



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General
Offices of Audit Services

APR 15 2008

Region VII
601 East 12th Street
Room 284A
Kansas City, Missouri 64106

Report Number: A-07-07-00254

Ms. Sandra Miller
President
National Government Services, Inc.
8115 Knue Road
Indianapolis, Indiana 46250

Dear Ms. Miller:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Review of Pension Costs Claimed for Medicare Reimbursement by Empire Blue Cross Blue Shield for Fiscal Years 1999 Through 2006." 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 principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, OIG reports generally are made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5). Accordingly, within 10 business days after the final report is issued, it 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 at (816) 426-3591, or contact Jenenne Tambke, Audit Manager, at (573) 893-8338, extension 21, or through e-mail at Jenenne.Tambke@oig.hhs.gov. Please refer to report number A-07-07-00254 in all correspondence.

Sincerely,


Patrick J. Cogley
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 East 12th Street, Room 235
Kansas City, Missouri 64106

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF PENSION COSTS
CLAIMED FOR MEDICARE
REIMBURSEMENT BY EMPIRE
BLUE CROSS BLUE SHIELD
FOR FISCAL YEARS
1999 THROUGH 2006**



Daniel R. Levinson
Inspector General

April 2008
A-07-07-00254

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:

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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.

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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>

Pursuant to the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, Office of Inspector General reports generally are made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5).

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

Empire Blue Cross Blue Shield (Empire) administered Medicare Part A and Part B operations under cost reimbursement contracts with the Centers for Medicare & Medicaid Services (CMS) until Empire merged with Wellpoint, Inc. (Wellpoint) on December 31, 2006. Effective December 31, 2006, Wellpoint merged Empire's cash balance pension plan into the Wellpoint cash balance pension plan.

Medicare reimburses a portion of the annual contributions that contractors make to their pension plans. In claiming costs, contractors must follow cost reimbursement principles contained in the Federal Acquisition Regulation, Cost Accounting Standards, and Medicare contracts.

The Medicare contracts require contractors to allocate or separately calculate pension costs. Contractors must use the separate calculation method if there is a material difference between the results of the two methods.

OBJECTIVE

Our objective was to determine the allowability of pension costs that Empire claimed for Medicare reimbursement for fiscal years (FY) 1999 through 2006.

SUMMARY OF FINDING

Empire correctly calculated and claimed zero pension costs for Medicare reimbursement for FYs 1999 through 2004; however, it claimed \$794,333 of unallowable Medicare pension costs for FYs 2005 through 2006. This error occurred primarily as a result of the increase in the Medicare segment actuarial value of assets. This increase caused the assignable pension costs to be zero for both FYs. As a result, Empire claimed \$794,333 of unallowable pension costs for Medicare reimbursement for FYs 2005 through 2006.

RECOMMENDATION

We recommend that Empire revise its Final Administrative Cost Proposals for FYs 2005 through 2006 or otherwise credit CMS to reduce its claimed pension costs by \$794,333.

AUDITEE'S COMMENTS

In written comments on our draft report, the auditee concurred with our finding. Empire's Medicare contract was novated to National Government Services (NGS) effective January 1, 2007; therefore, NGS responded to the Empire costs claimed draft audit report. NGS concurred with the finding and recommendation and stated that it will effectuate payment at time of settlement with CMS.

NGS's comments are included in their entirety as the Appendix.

INTRODUCTION

BACKGROUND

Empire

Empire Blue Cross Blue Shield (Empire) administered Medicare Part A and Part B operations under cost reimbursement contracts with the Centers for Medicare & Medicaid Services (CMS) until Empire merged with Wellpoint, Inc. (Wellpoint) on December 31, 2006. Effective December 31, 2006, Wellpoint merged Empire's cash balance pension plan into the Wellpoint cash balance pension plan.

Medicare Reimbursement of Pension Costs

Medicare reimburses a portion of the annual contributions that contractors make to their pension plans. To be allowable for Medicare reimbursement, pension costs must be (1) measured, assigned, and allocated in accordance with Cost Accounting Standards (CAS) 412 and 413 and (2) funded as specified by part 31 of the Federal Acquisition Regulation (FAR).

Beginning in fiscal year (FY) 1988, CMS incorporated specific segmentation language into Medicare contracts that requires contractors to use either an allocation method or a separate calculation method to identify and claim pension costs for Medicare reimbursement. Under the allocation method, the contractor determines total plan CAS pension costs and allocates a share to Medicare. Under the separate calculation method, the contractor separately identifies the pension cost components for the Medicare segment. The contractor must use the separate calculation method if its result is materially different from that of the allocation method.

Federal Requirements

The Medicare contracts address the determination and allocation of pension costs. The contracts state: "The calculation of and accounting for pension costs charged to this agreement/contract are governed by the Federal Acquisition Regulation and Cost Accounting Standards 412 and 413."

FAR 31.205-6(j) addresses allowability of pension costs and requires that plan contributions substantiate pension costs assigned to contract periods.

CAS 412 regulates the determination and measurement of pension cost components. It also regulates the assignment of pension costs to appropriate accounting periods.

CAS 413 regulates the valuation of pension assets, allocation of pension costs to segments of an organization, adjustment of pension costs for actuarial gains and losses, and assignment of gains and losses to cost accounting periods.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine the allowability of pension costs that Empire claimed for Medicare reimbursement for FYs 1999 through 2006.

Scope

We reviewed pension costs that Empire claimed for Medicare reimbursement on its Final Administrative Cost Proposals (FACP) for FYs 1999 through 2006. Achieving the objective did not require that we review Empire's overall internal control structure. However, we did review the internal controls related to the pension costs claimed for Medicare reimbursement to ensure that the pension costs were allocable in accordance with the CAS and allowable in accordance with the FAR.

We performed fieldwork at Empire's office in Syracuse, New York, during June 2007.

Methodology

We identified Empire's CAS pension costs for the total company and the Medicare segment. We also determined the extent to which Empire funded CAS pension costs with contributions to the pension trust fund and accumulated prepayment credits. The calculations were based on separately computed CAS pension costs for the Medicare segment and total company CAS pension costs. The CMS Office of the Actuary calculated the allocable CAS pension costs based on Empire's historical practices and on the results of our segmentation review, "Review of the Qualified Pension Plan at Empire Blue Cross Blue Shield for the Period January 1, 1999, through December 31, 2006" (A-07-07-00253). We reviewed the CMS actuaries' methodology and calculations.

In performing our review, we used information that Empire's actuarial consulting firm provided. The information included assets, liabilities, normal costs, contributions, benefit payments, investment earnings, and administrative expenses. We examined Empire's accounting records, pension plan documents, annual actuarial valuation reports, and Department of Labor/Internal Revenue Service Form 5500s.

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.

FINDING AND RECOMMENDATION

Empire claimed \$794,333 of unallowable Medicare pension costs for FYs 2005 through 2006.

Empire correctly calculated and claimed zero pension costs for Medicare reimbursement for FYs 1999 through 2004. However, for FYs 2005 through 2006, Empire claimed \$794,333 of unallowable pension costs for Medicare reimbursement. We calculated the allowable costs based on separately computed CAS pension costs for the Medicare segment and the total company.

We compared allowable CAS pension costs with the pension costs claimed on Empire's FACPs, as shown in the table below.

<u>Cost Claimed Variance</u>			
Fiscal Year	Per Empire	Per OIG	Difference
2005	\$539,406	\$0	\$539,406
2006	254,927	0	254,927
Total	\$794,333	\$0	\$794,333

Empire overclaimed pension costs primarily due to the adjustments made to the Medicare segment assets, as discussed in the segmentation review (A-07-07-00253). These adjustments resulted in an increase in the Medicare segment actuarial value of assets used to calculate the assignable pension costs. Therefore, the Medicare segment's actuarial value of assets exceeded the Medicare segment's actuarial accrued liabilities plus current normal cost, resulting in the assignable pension costs for both FYs 2005 and 2006 being zero. (In addition, the Other segment's actuarial value of assets also exceeded the Other segment's actuarial accrued liabilities plus current normal cost, resulting again in the assignable pension costs for both FYs being zero.) Consequently, the allowable pension costs for FYs 2005 and 2006 were zero. As a result, Empire overclaimed pension costs by \$794,333.

RECOMMENDATION

We recommend that Empire revise its FACPs for FYs 2005 through 2006 or otherwise credit CMS to reduce its claimed pension costs by \$794,333.

AUDITEE'S COMMENTS

In written comments on our draft report, the auditee concurred with our finding. Empire's Medicare contract was novated to National Government Services (NGS) effective January 1, 2007; therefore, NGS responded to the Empire costs claimed draft audit report. NGS concurred with the finding and recommendation and stated that it will effectuate payment at time of settlement with CMS.

NGS's comments are included in their entirety as the Appendix.

APPENDIX



National Government Services, Inc.
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A CMS Contracted Agent

GLENN RHODES
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March 26, 2008

Mr. Partick J Cogley
Regional Inspector General for Audit Services
DHHS-OIG Office of Audit Services Region VII
601 East 12th Street
Room 284A
Kansas City, Missouri 64106

Reference: **Report Number A-07-07-00254**

Dear Mr. Cogley:

We are in receipt of the draft audit report from the Inspector General entitled "Review of Pension Costs Claimed for Medicare reimbursement by Empire Blue Cross Blue Shield for Fiscal Years 1999 Through December 2006." The Empire Medicare contract was novated to National Government Services (NGS) effective January 1, 2007 thus NGS is responding to this draft report.

We concur with the finding and recommendation and will effectuate payment at time of settlement with CMS.

We appreciate the opportunity to respond to this draft report.

Sincerely,

A handwritten signature in cursive script that reads "Glenn Rhodes".

Glenn Rhodes
Chief Financial Officer

cc: Sandra Miller
Jeff Hannah
Joanne Imel – WellPoint
Wendy Perkins
Ron Bryant - CMS