review was limited to determining whether BCBSMA reported drug costs for qualifying covered retirees. We will perform a separate review to determine the allowability of the drug costs reported. We also reviewed the RDS secure Web site users associated with BCBSMA's applications for plan years 2006 and 2007.

Our objectives did not require an understanding or assessment of the complete internal control system at BCBSMA. We limited our review of internal controls to obtaining an understanding of BCBSMA's process for monitoring and updating its retiree files and coordinating with its outside vendor to ensure that costs claimed for subsidy payments represent costs for qualifying covered retirees.

We performed our field work at BCBSMA's office in Boston, Massachusetts, from April through November 2007.

### **Methodology**

To accomplish our objectives, we:

- reviewed applicable laws, regulations, Medicare program guidance, and the American Academy of Actuaries' (AAA) guidance;
- met with BCBSMA's actuary and reviewed his working papers to verify that the actuary had completed and submitted the attestation in accordance with CMS and AAA guidance;
- reviewed BCBSMA's notice of creditable coverage sent to Part D eligible retirees for the period beginning January 1, 2006;
- reviewed BCBSMA's 2006 plan year RDS application to determine whether the information provided was complete, accurate, and submitted to CMS by the October 31, 2005, deadline and to verify that the application was approved;

- reviewed BCBSMA's medical plan enrollment file along with the 2 response files and the 35 notification files to select a judgmental sample of 50 plan year 2006 retirees based on whether they were accepted or rejected for the subsidy or had a change in status;
- reviewed information from the Medicare Beneficiary Database to determine whether the sampled retirees were Medicare eligible, Part D eligible, and not enrolled in a Part D prescription drug plan;
- reviewed documentation provided by BCBSMA to determine if the sampled retirees met BCBSMA's criteria for retiree health coverage and were enrolled in a retiree health plan approved for the RDS;
- met with BCBSMA personnel responsible for the RDS process to obtain an understanding of the application process and their procedures for submitting retiree files to CMS and processing retiree response and notification files received from CMS;
- reviewed BCBSMA's plan year 2006 enrollment files to determine actions that the plan sponsor had taken to remove unqualified retirees from the RDS program;
- reviewed BCBSMA's plan year 2007 retiree, retiree response, and enrollment files to determine actions taken by the plan sponsor to cancel or remove unqualified retirees from future plan year submissions;
- reviewed plan year 2006 interim cost reports submitted by BCBSMA's vendor in January and April 2007 to determine the costs submitted for the 50 sampled retirees; and
- identified BCBSMA's secure Web site users for the 2006 and 2007 plan years' applications and determined whether the users were assigned and registered in accordance with program policies.

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

## **FINDINGS AND RECOMMENDATIONS**

BCBSMA's employment-based retiree health coverage met the requirements to be considered a qualified retiree prescription drug plan. However, BCBSMA did not establish sufficient controls to prevent incorrect costs from being reported under the newly established RDS program. BCBSMA included gross retiree costs for retirees who

were not qualifying covered retirees for all or a portion of plan year 2006. As a result, BCBSMA overstated its gross retiree costs reported to CMS. Using a judgmental sample that contained retirees at high risk of having overstated costs, we found that BCBSMA had overstated costs by \$12,798 for 6 of the 50 retirees sampled.

In addition, BCBSMA did not establish adequate administrative safeguards over retiree data. Specifically, BCBSMA did not revoke a former employee's access to RDS information. As a result, the confidentiality, integrity, and availability of electronic protected health information could be diminished. This lack of administrative safeguards was due to management oversight.

## **QUALIFIED RETIREE PRESCRIPTION DRUG PLANS**

### **Federal Requirements**

Pursuant to 42 CFR § 423.884, employment-based retiree health coverage is considered to be a qualified retiree prescription drug plan if:

- the plan provides CMS with an attestation that the actuarial value of the retiree prescription drug coverage under the plan is at least equal to the actuarial value of the defined standard prescription drug benefit under Part D and
- Part D eligible individuals covered under the plan are provided with appropriate notification regarding creditable drug coverage.

Pursuant to 42 CFR § 423.884(c), the sponsor of a qualified retiree prescription drug plan must submit an application for the retiree drug subsidy to CMS each year. The application must include identifying information for the plan sponsor, an actuarial attestation, a list of qualifying covered retirees and identifying information, and a sponsor agreement signed by an authorized representative of the plan sponsor. For plan years ending in 2006, the application deadline was October 31, 2005.

### **Results of Review of Plan Sponsor Requirements**

BCBSMA's employment-based retiree health coverage met the requirements to be considered a qualified retiree prescription drug plan under the RDS program. Our review of BCBSMA's application shows that all requirements were met on a timely basis and that BCBSMA was accepted by CMS as a sponsor of a qualified retiree prescription drug plan eligible for subsidy payments.

## **QUALIFYING COVERED RETIREES**

### **Federal Requirements**

Pursuant to 42 CFR § 423.882, a qualifying covered retiree is a Part D eligible individual who is not enrolled in a Part D plan but who is covered by a qualified retiree prescription

drug plan. Eligible plan sponsors receive subsidy payments for each qualifying covered retiree's prescription drug costs.

The retiree response files that CMS returns to the plan sponsor indicate the subsidy period dates for which a retiree has been approved. CMS instructions published on the RDS secure Web site on August 30, 2005, state that plan sponsors need to check subsidy period dates in the response file to determine the time period for which the subsidy can be claimed.

### **Results of Review of Qualifying Covered Retirees**

Using a judgmental sample that contained retirees at high risk of having overstated costs, we found that all 50 sampled retirees met BCBSMA's criteria for and were enrolled in one of the benefit plans included in its plan sponsor application. However, six of the sampled retirees who incurred prescription drug costs were not qualifying covered retirees at the time the costs were incurred because they were enrolled in a Part D prescription drug plan. As a result, BCBSMA, through its vendor, overstated its reported gross retiree costs by \$12,798.

### **Adequate Controls Not Established During First Year of Program**

BCBSMA did not establish adequate controls to prevent incorrect costs from being reported under the newly implemented RDS program. Specifically, it did not routinely process response and notification files that it received from CMS. In addition, BCBSMA, through its vendor, reported plan year 2006 costs based only on the coverage effective and termination dates on the enrollment file. It did not also consider the subsidy effective and termination dates. As a result, each overstated amount was for costs incurred during the retiree's plan coverage dates but outside of the subsidy period approved by CMS.

We acknowledge that, because plan year 2006 was the initial year for the retiree drug subsidy, CMS continued to develop program policies throughout the plan year in response to unanticipated developments. In addition, BCBSMA revised and improved its policies and procedures throughout the year. In plan year 2007, both BCBSMA and its vendor had procedures to more closely monitor retiree files.

## **SAFEGUARDING RETIREE DATA**

### **Data Security Requirements**

The plan sponsor agreement included with the RDS application requires sponsors to establish and implement proper safeguards against unauthorized use and disclosure of the data exchanged under the application. By signing the application, the plan sponsor certifies that its retiree group health plans have established and implemented appropriate safeguards in compliance with the Health Insurance Portability and Accountability Act (HIPPA) administrative simplification, privacy, and security rule (45 CFR Parts 160, 162,

and 164) in order to prevent unauthorized disclosure of such information or data. The sponsor also agrees that if it participates in the administration of the plans, then it has also established and implemented the same safeguards in compliance with the above HIPAA citations.

45 CFR § 164.308(a)(3)(ii)(C) requires that covered entities implement procedures terminating access to electronic protected health information when the employment of a workforce member ends.

### **Results of Review of Administrative Safeguards Over Retiree Data**

BCBSMA had not established administrative safeguards over the electronic protected health information on the RDS secure Web site. Our review of secure Web site users associated with BCBSMA's applications found that a designee established for the 2006 and 2007 plan year applications had left the company but that BCBSMA had not revoked the designee's access to the secure Web site when that individual left. During the period of our fieldwork, this individual still had access to the RDS secure web site, which contains confidential retiree information. This lack of administrative safeguards was due to management oversight.

### **Effect on Electronic Protected Health Information**

Individuals who have access to sensitive retiree information and are no longer employed by BCBSMA diminish the confidentiality, integrity, and availability of electronic protected health information.

### **RECOMMENDATIONS**

We recommend that BCBSMA:

- revise its 2006 plan year cost report at reconciliation to eliminate the \$12,798 in overstated gross retiree costs for the six retirees that we identified,
- work with its vendor to ensure that all costs that its vendor submitted to CMS for plan year 2006 were incurred for qualifying covered retirees within both the retiree's plan coverage dates and the subsidy period approved by CMS,
- establish procedures to ensure that costs that its vendor submits in future years are incurred for qualifying covered retirees within both the retiree's plan coverage dates and the subsidy period approved by CMS, and
- follow CMS procedures to ensure that only eligible employees have access to the RDS secure Web site.

## **AUDITEE'S COMMENTS**

In its written comments on our draft report, BCBSMA agreed with our findings and recommendations. BCBSMA stated that is has created a project team to review the RDS process with the goal of identifying opportunities for improvement and has established procedures for removing terminated associates as designees from the RDS secure Web site. We have included BCBSMA's comments in their entirety in the Appendix.

# **APPENDIX**



MASSACHUSETTS

January 15, 2007

Report Number: A-01-07-00603

Mr. Michael J. Armstrong  
Regional Inspector General for Audit Services  
Department of Health and Human Services, Office of Inspector General  
Office of Audit Services  
Region 1  
John F. Kennedy Federal Building, Room 2425  
Boston, MA 02203

Dear Mr. Armstrong:

Following are our written comments on the recommendations you provided in the draft report entitled "Review of Retiree Drug Subsidy Plan Sponsor Blue Cross Blue Shield of Massachusetts, Inc., for Plan Year Ended December 31, 2006."

OIG Recommendation	BCBSMA Response
Revise 2006 plan year cost report at reconciliation to eliminate the \$12,798 in overstated gross retiree costs for the six retirees identified.	Through the reconciliation process, we have been working with Express-Scripts (our pharmacy benefits manager that is facilitating the administration of the RDS) to ensure that they have an accurate list of all eligible retirees for the reconciliation period. Once we have validated that all ineligible members have been excluded, the cost reports will be generated. Claims for ineligible members that may have been included in the interim payments will therefore be excluded from the drugs costs reported in the reconciliation.
Work with vendor to ensure all costs vendor submitted to CMS for plan year 2006 were incurred for qualifying covered retirees within the subsidy period approved by CMS.	In accordance with our documented reconciliation process, we are currently working with Express-Scripts to ensure that we have an accurate and acceptable covered retiree list. The final cost reports will not be generated until the retiree list is finalized, and will only include eligible retirees approved by CMS on the Covered Retiree List (CRL). This process will be completed by the 3/31/08 deadline.
Establish procedures to ensure costs that vendor submits in future years are incurred for qualifying covered retirees within the subsidy period approved by CMS.	A project team has been created to review the RDS process with the goal of identifying opportunities for improvement. This is a cross-functional team that includes the pharmacy vendor, Express-Scripts. The team is involved in the current reconciliation process, and will use the lessons learned to identify and document improved processes to be used for future administration of the RDS and subsequent reconciliations.

OIG Recommendation	BCBSMA Response
<p>Follow CMS procedures to ensure that only eligible employees have access to the RDS secure web site.</p>	<p>Following is the process BCBSMA has developed for removing terminated associates as designees on the RDS secure web site.</p> <ol style="list-style-type: none"><li>1. BCBSMA runs a monthly audit report to determine employees who terminated employment</li><li>2. BCBSMA compares the monthly termination report against the RDS designee list</li><li>3. If an RDS designee terminates employment, the Account Manager;<ol style="list-style-type: none"><li>a. Logs onto the RDS system</li><li>b. Selects the application number</li><li>c. From Application Status selects Assign Designees</li><li>d. Selects terminated designee and continues</li><li>e. Selects the option to delete designee</li></ol></li><li>4. BCBSMA repeats step 3 for all application numbers that the designee has been assigned to.</li></ol>

If you have any questions or comments about this response, please do not hesitate to call me or contact Debra Weafer at 617-246-3402 or [Debra.Weafer@bcbsma.com](mailto:Debra.Weafer@bcbsma.com).

Sincerely,



Allen Maltz  
Chief Financial Officer