

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**AUDIT OF MEDICARE PART D  
PHARMACY FEES: GEISINGER HEALTH  
SYSTEMS, INC.**

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Gloria L. Jarmon  
Deputy Inspector General  
for Audit Services

October 2019  
A-03-18-00006

# *Office of Inspector General*

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## Report in Brief

Date: October 2019

Report No. A-03-18-00006

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES  
**OFFICE OF INSPECTOR GENERAL**



### Why OIG Did This Audit

Medicare Part D is an optional program to help Medicare beneficiaries pay for prescription drugs. For drugs dispensed to Part D beneficiaries, Part D prescription drug plan sponsors may receive direct and indirect remuneration (DIR), which consists of rebates, subsidies, or other price concessions that decrease the costs that a sponsor incurs for a Part D drug. Part D sponsors or their pharmacy benefit managers (PBMs) may negotiate with pharmacies to charge various fees, and these fees are included as DIR. Part D sponsors are required to report their DIR to the Centers for Medicare & Medicaid Services (CMS) each year.

Our objective was to determine whether Geisinger Health Systems, Inc., complied with Federal requirements for reporting pharmacy fees in its Summary DIR Reports.

### How OIG Did This Audit

We reviewed Geisinger's Summary DIR reports for contract years (CYs) 2013 through 2016 to determine whether Geisinger complied with Federal requirements for reporting pharmacy fees. We reviewed Geisinger's contracts with its PBM, MedImpact, as well as contracts Geisinger and MedImpact had with pharmacies. We reviewed point-of-sale fees totaling \$469,850 collected by MedImpact for CYs 2013, 2014, and 2015.

## Audit of Medicare Part D Pharmacy Fees: Geisinger Health Systems, Inc.

### What OIG Found

During CYs 2013, 2014, and 2015, Geisinger did not report point-of-sale fees that MedImpact charged to pharmacies. MedImpact received point-of-sale fees totaling \$149,199 for CY 2013, \$167,798 for CY 2014, and \$152,853 for CY 2015, but Geisinger did not report the fees in its Summary DIR Reports. MedImpact did not have point-of-sale fees on Geisinger's Part D claims in 2016. Geisinger stated that the point-of-sale fees were not reported because of an unintentional oversight.

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 requires that CMS calculate the difference between the prospective payments received by a sponsor and the actual allowable costs incurred. The allowable costs are generally payments that the sponsor makes for covered drugs less certain subsidy amounts and reported DIR. Because Geisinger understated its CY 2013, 2014, and 2015 DIR amounts, CMS used allowable costs that were overstated by \$469,850 to make its final payment determination for these 3 years.

### What OIG Recommends and Geisinger's Comments

We recommend that Geisinger refile its DIR reports for CYs 2013, 2014, and 2015 to report the unreported point-of-sale fees (\$149,199 for CY 2013, \$167,798 for CY 2014, and \$152,853 for CY 2015) received from pharmacies.

Geisinger concurred with our recommendation that it refile its DIR reports for contract years 2013 through 2015. Geisinger resubmitted DIR reports for CYs 2014 and 2015 and requested that CMS open the portal for resubmitting the DIR report for CY 2013; that request is still under review by CMS.

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## INTRODUCTION

### WHY WE DID THIS AUDIT

Medicare Part D is an optional program to help Medicare beneficiaries pay for prescription drugs. For drugs dispensed to Part D beneficiaries, Part D prescription drug plan sponsors may receive direct and indirect remuneration (DIR), which consists of rebates, subsidies, or other price concessions that decrease the costs that a sponsor incurs for a Part D drug (42 CFR § 423.308). Part D sponsors or their pharmacy benefit managers (PBMs) may negotiate with pharmacies to charge various fees, and these fees are included as DIR. Part D sponsors are required to report their DIR to the Centers for Medicare & Medicaid Services (CMS) each year.

As part of its oversight activities, the Office of Inspector General is conducting a series of audits to determine whether Medicare Part D sponsors correctly reported pharmacy fees.

### OBJECTIVE

Our objective was to determine whether Geisinger Health Systems, Inc. (Geisinger), complied with Federal requirements for reporting pharmacy fees in its Summary DIR Reports (DIR reports).

### BACKGROUND

#### The Medicare Part D Program

Title I of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) amended Title XVIII of the Social Security Act (the Act) by establishing the Medicare Part D prescription drug program. Under Part D, which began January 1, 2006, individuals entitled to benefits under Part A or enrolled in Part B may obtain drug coverage.

To provide prescription drug benefits under Part D, CMS contracts with private entities called sponsors that act as payers and insurers. Sponsors must provide a minimum set of prescription benefits, referred to as the basic benefit. For an additional premium, they may also offer supplemental benefits through enhanced alternative coverage. Sponsors may offer drug benefits through a stand-alone prescription drug plan or as part of a managed care plan known as a Medicare Advantage prescription drug plan.

CMS pays sponsors for Part D basic benefits through subsidy payments and a final payment reconciliation (the Act §§ 1860D-14 and -15).<sup>1</sup> CMS pays the subsidies prospectively throughout the plan year based in part on information in the sponsors' annual bid. The bid estimates the plan's allowable costs for providing drug benefits and includes the sponsor's anticipated drug costs, taking into consideration negotiated price concessions such as rebates.

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<sup>1</sup> Final payment determination is CMS's final plan payment based on the costs actually incurred by the Part D sponsor.

Under Part D, sponsors may contract with PBMs to manage or administer the drug benefit on a sponsor's behalf. Sponsors or their PBMs establish a pharmacy network and negotiate pharmacy reimbursement rates.

### **Direct and Indirect Remuneration**

DIR consists of any rebates, subsidies, or other price concessions, from any source, that decrease the costs that a sponsor incurs under the Part D plan (42 CFR § 423.308). DIR results from payment arrangements negotiated independent of CMS among Part D sponsors, PBMs, network pharmacies, drug manufacturers, and other parties involved in the administration of the Part D benefit. Manufacturer rebates comprise a significant share of all DIR reported to CMS. Other examples of DIR include incentive payments and risk-sharing arrangements with various parties (including PBMs), and concessions (such as pharmacy fees). Sponsors report DIR to CMS using the Summary DIR Report and Detailed DIR Report. Sponsors must submit a DIR report each contract year for each plan that they offer and must report DIR in accordance with CMS's annual DIR Reporting Requirements.

### **Pharmacy Payment Arrangements**

Pharmacy payment arrangements may include price concessions in the form of pharmacy fees. Pharmacy fees occur when the sponsor or its PBM receives amounts from pharmacies or makes incentive payments to pharmacies. For example, a PBM may charge a pharmacy fee for being part of the PBM's preferred networks or fees for not meeting certain performance metrics such as generic dispensing rates. The contract between a pharmacy and a sponsor or its PBM dictates the terms and timing of the concessions.

### **Reconciliation**

After the close of the plan year, CMS is responsible for calculating the final payment amount for each Part D sponsor by reconciling the prospective payments made to the sponsor to the sponsor's actual allowable costs (42 CFR § 423.343). Total prospective payments include certain CMS subsidy payments and beneficiary premiums minus administrative costs. Actual allowable costs are generally the payments that the sponsor makes for covered drugs less reported DIR.

### **Geisinger Health Systems, Inc.**

Geisinger offers medical and prescription drug insurance in commercial and Federal markets. Geisinger offers both Medicare Part C<sup>2</sup> and Part D coverage and has prescription benefit enrollees in Pennsylvania, New Jersey, and Maine. Geisinger contracts with one PBM, MedImpact HealthCare Systems, Inc. (MedImpact), which provides Geisinger with various

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<sup>2</sup> Part C, also known as Medicare Advantage, offers beneficiaries managed care options through private insurance companies that contract with CMS.

services including adjudicating and processing pharmacy claims at the point of sale and extending Geisinger's pharmacy network.<sup>3</sup>

During contract years (CYs) 2013 through 2015, MedImpact charged pharmacies a standard point-of-sale fee. The fee was generally a flat amount charged per transaction to process the pharmacy claim, but the fee amount varied by contract. MedImpact withheld the fees from future pharmacy payments rather than deducting them at the point of sale. MedImpact retained these fees from pharmacies and did not pass them on to Geisinger.

## **HOW WE CONDUCTED THIS AUDIT**

We reviewed Geisinger's DIR reports for CYs 2013 through 2016 (the audit period) to determine whether Geisinger complied with Federal requirements for reporting pharmacy fees. We reviewed Geisinger's contracts with MedImpact as well as contracts Geisinger and MedImpact had with pharmacies. We reviewed point-of-sale fees totaling \$469,850 collected by MedImpact for CYs 2013, 2014, and 2015.<sup>4</sup>

To determine whether Geisinger reported pharmacy fees in accordance with Federal requirements, we reviewed Geisinger's DIR reports submitted through the CMS Health Plan Management System (HPMS) for CYs 2013, 2014, and 2015. We also requested the DIR reports from Geisinger and reconciled them with Geisinger's DIR reports submitted to HPMS. We reviewed prescription drug event (PDE)<sup>5</sup> data records by service provider identification number, pharmacy service type, prescription count, and ingredient cost plus dispensing fees. We selected a judgmental sample of 18 pharmacies based on service type and requested the pharmacy contracts. We reviewed the pharmacy contracts to determine whether they defined terms for payments to or from pharmacies.

MedImpact reported pharmacy payment and adjustment information including point-of-sale fees to pharmacies on either a remittance advice or an Explanation of Benefits claim form (EOB). For the 18 pharmacies in our sample, we requested MedImpact provide a sample of remittance advices and EOBs. We reviewed these documents to identify point-of-sale fees. We followed up with Geisinger and MedImpact regarding contracts that had point-of-sale fees that should have been reported as DIR for CYs 2013 through 2016.

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<sup>3</sup> During CYs 2013 through 2015, Geisinger's primary pharmacy network consisted of a group of pharmacies that Geisinger directly contracted with or owned. MedImpact provided wrap pharmacy network coverage if an enrollee required medical services while outside of the Geisinger network area. In CY 2016, Geisinger contracted with MedImpact to exclusively use MedImpact's retail pharmacy network.

<sup>4</sup> MedImpact did not have point-of-sale fees on Part D claims in 2016.

<sup>5</sup> Every time a beneficiary fills a prescription covered under Part D, plans must submit a summary record called the PDE record to CMS. The PDE record contains information about the drug, the dispensing pharmacy, and cost and payment data that enables CMS to make payments to plans and otherwise administer the Part D benefit.

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.

The Appendix A contains the details of our audit scope and methodology.

## **FINDING**

For CYs 2013, 2014, and 2015, Geisinger did not report point-of-sale fees that MedImpact charged to pharmacies. For CYs 2013, 2014, and 2015 MedImpact received \$149,199, \$167,798, and \$152,853 respectively in point-of-sale fees that Geisinger did not report in its DIR reports. Because Geisinger did not report the fees, CMS used allowable costs that were overstated by \$469,850 to make its final payment determination for those 3 CYs.

### **GEISINGER DID NOT ALWAYS COMPLY WITH FEDERAL REQUIREMENTS FOR REPORTING PHARMACY FEES**

#### **Federal Regulations and Reporting Requirements**

Section 1860D-15(f)(1)(A) of the Act requires Part D sponsors to fully disclose to CMS any information necessary for carrying out Part D's payment provisions, including reinsurance and risk-sharing calculations. Each Part D sponsor is required to report to CMS its drug costs and DIR associated with the Medicare prescription drug benefit, and CMS uses these data to calculate its payments to each Part D sponsor.

Following the end of each contract year, CMS issues the final Part D DIR reporting requirements for the previous year. While the requirements are generally consistent from year to year, CMS may expand or change the reporting requirements. The DIR Summary Report is divided into multiple columns for reporting various types of DIR, and the columns sponsors used for reporting pharmacy fees changed between CY 2014 and CY 2015 and again between CY 2015 and CY 2016.<sup>6</sup>

For CYs 2013 and 2014, CMS required sponsors to report post point-of-sale administrative fees in column 5, "Price Concessions for Administrative Services." Sponsors were required to use this column to report "Applicable price concessions for administrative services that are not associated with a specific drug . . . with no portion allocated for non-Part D covered drugs." The requirements for the column also specified that "This DIR must fully accrue to the government and beneficiaries and cannot be kept by the Part D sponsor. This column must also include post point-of-sale per claim administrative fees."

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<sup>6</sup> Although the columns changed from year to year, the requirements remained the same for 2013 and 2014.

For CY 2015, CMS required sponsors to report pharmacy fees in column 9, “Other Pharmacy Incentive Payments and Adjustments.” Sponsors were required to use this column to report “any sum received from or paid to a pharmacy *after* the point-of-sale based on factors other than generic dispensing.”

For CY 2016, CMS required sponsors to report pharmacy fees in column 8, “Amounts Received from Pharmacies.” Sponsors were required to use this column to report “any sum *received* by a PBM or Part D sponsor (directly or indirectly through the PBM) from a pharmacy *after* the [point-of-sale] that is not otherwise required to be included in the negotiated price.” Sponsors were specifically required to include “any amounts received and retained by PBMs” and “per-claim administrative fees collected, not paid, by a Part D sponsor or PBM from pharmacies *after* the [point-of-sale] that are not included in the negotiated price.”

### **Geisinger Did Not Report Some Pharmacy Fees on Its Summary Direct and Indirect Remuneration Reports**

Geisinger did not report \$469,850 in point-of-sale fees received by MedImpact from contracted pharmacies. As a result, Geisinger understated its total DIR amount for CYs 2013, 2014, and 2015. MedImpact collected point-of-sale fees totaling \$149,199 for CY 2013, \$167,798 for CY 2014, and \$152,853 for CY 2015, but Geisinger did not report the fees in its DIR reports. Geisinger stated that the point-of-sale fees were not reported because of an unintentional oversight.

The MMA requires that CMS calculate the difference between the prospective payments received by a sponsor and the actual allowable costs incurred. The allowable costs are generally payments that the sponsor makes for covered drugs less reported DIR. Because Geisinger understated its CYs 2013, 2014, and 2015 DIR amounts, CMS used allowable costs that were overstated by \$469,850 to make its final payment determination for these 3 years.

### **RECOMMENDATION**

We recommend that Geisinger refile its DIR reports for CYs 2013, 2014, and 2015 to report the unreported point-of-sale fees (\$149,199 for CY 2013, \$167,798 for CY 2014, and \$152,853 for CY 2015) received from pharmacies.

### **AUDITEE COMMENTS**

Geisinger concurred with our recommendation that it refile its DIR reports for CYs 2013 through 2015. Geisinger resubmitted DIR reports for CYs 2014 and 2015 and requested that CMS open the portal for resubmitting the DIR report for CY 2013; that request is still under review by CMS.

## **APPENDIX A: AUDIT SCOPE AND METHODOLOGY**

### **SCOPE**

We reviewed Geisinger's DIR reports for CYs 2013 through 2016 to determine whether Geisinger complied with Federal requirements for reporting pharmacy fees. We selected a judgmental sample of 18 pharmacies and reviewed Geisinger's contracts with MedImpact as well as contracts Geisinger and MedImpact had with pharmacies. We reviewed point-of-sale fees totaling \$469,850 collected by MedImpact for CYs 2013, 2014, and 2015. In addition, we reviewed Geisinger's DIR reports submitted through HPMS for CYs 2013, 2014, and 2015. Finally, we requested a sample of remittance advices and EOBs from CYs 2013 through 2016 from the 18 pharmacies in our sample.

We performed our fieldwork in May 2018 at Geisinger offices located in Danville, Pennsylvania, and in June 2018 at MedImpact offices located in San Diego, California.

### **METHODOLOGY**

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and guidance pertaining to reporting DIR payments to and from pharmacies;
- reviewed Geisinger's policies and procedures for DIR reporting;
- met with Geisinger to gain an understanding of its DIR process;
- reviewed the contracts between Geisinger and MedImpact;
- met with MedImpact to gain an understanding of its claims and DIR processes;
- obtained Geisinger's DIR reports from CMS's HPMS;
- obtained and reviewed DIR reports provided by Geisinger;
- obtained DIR supporting information, which showed point-of-sale fees, that was prepared by MedImpact and provided to Geisinger for use in preparing and submitting its DIR reports;
- obtained and reviewed pharmacy audit reports completed by Geisinger and MedImpact;
- obtained and reviewed PDE records to identify dispensing pharmacy information;
- selected a judgmental sample of contracts Geisinger and MedImpact had with pharmacies; and

- reviewed MedImpact's remittance advices and EOBs for pharmacy claims.

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.

## APPENDIX B: AUDITEE COMMENTS

Geisinger Health Plan  
Pharmacy Services  
100 N. Academy Ave.  
Danville, PA 17822-5002



Attn: Nicole Freda, Regional Inspector General for Audit Services  
Office of Inspector General  
Office of Audit Services, Region III  
Strawbridge Building  
801 Market St, Suite 8500  
Philadelphia, PA 19107

Report Number: A-03-18-00006

Dear Nicole Freda,

Geisinger Health Plan concurs with the findings in the OIG audit, Pharmacy Fees for Calendar Years 2013 through 2015. During the contract years of 2013, 2014, and 2015 Geisinger managed their own pharmacy network as the primary network and contracted with MedImpact, Geisinger's claims processor, as a "wrap" network where needed. Geisinger had never retained point-of-sale fees and therefore never had a need to report them in DIR reports. POS fees reported to Geisinger by MedImpact were unintentionally missed in the DIR submission in 2013, 2014, and 2015.

Geisinger also concurs with your recommendations and has successfully resubmitted DIR reports in HPMS for contract years 2014 and 2015, on July 17, 2019. On July 22, 2019 Geisinger requested that CMS open the portal for resubmission of DIR for contract year 2013; as of August 20, 2019, that request is still under review by CMS. Geisinger will continue discussions with CMS as is necessary until contract year 2013 DIR is able to be resubmitted.

Due to a contractual change and business decision in contract year 2016 to present, MedImpact no longer collects any pos fees on Medicare Part D claims. Therefore, Geisinger feels that once 2013 DIR has been resubmitted the corrective action plan for the audit findings will have been complete and no additional changes will be required.

Sincerely,

A handwritten signature in black ink that reads "Jamie Miller".

Jamie Miller  
System Director, Pharmacy Services  
Geisinger Health Plan