



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

October 7, 2009

Report Number: A-04-09-06104

Mr. James Elmore, Director
Contract Administration
National Government Services, Inc.
8115 Knue Road
Indianapolis, Indiana 46250

Dear Mr. Elmore:

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 West Virginia." 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 that 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 Andrew Funtal, Audit Manager, at (404) 562-7762 or through email at Andrew.Funtal@oig.hhs.gov. Please refer to report number A-04-09-06104 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. 12th 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
WEST VIRGINIA**



Daniel R. Levinson
Inspector General

October 2009
A-04-09-06104

Office of Inspector General

<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

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.

National Government Services, Inc. (NGS) was the fiscal intermediary for West Virginia in CY 2005. We reviewed 16 payments totaling \$489,046 that NGS made to two hospitals in West Virginia. Each of these payments amounted to less than \$50,000 for more than 100 units of oxaliplatin.

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OBJECTIVE

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

SUMMARY OF FINDING

For all 16 payments reviewed, totaling \$489,046, the two hospitals billed NGS for the incorrect number of service units of oxaliplatin. As a result, the hospitals received overpayments totaling \$433,112 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 NGS recover the \$433,112 in overpayments to the hospitals.

NATIONAL GOVERNMENT SERVICES COMMENTS

In written comments on our draft report, NGS stated that it complied with our recommendation by recouping the overpayments from the providers. NGS's comments appear in their entirety as the Appendix.

TABLE OF CONTENTS

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

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.¹

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.

National Government Services

National Government Services, Inc. (NGS) was the fiscal intermediary for West Virginia in CY 2005. During that period, the fiscal intermediary made a total of 1,466 payments to hospitals in West Virginia and Virginia for claims containing oxaliplatin.

¹Section 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 NGS for the correct number of service units of oxaliplatin.

Scope

We reviewed 16 payments totaling \$489,046 that NGS made to two hospitals for oxaliplatin during CY 2005. Each of these payments amounted to less than \$50,000.²

We did not review NGS's internal controls applicable to the 16 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 April 2009. Our fieldwork included contacting NGS, located in Indianapolis, Indiana, and the two hospitals that received the 16 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 16 outpatient claims paid by NGS in West Virginia with a paid amount of less than \$50,000 and a utilization level of 100 units or more of oxaliplatin;³
- contacted the two hospitals that received the 16 payments to determine whether the service units were billed correctly and, if not, why the service units were billed incorrectly; and
- confirmed with NGS that overpayments occurred and refunds were appropriate.

²We limited our review to payments of less than \$50,000 because payments of \$50,000 or more are part of other audits.

³For 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.

FINDING AND RECOMMENDATION

For all 16 payments reviewed, totaling \$489,046, the two hospitals billed NGS for the incorrect number of service units of oxaliplatin. As a result, the hospitals received overpayments totaling \$433,112 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, 2003.⁴ 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.⁵

INCORRECT NUMBER OF SERVICE UNITS BILLED

During CY 2005, the two hospitals billed NGS for the incorrect number of service units on all 16 claims reviewed and, as a result, received overpayments totaling \$433,112:

- For 14 overpayments totaling \$389,704, one hospital billed 10 times the correct number of service units for oxaliplatin furnished to Medicare beneficiaries.

⁴CMS 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)).

⁵CMS 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.

- For 2 overpayments totaling \$43,408, the second hospital billed approximately 10 times the correct number of service units for oxaliplatin furnished to Medicare beneficiaries.

In both instances, rather than billing one service unit for every 5 milligrams of oxaliplatin administered, as Medicare required, hospitals billed one service unit for every 0.5 milligrams administered.

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 NGS recover the \$433,112 in overpayments to the hospitals.

NATIONAL GOVERNMENT SERVICES COMMENTS

In written comments on our draft report, NGS stated that it complied with our recommendation by recouping the overpayments from the providers. NGS's comments appear in their entirety as the Appendix.

APPENDIX

APPENDIX: NATIONAL GOVERNMENT SERVICES COMMENTS



PO Box 4846
Syracuse, New York 13221-4846
www.NGSMedicare.com

A CMS Contracted Agent

Medicare

July 21, 2009

Mr. Peter J. Barbera
Office of Audit Services
61 Forsyth Street, S.W., Suite 3T41
Atlanta, GA 30303

Re: NGS Response to OIG audit A-04-09-06104 "Review of Outpatient Payments for Oxaliplatin in West Virginia."

Dear Mr. Barbera:

This letter is in response to the draft report A-04-09-06104, entitled "Review of Medicare Outpatient Payments for Oxaliplatin in West Virginia".

Oxaliplatin is a chemotherapy drug used to treat colorectal cancer. During the audit period, (calendar year (CY) 2005), Medicare required hospital outpatient departments to bill one service unit for every 5 milligrams of Oxaliplatin administered. National Government Services was the fiscal intermediary for West Virginia during this review period.

During this period, a total of 16 payments were reviewed on two hospitals totaling \$489,046. According to your findings, the hospitals received overpayments totaling \$433,112 during CY 2005. These overpayments occurred primarily because the hospitals did not update their systems following a change in Medicare guidance.

Your recommendation is that NGS recover \$433,112 in overpayments made to these hospitals. NGS has complied with your request and as of 4/30/09 has recouped a total of \$433,112 from these providers.

You may submit any additional questions and/or concerns to the NGS Medicare mailbox; ngs.medicare@anthem.com.

Sincerely,

Mr. David Crowley
Staff Vice President



Claims Management

cc: Pam Glenn, Part A/RHHI Claims Director,
Sandra Logan, Claims Manager