



Office of Audit Services, Region IV  
61 Forsyth Street, S.W., Suite 3T41  
Atlanta, GA 30303

October 15, 2009

Report Number: A-04-09-06101

Mr. E. Jamie Bylotas  
Director, Quality and Performance Management  
Highmark Medicare Services  
1800 Center Street, Ste 1AL3  
Camp Hill, Pennsylvania 17089

Dear Mr. Bylotas:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Review of Medicare Outpatient Payments for Oxaliplatin in New Jersey." 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.

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me, or contact Andrew Funtal, Audit Manager, at (404) 562-7762 or through email at [Andrew.Funtal@oig.hhs.gov](mailto:Andrew.Funtal@oig.hhs.gov). Please refer to report number A-04-09-06101 in all correspondence.

Sincerely,

/Peter J. Barbera/  
Regional Inspector General  
for Audit Services

Enclosure

**Direct Reply to HHS Action Official:**

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

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF MEDICARE OUTPATIENT  
PAYMENTS FOR OXALIPLATIN IN  
NEW JERSEY**



Daniel R. Levinson  
Inspector General

October 2009  
A-04-09-06101

# *Office of Inspector General*

<http://oig.hhs.gov>

---

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

## *Office of Audit Services*

The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

## *Office of Evaluation and Inspections*

The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. These evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness of departmental programs. To promote impact, OEI reports also present practical recommendations for improving program operations.

## *Office of Investigations*

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs, operations, and beneficiaries. With investigators working in all 50 States and the District of Columbia, OI utilizes its resources by actively coordinating with the Department of Justice and other Federal, State, and local law enforcement authorities. The investigative efforts of OI often lead to criminal convictions, administrative sanctions, and/or civil monetary penalties.

## *Office of Counsel to the Inspector General*

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

# *Notices*

---

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

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site.

## **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**

Pursuant to Title XVIII of the Social Security Act, the Medicare program provides health insurance for people age 65 and over and those who are disabled or have permanent kidney disease. The Centers for Medicare & Medicaid Services, which administers the program, contracts with fiscal intermediaries to process and pay Medicare Part B claims submitted by hospital outpatient departments. Medicare uses an outpatient prospective payment system to pay for hospital outpatient services.

Oxaliplatin is a chemotherapy drug used to treat colorectal cancer. During our audit period (calendar year (CY) 2005), Medicare required hospital outpatient departments to bill one service unit for every 5 milligrams of oxaliplatin administered.

During CY 2005, Riverbend Government Benefits Administrator, Inc. was the fiscal intermediary for New Jersey. In October 2008, Highmark Medicare Services assumed the New Jersey business operations of Riverbend Government Benefits Administrator, Inc. Therefore, this report refers to the former fiscal intermediary as “Highmark.”

We reviewed 31 payments totaling \$589,081 that Highmark made to two hospitals in New Jersey. Each of these payments amounted to less than \$50,000 for more than 100 units of oxaliplatin.

### **OBJECTIVE**

Our objective was to determine, for selected payments, whether hospitals billed Highmark for the correct number of service units of oxaliplatin.

### **SUMMARY OF FINDINGS**

For all 31 payments reviewed, totaling \$589,081, the hospitals billed Highmark for the incorrect number of service units of oxaliplatin. As a result, the hospitals received overpayments totaling \$499,852 during CY 2005. These overpayments occurred primarily because the hospitals did not update their systems following a change in Medicare billing guidance.

### **RECOMMENDATION**

We recommend that Highmark recover the \$499,852 in overpayments to the hospitals.

### **HIGHMARK MEDICARE SERVICES COMMENTS**

In written comments on our draft report, Highmark stated that it would initiate activities to recover the overpayments identified by this review. Highmark’s comments appear in their entirety as the Appendix.

# TABLE OF CONTENTS

	<u>Page</u>
<b>INTRODUCTION</b> .....	1
<b>BACKGROUND</b> .....	1
Medicare Fiscal Intermediaries.....	1
Outpatient Prospective Payment System .....	1
Oxaliplatin.....	1
Highmark Medicare Services.....	1
<b>OBJECTIVE, SCOPE, AND METHODOLOGY</b> .....	2
Objective.....	2
Scope.....	2
Methodology .....	2
<b>FINDINGS AND RECOMMENDATION</b> .....	3
<b>MEDICARE REQUIREMENTS</b> .....	3
<b>INCORRECT NUMBER OF SERVICE UNITS BILLED</b> .....	3
<b>RECOMMENDATION</b> .....	4
<b>HIGHMARK MEDICARE SERVICES COMMENTS</b> .....	4
<b>APPENDIX</b>	
<b>HIGHMARK MEDICARE SERVICES COMMENTS</b>	

## INTRODUCTION

### BACKGROUND

Pursuant to Title XVIII of the Social Security Act, the Medicare program provides health insurance for people age 65 and over and those who are disabled or have permanent kidney disease. The Centers for Medicare & Medicaid Services (CMS) administers the program.

#### Medicare Fiscal Intermediaries

CMS contracts with fiscal intermediaries to, among other things, process and pay Medicare Part B claims submitted by hospital outpatient departments. The intermediaries' responsibilities include determining reimbursement amounts, conducting reviews and audits, and safeguarding against fraud and abuse.<sup>1</sup>

#### Outpatient Prospective Payment System

Pursuant to the Balanced Budget Act of 1997, P.L. No. 105-33 § 4523, Social Security Act, § 1833, 42 U.S.C. § 1395l, CMS implemented an outpatient prospective payment system (OPPS) for hospital outpatient services. The OPPS applies to services furnished on or after August 1, 2000.

Under the OPPS, Medicare pays for services on a rate-per-service basis using the ambulatory payment classification group to which each service is assigned. The OPPS uses the Healthcare Common Procedure Coding System (HCPCS) to identify and group services into an ambulatory payment classification group.

#### Oxaliplatin

Oxaliplatin is a chemotherapy drug used to treat colorectal cancer. During our audit period (calendar year (CY) 2005), Medicare required hospital outpatient departments to bill one service unit for every 5 milligrams of oxaliplatin administered.

#### Highmark Medicare Services

During CY 2005, Riverbend Government Benefits Administrator, Inc. was the fiscal intermediary for New Jersey. In October 2008, Highmark Medicare Services assumed the New Jersey business operations of Riverbend Government Benefits Administrator, Inc. Therefore, this report refers to the former fiscal intermediary as "Highmark."

---

<sup>1</sup>Section 911 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, P.L. No. 108-173 § 911, Social Security Act § 1842, 42 U.S.C. § 1395u, requires CMS to transfer the functions of fiscal intermediaries to Medicare administrative contractors by October 2011.

## **OBJECTIVE, SCOPE, AND METHODOLOGY**

### **Objective**

Our objective was to determine, for selected payments, whether hospitals billed Highmark for the correct number of service units of oxaliplatin.

### **Scope**

We identified 89 payments totaling \$2,277,219 that Highmark made to three hospitals for oxaliplatin during CY 2005. Each of these payments amounted to less than \$50,000.<sup>2</sup> Prior to the start of our audit, the hospitals adjusted 58 of these payments and refunded the associated overpayments. We reviewed the remaining 31 payments totaling \$589,081.

We did not review Highmark's internal controls applicable to the 31 payments because our objective did not require an understanding of controls over the submission and processing of claims. Our review allowed us to establish reasonable assurance of the authenticity and accuracy of the data obtained from the National Claims History file, but we did not assess the completeness of the file.

We conducted fieldwork from January through July 2009. Our fieldwork included contacting Highmark, located in Camp Hill, Pennsylvania, and the three hospitals that received the 89 payments.

### **Methodology**

To accomplish our objective, we:

- reviewed applicable Medicare laws, regulations, and guidance;
- used CMS's National Claims History file to identify the Medicare fiscal intermediaries that, during CY 2005, processed outpatient claims with a paid amount of less than \$50,000 and a utilization level of 100 units or more of oxaliplatin;
- selected for review 31 outpatient payments in New Jersey with a paid amount of less than \$50,000 and a utilization level of 100 units or more of oxaliplatin;<sup>3</sup>
- contacted the two hospitals that received the 31 payments to determine whether the service units were billed correctly and, if not, why the service units were billed incorrectly; and
- confirmed with Highmark that overpayments occurred and refunds were appropriate.

---

<sup>2</sup>We limited our review to payments of less than \$50,000 to avoid duplicating work done in other audits covering payments of \$50,000 or more.

<sup>3</sup>For materiality purposes, we excluded payments for claims with 100 or fewer units of oxaliplatin.

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 objective.

## **FINDINGS AND RECOMMENDATION**

For all 31 payments reviewed, totaling \$589,081, the hospitals billed Highmark for the incorrect number of service units of oxaliplatin. As a result, the hospitals received overpayments totaling \$499,852 during CY 2005. These overpayments occurred primarily because the hospitals did not update their systems following a change in Medicare billing guidance.

### **MEDICARE REQUIREMENTS**

Section 9343(g) of the Omnibus Budget Reconciliation Act of 1986, P.L. No. 99-509, requires hospitals to report claims for outpatient services using HCPCS codes. CMS's "Medicare Claims Processing Manual," Pub. No. 100-04, chapter 4, section 20.4, states: "The definition of service units . . . is the number of times the service or procedure being reported was performed." In addition, chapter 1, section 80.3.2.2, of this manual states: "In order to be processed correctly and promptly, a bill must be completed accurately."

For outpatient services furnished before July 1, 2003, CMS instructed hospitals to bill for oxaliplatin using HCPCS code J3490. The service unit for that code was 0.5 milligrams.

Through CMS Transmittal A-03-051, Change Request 2771, dated June 13, 2003, CMS instructed hospital outpatient departments to bill for oxaliplatin using HCPCS code C9205 for services furnished on or after July 1, 2003.<sup>4</sup> The description for HCPCS code C9205 was "Injection, oxaliplatin, per 5 mg." Therefore, for every 5 milligrams of oxaliplatin administered to a patient, hospital outpatient departments should have billed Medicare for one service unit during our audit period.<sup>5</sup>

### **INCORRECT NUMBER OF SERVICE UNITS BILLED**

During CY 2005, the two hospitals billed Highmark for the incorrect number of service units on the 31 claims reviewed and as a result received overpayments totaling \$499,852. Rather than billing one service unit for every 5 milligrams of oxaliplatin administered, as Medicare required, the two hospitals billed one service unit for every 0.5 milligrams administered.

---

<sup>4</sup>CMS notified hospitals to continue using HCPCS code C9205 for oxaliplatin services furnished in 2004 and 2005 (68 Fed. Reg. 63398, 63488 (Nov. 7, 2003); 69 Fed. Reg. 65682, 66104 (Nov. 15, 2004)).

<sup>5</sup>CMS instructed hospitals to bill for oxaliplatin using HCPCS code J9263 for services furnished on or after January 1, 2006 (70 Fed. Reg. 68516, 68632 (Nov. 10, 2005); CMS Transmittal 786, Change Request 4250 (Dec. 16, 2005)). The service unit for that code is 0.5 milligram.

The overpayments occurred primarily because the hospitals did not update their systems following a change required by CMS Transmittal A-03-051.

### **RECOMMENDATION**

We recommend that Highmark recover the \$499,852 in overpayments to the hospitals.

### **HIGHMARK MEDICARE SERVICES COMMENTS**

In written comments on our draft report, Highmark stated that it would initiate activities to recover the overpayments identified by this review. Highmark's comments appear in their entirety as the Appendix.

# **APPENDIX**

APPENDIX: HIGHMARK MEDICARE SERVICES COMMENTS



8 September 2009

Mr. Peter Barbera  
Regional Inspector General for Audit Services  
Office of Audit Services, Region IV  
61 Forsyth Street, S.W., Ste. 3T41  
Atlanta, Georgia 30303

OIG Draft Report Number: A-04-09-06101, dated 26 Aug 2009

The following is Highmark Medicare Services (HMS) Management response to your request for comments on the draft report entitled, "Review of Medicare Outpatient Payments for Oxaliplatin in New Jersey."

**Recommendation** – Recover the \$499,852 in overpayments to the hospitals.

**HMS Response:** Upon receipt of the claim detail information, HMS will initiate activities to recover the overpayments as identified as a result of this review.

Please do not hesitate to contact me at (717) 302-4410 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "E. James Bylotas".

E. James Bylotas  
Director, Quality and Performance Management