

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**AUDIT OF MEDICARE PART D
PHARMACY FEES: HORIZON BLUE
CROSS BLUE SHIELD, INC.**

Notice: Information in the report has been redacted because it contains commercial, financial, or confidential information pertaining to the auditee.

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Office of Inspector General

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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.

Report in Brief

Date: September 2020
Report No. A-03-18-00007

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



Why OIG Did This Review

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 each year.

Our objective was to determine whether Horizon Blue Cross Blue Shield, Inc., complied with Federal requirements for reporting pharmacy fees in its Summary DIR Reports.

How OIG Did This Review

We reviewed Horizon's Summary DIR reports for contract years (CYs) 2013 through 2016 to determine whether Horizon complied with Federal requirements for reporting pharmacy fees. We reviewed Horizon's contracts with its PBMs as well as contracts Horizon and its PBMs had with pharmacies.

Audit of Medicare Part D Pharmacy Fees: Horizon Blue Cross Blue Shield, Inc.

What OIG Found

For CYs 2013 through 2016, Horizon complied with Federal requirements for reporting pharmacy fees in its DIR reports. For CYs 2013, 2015, and 2016, Horizon appropriately reported pharmacy fees that its PBMs charged to pharmacies. During CY 2014, Horizon's PBM did not charge pharmacy fees for Horizon claims because Horizon was not part of its preferred network.

What OIG Recommends

We found that Horizon reported pharmacy fees appropriately. Accordingly, this report contains no recommendations.

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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 reviews to determine whether Medicare Part D sponsors correctly reported pharmacy fees.

OBJECTIVE

Our objective was to determine whether Horizon Blue Cross Blue Shield, Inc., (Horizon) 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 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 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).¹ 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.

¹ 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 between 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 DIR reports. 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. For example, a PBM may charge a pharmacy fee for being part of the PBM's preferred networks or for not meeting certain performance metrics such as generic dispensing rates. The contracts between a pharmacy and a sponsor or its PBM dictate 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.

Horizon Blue Cross Blue Shield, Inc.

Horizon is New Jersey's largest health insurance company and is an independent licensee of the Blue Cross Blue Shield Association. Horizon serves more than 3.8 million enrollees.

In contract year (CY) 2013, Horizon used [REDACTED] as its PBM. [REDACTED] charged per claim transaction processing pharmacy fees to pharmacies for Part D claims during CY 2013.

[REDACTED] The contracts between [REDACTED] and the pharmacies disclosed the types and terms of the fees. [REDACTED]

[REDACTED] Horizon ceased using [REDACTED] as its PBM after CY 2013.

Beginning in CY 2014, Horizon used [REDACTED] as its PBM.

[REDACTED]

For CY 2015 and CY 2016, the contracts between [REDACTED] and the pharmacies disclosed the types and terms of the fees. [REDACTED]

HOW WE CONDUCTED THIS AUDIT

We reviewed Horizon's DIR reports for CYs 2013 through 2016 (the audit period) to determine whether Horizon complied with Federal requirements for reporting pharmacy fees. We reviewed Horizon's contracts with [REDACTED] as well as contracts Horizon and its PBMs had with pharmacies. We covered pharmacy fees totaling [REDACTED] collected by [REDACTED] for CY 2013, [REDACTED] collected by [REDACTED] for CY 2015, and [REDACTED] collected by [REDACTED] for CY 2016. For CY 2014, [REDACTED] did not collect pharmacy fees for Horizon claims.

To determine whether Horizon reported pharmacy fees in accordance with Federal requirements, we reviewed Horizon's DIR reports submitted through the CMS Health Plan Management System (HPMS) for CYs 2013, 2014, 2015, and 2016. We requested the DIR reports from Horizon and reconciled them with Horizon's DIR reports submitted to HPMS. We reviewed prescription drug event (PDE)⁴ data records by service plan type, prescription count, and ingredient cost plus dispensing fees. We selected a judgmental sample, based on service type, of 25 pharmacies [REDACTED] contracted with and 29 pharmacies [REDACTED] contracted with and requested the pharmacy contracts. We reviewed the pharmacy contracts to determine if they defined terms for payments to or from pharmacies.

² We did not review the metrics used to determine the price concession fees received by Horizon.

[REDACTED]

⁴ Every time a beneficiary fills a prescription covered under Part D, plans must submit to CMS a summary record called the PDE record. The PDE record contains information about the drug, the dispensing pharmacy, and cost and payment data; this information enables CMS to make payments to plans and otherwise administer the Part D benefit.

We requested a sample of remittance advices from CYs 2014 through 2016 from the 29 pharmacies in our sample. The remittance advices show health care claim payments and advice details. We reviewed the pharmacy fees associated with the 29 pharmacies for CYs 2014 through 2016. We followed up with [REDACTED] and requested supporting documentation for the fees that were reported as DIR for CYs 2015 and 2016.

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 contains the details of our audit scope and methodology.

RESULTS OF AUDIT

For CYs 2013 through 2016, Horizon complied with Federal requirements for reporting pharmacy fees in its DIR reports. For CYs 2013, 2015, and 2016, Horizon appropriately reported pharmacy fees that its PBMs, [REDACTED] and [REDACTED] charged to pharmacies. For CY 2013, [REDACTED] charged [REDACTED] in pharmacy fees that Horizon received. For CY 2014, [REDACTED] did not charge pharmacy fees for Horizon claims because Horizon was not part of its preferred network. For CY 2015, [REDACTED] charged [REDACTED] in pharmacy fees that Horizon received. For CY 2016, [REDACTED] charged [REDACTED] in pharmacy fees that Horizon received.

HORIZON COMPLIED 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 column sponsors used for reporting pharmacy fees changed between CY 2014 and CY 2015 and again between CY 2015 and CY 2016.⁵

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

⁵ Although the columns changed from year to year, the requirements remained the same for 2013 and 2014.

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.”

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.”

Horizon Appropriately Reported Pharmacy Fees on Its Summary Direct and Indirect Remuneration Reports

We found that Horizon reported pharmacy fees appropriately. Accordingly, this report contains no recommendations. Horizon’s PBMs charged pharmacy fees in CYs 2013, 2015, and 2016. Horizon reported the pharmacy fees received in its DIR reports. During CY 2014, Horizon’s PBM [REDACTED] did not charge pharmacy fees.

APPENDIX: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed Horizon's DIR reports for CYs 2013 through 2016 to determine whether Horizon complied with Federal requirements for reporting pharmacy fees.

For CY 2013, we selected a judgmental sample of 25 pharmacies and reviewed the contracts that the pharmacies had with Horizon and [REDACTED]. We covered pharmacy fees totaling [REDACTED] that were collected by [REDACTED].

For CYs 2014, 2015, and 2016 we selected a judgmental sample of 29 pharmacies and reviewed the contracts that the pharmacies had with Horizon and [REDACTED]. For CY 2014, [REDACTED] did not collect pharmacy fees for Horizon claims. For CY 2015, we covered pharmacy fees totaling [REDACTED] that were collected by [REDACTED]. For CY 2016, we covered pharmacy fees totaling [REDACTED] that were collected by [REDACTED]. We requested a sample of remittance advices from the 29 pharmacies and other source documentation to determine whether Horizon reported pharmacy fees in accordance with Federal requirements.

We did not audit the overall internal control structure of Horizon or its PBMs. Rather we audited only those internal controls related to our objective. We limited our audit to determining whether Horizon complied with Federal requirements for reporting pharmacy fees in its DIR reports.

We conducted our audit, which included fieldwork at Horizon offices in Newark, New Jersey, and at [REDACTED] from June 2018 through May 2020.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and guidance pertaining to reporting DIR payments to and from pharmacies;
- met with Horizon to gain an understanding of its DIR process;
- reviewed Horizon's policies and procedures for DIR reporting;
- met with [REDACTED] to gain an understanding of its claims and DIR process;
- held discussions with [REDACTED] to gain an understanding of its claims and DIR process;
- obtained and reviewed PDE records;

- obtained Horizon’s DIR reports from CMS’s HPMS;
- obtained and reviewed DIR reports provided by Horizon;
- reviewed the contracts between Horizon and [REDACTED] and between Horizon and [REDACTED];
- selected a judgmental sample of contracts [REDACTED] and [REDACTED] had with pharmacies to identify the amount and types of pharmacy fees;
- obtained and reviewed CY 2013 pharmacy fees by plan provided by [REDACTED] and used in Horizon’s DIR report;
- tied the CY 2013 pharmacy fees by plan amount provided by [REDACTED] to the amounts reported in the DIR report;
- obtained and reviewed pharmacy audit reports completed by Horizon and [REDACTED];
- selected a judgmental sample of [REDACTED] remittance advices;
- obtained and reviewed [REDACTED] transaction fee process for 2014 commercial and Part D claims; and
- obtained and reviewed CY 2015 and 2016 pharmacy price concession reports provided by [REDACTED] and used in Horizon’s DIR reports.

We provided Horizon with our draft audit report on June 25, 2020. Horizon elected not to provide written comments.

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.