



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office Of Inspector General
Office Of Audit Services

March 27, 2009

Region II
Jacob K. Javits Federal Building
26 Federal Plaza
New York, NY 10278

Report Number: A-02-08-01003

Ms. Suzanne Gannon
Chief Financial Officer
HealthNow New York, Inc.
257 West Genesee Street
Buffalo, New York 14202

Dear Ms. Gannon:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Audit of HealthNow New York, Inc.'s, Medicare Part B Final Administrative Cost Proposals for Fiscal Years 2005 Through 2007." 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 Freedom of Information Act, 5 U.S.C. § 552, OIG reports generally are made available to the public to the extent the information in the report is not subject to exemptions in the Act. Accordingly, this report 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 Richard Schlitt, Audit Manager, at (212) 264-4817 or through e-mail at Richard.Schlitt@oig.hhs.gov. Please refer to report number A-02-08-01003 in all correspondence.

Sincerely,

A handwritten signature in cursive script that reads "James P. Edert".

James P. Edert
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Ms. Nanette Foster Reilly, Consortium Administrator
Consortium for Financial Management & Fee for Service Operations
Centers for Medicare & Medicaid Services
601 East 12th Street, Room 235
Kansas City, Missouri 64106

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**AUDIT OF HEALTHNOW NEW
YORK, INC.'S, MEDICARE PART B
FINAL ADMINISTRATIVE COST
PROPOSALS FOR FISCAL YEARS
2005 THROUGH 2007**



Daniel R. Levinson
Inspector General

March 2009
A-02-08-01003

Office of Inspector General

<http://oig.hhs.gov>

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Department of Health and Human Services

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INSPECTOR GENERAL**

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THIS REPORT IS AVAILABLE TO THE PUBLIC

at <http://oig.hhs.gov>

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

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

EXECUTIVE SUMMARY

BACKGROUND

Title XVIII of the Social Security Act established the Medicare Program. The Centers for Medicare & Medicaid Services (CMS) administers the Medicare program through contractors, including Part B Carriers that process and pay Medicare claims. Contracts between CMS and the Medicare contractors define the functions to be performed and provide for the reimbursement of allowable administrative costs incurred in the processing of Medicare claims.

Following the close of each fiscal year (FY), contractors submit to CMS a Final Administrative Cost Proposal (cost proposal), which reports the Medicare administrative costs incurred during the year. The cost proposal and supporting data provide the basis for the CMS contracting officer and contractor to negotiate a final settlement of allowable administrative costs.

For FYs 2005 through 2007, CMS contracted with HealthNow New York, Inc. (HealthNow) to serve as the Medicare Part B carrier for 45 counties in upstate New York. HealthNow reported Medicare Part B administrative costs totaling \$57,057,532 in its cost proposals for FYs 2005 through 2007.

OBJECTIVES

Our objectives were to determine whether (1) the HealthNow cost proposals for FYs 2005 through 2007 presented fairly the costs of program administration and (2) the costs were reasonable, allowable and allocable in accordance with Federal Acquisition Regulations (FAR) and the Medicare contract provisions.

SUMMARY OF FINDINGS

HealthNow's reported expenditures in its FYs 2005 through 2007 cost proposals substantially complied with the FAR and the Medicare contract provisions. However, HealthNow overstated its FYs 2005 through 2007 cost proposals by \$49,393. Specifically, HealthNow reported unallowable costs totaling \$50,979 – unsupported subcontract and outside professional services costs (\$44,209), overstated travel costs (\$4,370), and overstated depreciation costs (\$2,400). HealthNow also understated its return on investment by \$1,586.

RECOMMENDATION

We recommend that HealthNow decrease its cost proposals by \$49,393 (\$23,513 for FY 2005; \$11,601 for FY 2006; and \$14,279 for FY 2007) to reflect the unallowable administrative costs.

HEALTHNOW'S COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, HealthNow generally agreed with our recommendation. HealthNow indicated that it will adjust its cost proposals upon direction from CMS for the overstated travel and depreciation costs and the understated return on investment. However,

HealthNow indicated that it obtained additional documentation to support the subcontract and outside professional services costs and will provide the documentation to CMS. HealthNow's comments appear in their entirety as Appendix D.

After reviewing HealthNow's comments, we continue to recommend that HealthNow decrease its cost proposals by \$49,393 to reflect the unallowable administrative costs pending submission of adequate supporting documentation to CMS for subcontract and outside professional services costs.

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INTRODUCTION

BACKGROUND

Title XVIII of the Social Security Act established the Medicare Program. The Centers for Medicare & Medicaid Services (CMS) administers the Medicare program through contractors, including Part B Carriers that process and pay Medicare claims. Contracts between CMS and the Medicare contractors define the functions to be performed and provide for the reimbursement of allowable administrative costs incurred in the processing of Medicare claims.

Following the close of each fiscal year (FY), contractors submit to CMS a Final Administrative Cost Proposal (cost proposal), which reports the Medicare administrative costs incurred during the year. The cost proposal and supporting data provide the basis for the CMS contracting officer and contractor to negotiate a final settlement of allowable administrative costs.

During the audit period (FYs 2005 through 2007), CMS contracted with HealthNow New York, Inc. (HealthNow) to serve as the Medicare Part B carrier for 45 counties in upstate New York.¹ HealthNow reported Medicare Part B administrative costs totaling \$57,057,532 in its cost proposals for FYs 2005 through 2007.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

Our objectives were to determine whether (1) the HealthNow cost proposals for FYs 2005 through 2007 presented fairly the costs of program administration and (2) the costs were reasonable, allowable and allocable in accordance with Federal Acquisition Regulations (FAR) and the Medicare contract provisions.

Scope

Our review covered the period October 1, 2004, through September 30, 2007 (FYs 2005 through 2007). For this period, HealthNow reported Medicare Part B administrative costs totaling \$57,057,532. These costs included pension costs of \$935,642 that we excluded from this review because they will be the subject of a separate audit. HealthNow did not report any forward-funding costs in its cost proposals for this period. We reviewed only those internal controls necessary to achieve our objectives.

We conducted fieldwork at HealthNow's offices in Buffalo and Binghamton, New York from April through July 2008.

¹Upstate Medicare Division, a division of HealthNow, processed the Part B claims.

Methodology

To accomplish the objectives, we:

- reviewed applicable Medicare laws, regulations, and guidelines and HealthNow's contract with CMS;
- reviewed HealthNow's independent auditor's reports and letters related to internal controls for HealthNow for FYs 2005 through 2007;
- reviewed HealthNow's external audit reports, including a prior OIG report,² for FYs 2000 through 2004;
- reconciled expenses on the cost proposals and cost classification reports to HealthNow's accounting records;
- tested costs for reasonableness, allowability and allocability;
- selected and reviewed a judgmental sample of journal entries, invoices, expense vouchers and reports, contracts and agreements, and additional supporting documentation;
- interviewed HealthNow officials regarding the cost accumulation processes for cost proposals and cost allocation systems;
- reviewed payroll journals, corporate bonus plans, and personnel records; and
- selected a judgmental sample of 30 individual employees and verified that the amount paid to each employee was in accordance with the employee's pay rate, the employee's salary was charged to the correct cost center, and the number of hours paid to the employee agreed with the employee's time sheets.

In addition, for the top five executive salaries allocated to Medicare, we:

- reviewed total compensation payout data and supporting documentation for FYs 2005 through 2007;
- compared executive compensation costs to benchmark amounts published in the Federal Register for FYs 2005 through 2007; and
- applied the Medicare allocation percentage to each executive's total compensation, up to the benchmark amount, to determine the allowable executive compensation amount.

²"Review of Medicare Part B Administrative Costs Claimed by HealthNow New York, Inc. for the Period October 1, 1999, Through September 30, 2002" (Report Number: A-02-03-01012).

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 RECOMMENDATION

HealthNow's reported expenditures in its FYs 2005 through 2007 cost proposals substantially complied with the FAR and the Medicare contract provisions. However, HealthNow overstated its FYs 2005 through 2007 cost proposals by \$49,393. Specifically, HealthNow reported unallowable costs totaling \$50,979 – unsupported subcontract and outside professional services costs (\$44,209), overstated travel costs (\$4,370), and overstated depreciation costs (\$2,400). HealthNow also understated its return on investment by \$1,586.

UNALLOWABLE COSTS

HealthNow reported unallowable costs, totaling \$50,979, related to subcontract and outside professional services, travel, and depreciation and use charges.

Unsupported Subcontract and Outside Professional Services Costs

Pursuant to FAR section 31.201-2(d), HealthNow is responsible for “. . . maintaining records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred, are allocable to the contract, and comply with applicable cost principles” Pursuant to chapter 2, section 190.3 of the Medicare Financial Management Manual, HealthNow must maintain records “. . . in such detail as will properly reflect all net costs, direct and indirect . . . for which reimbursement is claimed under the provisions of the agreement.”

HealthNow did not maintain adequate records to support expenditures totaling \$44,209. Therefore, these costs are unallowable for Federal reimbursement. The unsupported expenditures were included in the following cost categories:

- \$38,850 for subcontract costs that included \$20,261 in FY 2005, \$7,065 in FY 2006, and \$11,524 in FY 2007; and
- \$5,359 for outside professional services costs that included \$270 in FY 2005, \$3,541 in FY 2006, and \$1,548 in FY 2007.

Overstated Travel Costs

FAR 31.205-46 states that “. . . costs incurred for lodging, meals, and incidental expenses (as defined in the regulations cited in (a)(2)(i) through (iii) of this paragraph) shall be considered to be reasonable and allowable only to the extent that they do not exceed on a daily basis the maximum per diem rates in effect at the time of travel” The Federal Travel Regulation

(41 CFR part 300-304) implements statutory requirements and Executive branch policies for travel by Federal civilian employees and others authorized to travel at government expense.

HealthNow reported unallowable travel costs totaling \$4,370 in its FYs 2005 through 2007 cost proposals (\$3,768 in FY 2005; \$195 in FY 2006; and \$407 in FY 2007). This amount represents expenses incurred by subcontractors and outside professionals that were in excess of Federal Travel Regulation per diem rates. These costs are not allocable to the Medicare contract and are, therefore unallowable.

Overstated Depreciation Costs

Pursuant to FAR section 31.201-2(d), HealthNow is responsible for “. . . maintaining records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred, are allocable to the contract, and comply with applicable cost principles” In addition, 70 Fed. Reg. 51916 (Aug. 31, 2005) states that “the computation of depreciation or use allowances shall be based on the acquisition cost of the assets involved.”

HealthNow purchased computer equipment and recorded these costs at a higher amount than the acquisition cost due to a clerical error. HealthNow calculated a depreciation expense on this inflated cost and claimed the expense in its cost proposals. As a result, HealthNow included unallowable depreciation costs totaling \$2,400 in its cost proposals – \$800 in each cost proposal from FY 2005 through FY 2007.

UNDERSTATED RETURN ON INVESTMENT

HealthNow understated its return on investment by \$1,586 for its FY 2005 cost proposal.

Section X.A of Appendix B of the Medicare contract states:

To the extent that land and tangible depreciable assets, such as buildings, equipment and leasehold improvements, owned by the contractor are used for Medicare purposes, the cost of investment will be determined by multiplying the average undepreciated balance of such assets for the contract period by the actual rate of return of the contractor’s investment portfolio for the contract period, or a lower rate if the contractor so chooses.

HealthNow utilized a higher rate of return – the Prompt Payment Act interest rate – to calculate the return on investment amount reported on its FY 2005 cost proposal – not its investment portfolio actual rate of return for the contract period, as required under the Medicare contract.³ In addition, HealthNow made a clerical error in computing the return on investment. HealthNow used the estimated return on investment as of August 2005 instead of September 2005 to allocate the return on investment to Medicare. These errors resulted in an understatement of return on

³The Prompt Payment Act requires Executive departments and agencies to pay commercial obligations within certain time periods and to pay interest penalties when payments are late. These interest rates are published by the U.S. Department of the Treasury.

investment claimed for that year. We recalculated the cost of investment using HealthNow's investment portfolio rate and determined that an adjustment of (\$1,586) was necessary.

RECOMMENDATION

We recommend that HealthNow decrease its cost proposals by \$49,393 (\$23,513 for FY 2005; \$11,601 for FY 2006; and \$14,279 for FY 2007) to reflect the unallowable Medicare Part B costs.

HEALTHNOW'S COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, HealthNow generally agreed with our recommendation. HealthNow indicated that it will adjust its cost proposals upon direction from CMS for the overstated travel and depreciation costs and the understated return on investment. However, HealthNow indicated that it obtained additional documentation to support the subcontract and outside professional services costs and will provide the documentation to CMS. HealthNow's comments appear in their entirety as Appendix D.

After reviewing HealthNow's comments, we continue to recommend that HealthNow decrease its cost proposals by \$49,393 to reflect the unallowable administrative costs pending submission of adequate supporting documentation to CMS for subcontract and outside professional services costs.

APPENDIXES

APPENDIX A

**FINAL ADMINISTRATIVE COST PROPOSALS WITH OFFICE OF INSPECTOR
GENERAL RECOMMENDED ADJUSTMENTS**

Cost Category	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007	Total
Salaries/Wages	\$9,369,125	\$9,798,938	\$8,821,965	\$27,990,028
Fringe benefits	4,471,201	4,598,259	3,836,704	12,906,164
Facilities or Occupancy	1,381,391	1,722,889	1,990,545	5,094,825
EDP Equipment	492,482	892,831	1,084,677	2,469,990
Subcontracts	3,280,422	2,544,998	2,541,179	8,366,599
Outside Professional Services	128,915	431,021	168,800	728,736
Telephone and Telegraph	220,107	66,500	74,937	361,544
Postage and Express	2,050,897	1,809,768	1,127,342	4,988,007
Furniture and Equipment	507,166	641,686	671,396	1,820,248
Materials and Supplies	196,908	196,659	124,703	518,270
Travel	111,934	230,412	94,471	436,817
Return on Investment	25,407	19,245	18,851	63,503
Miscellaneous	366,824	508,312	285,456	1,160,592
Other	-	3,538	2,020	5,558
Subtotal	22,602,779	23,465,056	20,843,046	66,910,881
Other Adjustments (Credits)	(3,398,508)	(3,425,397)	(3,029,444)	(9,853,349)
Total Costs	\$19,204,271	\$20,039,659	\$17,813,602	\$57,057,532
Forward Funding	-	-	-	-
Total Costs Claimed	\$19,204,271	\$20,039,659	\$17,813,602	\$57,057,532
OIG Recommended Adjustments*	(23,513)	(11,601)	(14,279)	(49,393)
Total Adjusted Costs	\$19,180,758	\$20,028,058	\$17,799,323	\$57,008,139

*See Appendix B

OFFICE OF INSPECTOR GENERAL RECOMMENDED COST ADJUSTMENTS

Finding Category	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007	Total Part B Adjustments
Subcontracts and Outside Professional Services Costs				
Subcontracts	\$20,261	\$7,065	\$11,524	\$38,850
Outside Professional Services	270	3,541	1,548	5,359
Sub-Total	20,531	10,606	13,072	44,209
Travel Costs				
Subcontracts	3,198	195	407	3,800
Outside Professional Services	570			570
Sub-Total	3,768	195	407	4,370
Furniture and Equipment Costs				
Depreciation and Use Charges	800	800	800	2,400
Return on Investment				
	(1,586)	-	-	(1,586)
OIG Recommended Adjustments	\$23,513	\$11,601	\$14,279	\$49,393

**COMPARISON OF ADMINISTRATIVE COSTS CLAIMED TO
BUDGET AUTHORIZATION
FISCAL YEAR 2005**

<u>Operation</u>	<u>Budget Authorization</u>	<u>Administrative Costs Claimed</u>	<u>Variance Favorable (Unfavorable)</u>
<u>Program Management</u>			
Bills/Claims Payment	\$12,466,700	\$12,939,960	(\$473,260)
Appeals/Reviews	2,068,300	2,069,127	(827)
Beneficiary Inquiries	1,436,500	1,283,305	153,195
PM Provider			
Communications	133,000	91,517	41,483
Participating Physician	50,900	42,022	8,878
Productivity Investments	38,500	36,287	2,213
Provider/Supplier			
Enrollment	1,059,800	1,086,953	(27,153)
Provider Inquiries	1,711,700	1,564,511	147,189
Credits	(3,200,000)	(3,398,508)	198,508
Subtotal	15,765,400	15,715,174	50,226
<u>Medicare Integrity</u>			
<u>Program</u>			
Medical Review	1,470,100	1,345,880	124,220
MSP - Prepayment	176,100	171,942	4,158
Benefit Integrity	55,000	47,474	7,526
Local PET	360,000	278,654	81,346
Provider Communications	473,000	444,795	28,205
MIP Productivity Investment	-	-	-
MSP – Post Payment	881,300	864,054	17,246
Subtotal	3,415,500	3,152,799	262,701
<u>MMA Regulatory Reform</u>	423,400	336,298	87,102
Total	\$19,604,300	\$19,204,271	\$400,029

Note: All amounts were taken from Final Administrative Cost Proposal (Supplement No. 9) and Notice of Budget Approval (Supplement No. 11)

**COMPARISON OF ADMINISTRATIVE COSTS CLAIMED TO
BUDGET AUTHORIZATION
FISCAL YEAR 2006**

<u>Operation</u>	<u>Budget Authorization</u>	<u>Administrative Costs Claimed</u>	<u>Variance Favorable (Unfavorable)</u>
<u>Program Management</u>			
Bills/Claims Payment	\$13,201,200	\$13,630,784	(\$429,584)
Appeals/Reviews	1,968,400	1,757,120	211,280
Beneficiary Inquiries	1,326,600	1,338,775	(12,175)
PM Provider			
Communications	276,500	326,565	(50,065)
Participating Physician	50,900	44,966	5,934
Productivity Investments	63,400	-	63,400
Provider/Supplier			
Enrollment	1,116,800	1,126,922	(10,122)
Provider Inquiries	1,851,300	1,933,105	(81,805)
Credits	(3,046,800)	(3,425,397)	378,597
Subtotal	16,808,300	16,732,840	75,460
<u>Medicare Integrity</u>			
Medical Review	1,415,000	1,425,751	(10,751)
MSP - Prepayment	199,500	200,626	(1,126)
Benefit Integrity	40,000	41,049	(1,049)
Local PET	295,000	291,150	3,850
Provider Communications	551,900	571,880	(19,980)
MIP Productivity Investment	18,000	13,565	4,435
MSP – Post Payment	856,900	762,798	94,102
MIP – Prov. Outreach and Educ.	-	-	-
Subtotal	3,376,300	3,306,819	69,481
Totals	\$20,184,600	\$20,039,659	\$144,941

Note: All amounts were taken from Final Administrative Cost Proposal (Supplement No. 4) and Notice of Budget Approval (Supplement No. 21)

**COMPARISON OF ADMINISTRATIVE COSTS CLAIMED TO
BUDGET AUTHORIZATION
FISCAL YEAR 2007**

<u>Operation</u>	<u>Budget Authorization</u>	<u>Administrative Costs Claimed</u>	<u>Variance Favorable (Unfavorable)</u>
<u>Program Management</u>			
Bills/Claims Payment	\$12,654,300	\$12,244,662	\$ 409,638
Appeals/Reviews	1,899,900	1,880,764	19,136
Beneficiary Inquiries	1,073,100	887,355	185,745
PM Provider Communications	-	-	-
Participating Physician	50,900	31,283	19,617
Productivity Investments	-	-	-
Provider/Supplier Enrollment	1,438,000	1,461,164	(23,164)
Provider Inquiries	1,684,900	1,692,533	(7,633)
Provider Outreach and Educ.	221,400	202,093	19,307
Credits	(3,253,900)	(3,029,444)	(224,456)
Subtotal	<u>\$15,768,600</u>	<u>\$15,370,410</u>	<u>\$398,190</u>
<u>Medicare Integrity</u>			
Medical Review	1,520,000	1,462,072	57,928
MSP - Prepayment	220,600	209,568	11,032
Benefit Integrity	52,000	37,399	14,601
Local Provider Education and Training	-	-	-
Provider Communications	-	-	-
MIP Prod Investment	-	-	-
MSP – Post Payment	250,900	236,107	14,793
MIP – Prov. Outreach and Educ.	590,000	498,046	91,954
Subtotal	<u>2,633,500</u>	<u>2,443,192</u>	<u>190,308</u>
Totals	<u>\$18,402,100</u>	<u>\$17,813,602</u>	<u>\$588,498</u>

Note: All amounts were taken from Final Administrative Cost Proposal (Supplement No. 2) and Notice of Budget Approval (Supplement No. 7)



257 W. Genesee St., Buffalo, New York 14202

March 6, 2009

Mr. James P. Edert
 Regional Inspector General, Office of Audit Services
 Region II
 Jacob K. Javits Federal Building
 26 Federal Plaza
 New York, NY 10278

Re: Common Identification Number: A-02-08-01003

Dear Mr. Edert:

This letter is in response to the U.S. Department of Health & Human Services, Office of Inspector General, Office of Audit Services' draft report entitled "AUDIT OF HEALTHNOW NEW YORK'S MEDICARE PAT B ADMINISTRATIVE COST PROPOSALS FOR FISCAL YEARS 2005 THROUGH 2007." HealthNow New York Inc. (HealthNow) has reviewed the draft report. Following are comments regarding the specific findings.

Unallowable Cost:**Unsupported Subcontract & Outside Professional Services Cost:**

Since the issuance of the draft audit report, HealthNow has obtained additional documentation to support the expenditures claimed on the FACP's for FY 2005 – FY 2007. This documentation will be provided to CMS during negotiations.

Overstated Travel Costs:

HealthNow agrees to this finding. HealthNow is willing to make manual entries and re-submit the FY 2005 thru FY 2007 FACP's upon direction from CMS or address the unallowable cost in the settlement agreement.

Overstated Depreciation Costs:

HealthNow agrees that the FY 2005 thru FY 2007 FACP's were overstated by \$2,400 - \$800 for each FY due to a clerical error. HealthNow is willing to make manual entries and re-submit the FACP upon direction from CMS or address the unallowable cost in the settlement agreement.

Understated Return on Investment:

HealthNow agrees that the FY 2005 FACP was understated by \$1,586. HealthNow is willing to make manual entries and re-submit the FACP upon direction from CMS or address the issue in the settlement agreement.

HealthNow would like to thank the audit team for their professionalism and recognition of the ongoing operation during the audit.

If you have any questions please contact me at 716.887.6922.

Sincerely,

Suzanne M. Gannon
 Executive Director & CFO, Medicare Operation
 MedUS Services, LLC
 HealthNow New York Inc.

CC: Carmen L. Snell, Esq.
 Catherine M. Campbell, SVP Government Programs