



Office of Audit Services
1100 Commerce, Room 632
Dallas, Texas 75242

June 30, 2005

Report Number A-06-03-00082

Mr. Daren Cortese
Asset Manager
Abe Briarwood Corporation and
HIS Long Term Care, Inc.
910 Ridgebrook Road
Sparks, MD 21152

Dear Mr. Cortese:

Enclosed are two copies of the Department of Health and Human Services (HHS), Office of Inspector General (OIG) report entitled "Audit of Casa De Oro's Medicaid Nursing Facility Cost Report for the Year Ended December 31, 2000." A copy of this report will be forwarded to the action official noted below for his review and any action deemed necessary.

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

In accordance with the principles of the Freedom of Information Act (5 U.S.C. § 552, as amended by Public Law 104-231), OIG reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the Department chooses to exercise. (See 45 CFR Part 5.)

To facilitate identification, please refer to report number A-06-03-00082 in all correspondence relating to this report.

Sincerely,

A handwritten signature in black ink, which appears to read "Gordon L. Sato".

Gordon L. Sato
Regional Inspector General
for Audit Services

Enclosures – as stated

Direct Reply to HHS Action Official:

Dr. James R. Farris, MD, Regional Administrator
Centers for Medicare & Medicaid Services
1301 Young Street, Room 714
Dallas, Texas 75202

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**AUDIT OF CASA DE ORO'S
MEDICAID NURSING FACILITY
COST REPORT FOR THE YEAR
ENDED DECEMBER 31, 2000**



**Daniel R. Levinson
Inspector General**

**June 2005
A-06-03-00082**

Notices

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

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

The Medicaid program, which the Federal and State Governments jointly fund, provides medical assistance to needy individuals. In New Mexico, the Human Services Department (the State agency) administers the program. We focused our review on services provided to Medicaid-eligible patients residing at Casa De Oro (Casa), a for-profit nursing facility in Las Cruces, NM.

Casa was part of a large nursing chain that was owned and operated by Integrated Health Services (IHS) during 2000. In August 2003, IHS sold hundreds of its subsidiaries to Abe Briarwood Corp. (Briarwood), including Casa and 22 other nursing facilities located in New Mexico.

State agency Medicaid regulations at the Medical Assistance Division (State regulations) describe the costs that are allowable in determining a provider's actual, allowable, and reasonable costs. The State regulations specify that costs are subject to all terms in the Medicare Provider Reimbursement Manual (Medicare manual) that are not modified by State regulations (applicable Medicare requirements). The State agency requires Medicaid providers to report these costs in annual cost reports, which are used to establish facility-specific rates. The State agency used Casa's Medicaid cost report (cost report) for the fiscal year ended December 31, 2000 (FY 2000), to compute reimbursement rates for claims paid from July 1, 2001, until June 30, 2004.

OBJECTIVE

The objective of our audit was to determine whether costs reported in Casa's FY 2000 cost report were allowable and in accordance with applicable Federal and State agency requirements.

SUMMARY OF FINDINGS

Our review disclosed that Casa claimed \$103,665 in costs that were unallowable under the State regulations and applicable Medicare requirements. Casa claimed:

- \$69,304 for IHS management fees that included (1) unallowable reorganization costs, (2) unsupported costs, or (3) duplicate costs that were audited and identified by the Medicare fiscal intermediary, CareFirst of Maryland, Inc. (CareFirst);
- \$21,758 for related-company charges that were not reduced to cost or the price of comparable services purchased elsewhere; and
- \$12,603 for costs that were unsupported, unallowable lobbying and gifts, not patient related, or not incurred.

Casa and IHS did not have sufficient internal controls and procedures in place to ensure compliance with State regulations and applicable Medicare requirements. As a result, Casa overstated its FY 2000 cost report by \$103,665, and reimbursement rates based on the cost report were overstated during the 3-year period ended June 30, 2004.

RECOMMENDATION

We are recommending that Briarwood submit a revised FY 2000 cost report for Casa that reduces costs by \$103,665 in unallowable costs so the State can recover Medicaid overpayments for the 3-year period ended June 30, 2004.

AUDITEE COMMENTS

We issued a draft report to a Briarwood representative who informed us written comments would be provided. The representative indicated Briarwood did not disagree with the findings other than with immaterial differences in the amounts reported. After additional time was granted to provide a written response, Briarwood chose not to provide written comments on the report.

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INTRODUCTION

BACKGROUND

Medicaid Program

Title XIX of the Social Security Act authorizes Federal grants to States for Medicaid programs that provide medical assistance to needy individuals. Each State administers its Medicaid program in accordance with a State plan approved by the Centers for Medicare & Medicaid Services. Although States have considerable flexibility in plan design and program operation, they must comply with broad Federal requirements.

In New Mexico, the Human Services Department (the State agency) administers the program. The State agency requires that Medicaid providers report costs in annual cost reports that are used to establish facility-specific rates. We focused our review on services provided to Medicaid-eligible patients residing at Casa De Oro (Casa), a for-profit nursing facility in Las Cruces, NM. The State agency used Casa's Medicaid cost report (cost report) for the fiscal year ended December 31, 2000 (FY 2000), to compute reimbursement rates for claims paid from July 1, 2001, until June 30, 2004.

State agency Medicaid regulations at the Medical Assistance Division (State regulations) at 95-39, section 731.D, describe the costs that are allowable in determining a provider's actual, allowable, and reasonable costs. The State regulations specify that costs are subject to all terms in the Medicare Provider Reimbursement Manual (Medicare manual) that are not modified by State regulations (applicable Medicare requirements).

Auditee Operations

Casa provides services to resident patients who are Medicaid-eligible. Casa was part of a large nursing chain that was owned and operated by Integrated Health Services (IHS) during FY 2000. On February 2, 2000, IHS and substantially all of its subsidiaries, including Casa, filed for reorganization under Chapter 11 of the U.S. Bankruptcy Code, and continued to operate as debtors-in-possession through August 2003. Shortly before the bankruptcy finalization in August 2003, IHS sold hundreds of its subsidiaries to Abe Briarwood Corp. (Briarwood). This included Casa and 22 other nursing facilities in New Mexico.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objective of our audit was to determine whether costs reported in Casa's FY 2000 cost report were allowable and in accordance with applicable Federal and State agency requirements.

Scope

We reviewed costs reported in Casa's FY 2000 cost report, which was the company's base year cost report.

Methodology

To meet this objective, we:

- gained a general understanding of payroll, invoicing, and cost reporting processes;
- interviewed Briarwood representatives regarding Casa and IHS operations, cost reporting, and bankruptcy issues;
- tested the allowability of \$1,120,008 of \$5,482,781 in Casa costs reported for FY 2000;
- reviewed the IHS Medicare home office cost statement (FY 2000 cost statement) used to allocate IHS management fees to Casa's cost report for FY 2000;
- reviewed additional IHS home office supporting documentation submitted by a Briarwood representative;
- reviewed audit adjustments of the Medicare fiscal intermediary, CareFirst of Maryland, Inc. (CareFirst) and supporting documentation for its audit of IHS' FY 2000 cost statement;
- identified unallowable IHS management fees by comparing the amount allocated to Casa per IHS' FY 2000 cost statement (1) as initially submitted by IHS, and (2) as adjusted by CareFirst, net of unallowable costs;
- interviewed CareFirst officials who audited IHS's FY 2000 cost statement; and
- interviewed a State agency official regarding application of regulations, Casa's cost reporting, and cost reporting for other former IHS facilities located in New Mexico.

We relied on the audit work of CareFirst.

Our fieldwork was conducted at the offices of Trans Health Management Inc., where the Casa records were located in Sparks, MD. We conducted our audit in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

Our review disclosed that Casa claimed \$103,665 in costs that were unallowable under the State regulations and applicable Medicare requirements. Casa claimed: (1) \$69,304 for IHS management fees relating to unallowable reorganization, unsupported, or duplicate costs that were identified by CareFirst; (2) \$21,758 for IHS (related-company) charges that were not reduced to cost or the price of comparable services purchased elsewhere; and (3) \$12,603 for costs that were unsupported, unallowable lobbying and gifts, not patient related, or not incurred.

Casa and IHS did not have sufficient internal controls and procedures in place to ensure compliance with State regulations and applicable Medicare requirements. As a result, Casa overstated its cost report by \$103,665, and reimbursement rates based on the cost report were overstated during the 3-year period ended June 30, 2004.

UNALLOWABLE MANAGEMENT FEES

The Medicare manual at section 2134.10 provides that reorganization costs are unallowable for reimbursement. Reorganization costs relate to re-creating, reestablishing, or rearranging an entity and may consist of legal or accounting fees. The costs affect, but are not limited to, an entity's ownership/equity, tax status, financial structure, debt, assets, or asset valuation, and they duplicate an entity's original organization costs. The Medicare manual states that it is not the program's intent to reimburse an entity more than once for such costs. In addition, section 2304 provides that cost information must be accurate and in sufficient detail to support payments made for services rendered.

In 2003, CareFirst identified unallowable costs (reorganization, unsupported, and duplicated costs) of \$21.8 million that had been included in IHS' FY 2000 cost statement. IHS had used the cost statement to allocate management fees to hundreds of facilities nationwide.

As a result of the unallowable costs being included in the cost statement allocations, Casa claimed IHS management fees totaling \$380,134. However, only \$310,830 was allocable to Casa after CareFirst recomputed the cost statement to exclude the unallowable costs. The difference of \$69,304 represents the portion of IHS unallowable management fees that were allocated to Casa and the amount by which Casa overstated its cost report. Thus, reimbursement rates based on the cost report were overstated during the 3-year period ended June 30, 2004.

The overstatements occurred because (1) Casa and IHS did not have sufficient internal controls and procedures in place to prevent unallowable costs from being included in the cost report, and (2) the cost report and reimbursement rates were not resubmitted or corrected once CareFirst issued its audit findings to IHS and the State agency in July 2003. Briarwood representatives stated they did not believe it was their responsibility to

resubmit the cost report¹. A State agency official said the State agency did not correct reimbursement rates because the notice did not reach staff responsible for adjusting rates.

RELATED COMPANY CHARGES NOT REDUCED TO COST

State regulations at 731.D.III.H.2 provide that purchases from related organizations shall not exceed the lower of costs to the related organization or the price of comparable services purchased elsewhere. The State regulations do not provide for any exceptions. Casa claimed \$21,758 for related-company charges that were not reduced to cost or the price of comparable services purchased elsewhere. These costs consisted of purchases from an IHS-owned subsidiary that provided radiology services to Casa.

Casa and IHS did not have sufficient internal controls and procedures in place to ensure compliance with State regulations and applicable Medicare requirements. Briarwood representatives indicated that they were unaware the State regulations did not provide for an exception to the requirement that charges be reduced to costs. The representatives said they thought an exception granted under the Federal *Medicare* program was applicable. As a result, Casa overstated its cost report by \$21,758, and reimbursement rates based on the cost report were overstated during the 3-year period ended June 30, 2004.

OTHER UNALLOWABLE COSTS

Casa claimed \$12,603 for costs that were (1) unsupported (\$10,290), (2) unallowable lobbying and gifts (\$1,507), (3) not patient-related (\$473), or (4) not incurred (\$333), as discussed below.

Unsupported Costs

The Medicare manual at section 2304 provides that cost information must be accurate and in sufficient detail to support payments made for services rendered. Casa claimed \$10,290 for costs that did not have documentation to support the purchase and/or payment of purchases. IHS and Casa did not always maintain supporting documents such as invoices. In one instance, the amount claimed did not reconcile to an invoice that contained billing for numerous facilities.

Unallowable Lobbying and Gift Costs

The Medicare manual at sections 2139 and 2105.7 provides that costs related to lobbying activities and gifts are unallowable because they do not relate to patient care and are not appropriate or necessary in developing or maintaining the operation of patient care facilities or activities. Casa claimed \$1,217 for lobbying costs and \$290 for gifts in its cost report. According to a Briarwood representative, there were several items, identified

¹ We note that there was not a State regulation that required a resubmission to correct the cost report. However, providers are required to submit cost reports that do not contain unallowable, unsupported, or duplicated costs.

as gifts or marketing, that were not related to patient care and not removed due to an error. Representatives did not provide a reason for the inclusion of lobbying costs in the cost report.

Costs Not Patient Related

State regulations at 731.D.III.G.12 state that costs must be related to the provider's operation and rendered in connection with patient care. Casa claimed \$473 in costs that were not patient-related. Costs of advertising on football items and sport posters were claimed. A Briarwood representative indicated that costs were not removed due to an error in which the community relations account was not removed. Another item was not removed because it was misclassified into the transportation account.

Costs Not Incurred

The Medicare manual at section 2304 provides that cost information must be accurate and in sufficient detail to support payments made for services rendered. Casa claimed \$333 for costs that were not incurred. Casa reimbursed a former employee who paid for health club dues for various employees. Casa later collected the costs through employee payroll deductions but did not adjust the expense account for these reimbursements.

As a result, Casa overstated its cost report by \$12,603. In addition, the reimbursement rates that were based on the cost report were overstated during the 3-year period ended June 30, 2004.

RECOMMENDATION

We recommend that Briarwood submit a revised FY 2000 cost report for Casa that reduces costs by \$103,665 in unallowable costs so the State can recover Medicaid overpayments for the 3-year period ended June 30, 2004.

AUDITEE COMMENTS

We issued a draft report to a Briarwood representative who informed us written comments would be provided. The representative indicated Briarwood did not disagree with the findings other than with immaterial differences in the amounts reported. After additional time was granted to provide a written response, Briarwood chose not to provide written comments on the report.