

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**MEDICARE IMPROPERLY PAID PROVIDERS
MILLIONS OF DOLLARS FOR
ENTITLEMENT-TERMINATED
BENEFICIARIES WHO RECEIVED
SERVICES DURING
2010 THROUGH 2012**

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Office of Inspector General

<https://oig.hhs.gov/>

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

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EXECUTIVE SUMMARY

Medicare made improper payments totaling \$18.4 million for beneficiaries who received medical services during calendar years 2010 through 2012 whose entitlement to Medicare had been terminated.

WHY WE DID THIS REVIEW

Medicare fee-for-service benefits are allowable for beneficiaries who meet the entitlement or eligibility requirements of the Medicare program. But when beneficiaries no longer meet these requirements, their entitlement to Medicare is terminated. We refer to these individuals as entitlement-terminated beneficiaries. Accordingly, any payments that Medicare makes to providers on behalf of entitlement-terminated beneficiaries are improper. We are conducting a series of reviews examining the Centers for Medicare & Medicaid Services' (CMS) controls to prevent and detect improper payments. We previously reported that CMS's controls did not detect improper Medicare payments for beneficiaries who were not lawfully present in the United States (\$91.6 million) or for beneficiaries who were incarcerated (\$33.6 million).

The objective of our audit was to determine whether CMS had adequate controls to prevent and detect improper payments for Medicare services rendered to entitlement-terminated beneficiaries.

BACKGROUND

Medicare provides health insurance for people aged 65 and over, people with disabilities, and people with kidney disease. CMS, which administers the program, contracts with Medicare contractors to process and pay Medicare Parts A and B claims submitted by health care providers.

Under Federal requirements, Medicare does not pay for health care services rendered to entitlement-terminated beneficiaries. The Social Security Administration (SSA) is CMS's primary source of information about these beneficiaries. SSA identifies these beneficiaries and transmits these data to CMS. With this information, CMS determines the periods for which Medicare will not pay for services provided to these individuals.

Using CMS's data systems, we identified 2,192,486 beneficiaries whose entitlement to Medicare had been classified as terminated at some point during calendar years (CYs) 2010 through 2012. The most common reason that beneficiaries lost their entitlement was because they no longer had the disability that had initially qualified them for Medicare. We reviewed 59,962 claims and \$18,374,440 in associated Medicare payments on behalf of 7,426 beneficiaries whose entitlements to Medicare were terminated before services were rendered.

WHAT WE FOUND

When CMS's data systems indicated at the time that a claim was processed that a beneficiary's entitlement to Medicare had been terminated, CMS's controls were adequate to prevent payment for Medicare services. Specifically, CMS had a prepayment edit that flagged claims so that Medicare contractors could deny payments to providers for entitlement-terminated beneficiaries.

When CMS's data systems did not indicate until after a claim had been processed that a beneficiary's entitlement to Medicare had been terminated, CMS's controls were not adequate to detect and recoup the improper payment. Because CMS did not always receive information relating to entitlement-terminated beneficiaries in a timely manner, Medicare payments totaling \$18,374,440 were made to providers for services rendered to 7,426 such beneficiaries during CYs 2010 through 2012. CMS did not have policies and procedures to review information for these beneficiaries on a postpayment basis that would have detected improper payments that the prepayment edit could not prevent. Consequently, CMS did not notify the Medicare contractors to recoup any of the \$18,374,440 in improper payments.

RECOMMENDATIONS

We recommend that CMS:

- ensure that Medicare contractors recoup the \$18,374,440 in improper payments,
- implement policies and procedures to detect and recoup improper payments made for Medicare services rendered to entitlement-terminated beneficiaries in cases when entitlement termination information is received on previously paid Medicare claims, and
- identify improper payments made on behalf of entitlement-terminated beneficiaries after our audit period but before implementation of policies and procedures and ensure that Medicare contractors recoup those improper payments.

CMS COMMENTS AND OUR RESPONSE

In written comments on our draft report, CMS did not concur with our recommendations. CMS stated that according to Federal requirements, recovery of overpayments must be waived if the provider was without fault in causing the overpayment.

Nothing in CMS's comments caused us to change our findings or our recommendations. CMS comments notwithstanding, our recommendations are not limited to recouping improper payments from providers. Federal requirements state that when a provider is without fault, the beneficiary becomes liable for the overpayment. CMS has provided specific guidance to Medicare contractors on recouping overpayments from entitlement-terminated beneficiaries.

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INTRODUCTION

WHY WE DID THIS REVIEW

Medicare fee-for-service benefits are allowable for beneficiaries who meet the entitlement or eligibility requirements of the Medicare program. But when beneficiaries no longer meet these requirements, their entitlement to Medicare is terminated.¹ We refer to these individuals as entitlement-terminated beneficiaries. Accordingly, any payments that Medicare makes to providers on behalf of entitlement-terminated beneficiaries are improper. We are conducting a series of reviews examining the Centers for Medicare & Medicaid Services' (CMS) controls to prevent and detect improper payments. We previously reported that CMS's controls did not detect improper Medicare payments for beneficiaries who were not lawfully present in the United States (\$91.6 million) or for beneficiaries who were incarcerated (\$33.6 million).²

OBJECTIVE

Our objective was to determine whether CMS had adequate controls to prevent and detect improper payments for Medicare services rendered to entitlement-terminated beneficiaries.

BACKGROUND

The Medicare Program

Medicare provides health insurance for people aged 65 and over, people with disabilities, and people with kidney disease.³ Medicare Part A provides inpatient hospital insurance benefits and coverage of extended care services for patients after hospital discharge. Medicare Part B provides supplementary medical insurance for medical and other health services, including coverage of hospital outpatient services.

CMS, which administers Medicare, contracts with Medicare contractors to, among other things, process and pay claims submitted by hospitals, physicians, and suppliers. For this report, we refer to all Medicare Part A and Part B entities or individuals receiving Medicare payments as "providers."

¹ For this report, we refer to entitlement, or loss of entitlement, to Medicare Part A or Part B benefits in particular and Medicare fee-for-service benefits (Medicare benefits) in general. We do not distinguish, in the language we use, among loss of entitlement, loss of eligibility, and disenrollment.

² *Medicare Improperly Paid Providers Millions of Dollars for Unlawfully Present Beneficiaries Who Received Services During 2009 Through 2011* (A-07-12-01116, issued January 23, 2013) and *Medicare Improperly Paid Providers Millions of Dollars for Incarcerated Beneficiaries Who Received Services During 2009 Through 2011* (A-07-12-01113, issued January 23, 2013).

³ Title XVIII of the Social Security Act (the Act).

Reasons for Termination of Beneficiary Entitlement to Medicare

The Act sets forth requirements for entitlement to Medicare benefits.⁴ The Social Security Administration (SSA) determines individuals' entitlement to Medicare benefits on the basis of these requirements.⁵ Medicare benefits are allowable for beneficiaries who meet these entitlement requirements. When beneficiaries no longer meet these requirements, SSA terminates their entitlements. Specifically, SSA terminates entitlement to Medicare benefits for beneficiaries who:

- no longer have a qualifying disability,
- voluntarily withdraw from coverage,
- no longer meet the provisions for benefits involving the treatment of kidney disease,
- do not pay their premiums for either Medicare Part A or Part B,⁶
- lose Social Security benefits under certain conditions,⁷ or
- have their Part B enrollment voided or invalidated.

Thus, Medicare does not pay for services rendered to beneficiaries whose entitlements to Medicare were terminated before services were rendered.

Obtaining Information on Entitlement-Terminated Beneficiaries

SSA is CMS's primary source of information for identifying entitlement-terminated beneficiaries.⁸ SSA identifies these beneficiaries and transmits these data to CMS. With this information, CMS determines the periods for which Medicare will not pay for health care services rendered to these individuals.

CMS's Enrollment Database interfaces with SSA's data systems to identify the entitlement-terminated beneficiaries. CMS officials told us that this information is generally transmitted daily from SSA to CMS's data systems. The information on terminated entitlement is then

⁴ Sections 226(a), 226(b), 226A, 1818, and 1818A of the Act establish requirements for Part A. Section 1836 of the Act establishes requirements for Part B.

⁵ Section HI 00208.015 of SSA's *Program Operations Manual System*.

⁶ Under certain conditions, beneficiaries pay Medicare Part A premiums.

⁷ Under certain conditions, the termination of SSA Title II benefits can result in terminated entitlement to Medicare Part A and, usually in those cases, Part B benefits.

⁸ The Railroad Retirement Board (RRB) also provides entitlement termination information to CMS.

accessible by several applications, including CMS's Common Working File (CWF). Medicare contractors use the CWF to process Part A and Part B claims from providers.

Using CMS's data systems, we identified 2,192,486 beneficiaries whose entitlement to Medicare had been classified as terminated at some point during calendar years (CYs) 2010 through 2012.

HOW WE CONDUCTED THIS REVIEW

Medicare contractors made payments totaling \$18,374,440 to providers for 59,962 claims for services rendered to 7,426 entitlement-terminated beneficiaries during CYs 2010 through 2012. We reviewed the Medicare Part A and Part B claims associated with these payments.

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 A contains details of our audit scope and methodology.

FINDINGS

When CMS's data systems indicated at the time that a claim was processed that a beneficiary's entitlement to Medicare had been terminated, CMS's controls were adequate to prevent payment for Medicare services. Specifically, CMS had a prepayment edit that flagged claims so that Medicare contractors could deny payments to providers for entitlement-terminated beneficiaries.

When CMS's data systems did not indicate until after a claim had been processed that a beneficiary's entitlement to Medicare had been terminated, CMS's controls were not adequate to detect and recoup the improper payment. Because CMS did not always receive information relating to entitlement-terminated beneficiaries in a timely manner, Medicare payments totaling \$18,374,440 were made to providers for services rendered to 7,426 such beneficiaries during CYs 2010 through 2012. CMS did not have policies and procedures to review information for these beneficiaries on a postpayment basis that would have detected improper payments that the prepayment edit could not prevent. Consequently, CMS did not notify the Medicare contractors to recoup any of the \$18,374,440 in improper payments.

WHEN CMS RECEIVED INFORMATION RELATED TO TERMINATED ENTITLEMENT BEFORE CLAIMS WERE PROCESSED, IT HAD CONTROLS TO PREVENT IMPROPER PAYMENTS

When CMS's data systems indicated at the time that a claim was processed that a beneficiary's entitlement to Medicare had been terminated, CMS had a prepayment edit that prevented payment for Medicare services rendered to the beneficiary. This prepayment edit flagged claims so that Medicare contractors could deny payments to providers for entitlement-terminated beneficiaries.

WHEN CMS RECEIVED INFORMATION RELATED TO TERMINATED ENTITLEMENT AFTER CLAIMS WERE PROCESSED, IT DID NOT HAVE CONTROLS TO DETECT AND RECOUP IMPROPER PAYMENTS

Federal Requirements

According to the Act, Medicare does not pay for services rendered to a beneficiary whose entitlement to Medicare was terminated before services were rendered. CMS's *Medicare Financial Management Manual* (the Manual),⁹ provides guidance to Medicare contractors for collecting Part A payments for a beneficiary whose entitlement to Part A has been terminated. The Manual also provides guidance for collecting Part B payments for a beneficiary whose entitlement to Part B has been terminated.

The Presidential memorandum *Finding and Recapturing Improper Payments*¹⁰ directs Federal agencies, including CMS, to use every tool available to identify and reclaim the funds associated with improper payments that the Federal Government has made. The memorandum notes that reclaiming these funds is a critical component of the proper stewardship and protection of taxpayer dollars. In addition, Federal guidelines direct Federal agencies to take all necessary steps to prevent, detect, and collect improper payments.¹¹

Improper Payments Not Detected

When CMS's data systems did not indicate until after a claim had been processed that a beneficiary's entitlement to Medicare had been terminated, CMS's controls were not adequate to detect and recoup the improper payment.

CMS received information on dates of terminated entitlement after the date on which entitlement to Medicare was terminated. (In one instance, CMS did not receive this information until 1 year after the beneficiary's entitlement to Medicare had been terminated.) As a result, Medicare contractors received and processed claims from providers before CMS received notification of the beneficiaries' terminated entitlement. Contractors incorrectly but unknowingly paid providers for services rendered to these beneficiaries. As a result, Medicare payments totaling \$18,374,440 were improperly made to providers for services rendered to 7,426 beneficiaries whose entitlements to Medicare had been classified as terminated at some point during CYs 2010 through 2012.¹²

⁹ The Manual, chapter 3, § 110.6.D.

¹⁰ 75 Fed. Reg. 12119 (Mar. 15, 2010).

¹¹ Office of Management and Budget Circular A-123, Appendix C, *Requirements for Effective Measurement and Remediation of Improper Payments* part I, section A.15.

¹² The \$18,374,440 includes improper payments for Medicare Parts A and B. The amounts for Part A were identified only for those beneficiaries whose entitlements to Part A had been terminated. Likewise, the amounts for Part B were identified only for those beneficiaries whose entitlements to Part B had been terminated.

CMS did not always receive timely updates regarding information on entitlement-terminated beneficiaries before Medicare contractors paid providers. When CMS received untimely information indicating that the beneficiaries had lost their entitlements before the dates of service on *previously paid* Medicare claims, CMS did not notify contractors of this updated information. In the absence of such notification, the contractors did not detect and recoup the improper payments.

We judgmentally selected 895 claims and compared the dates on which CMS's data systems were updated with termination information from SSA to the dates on which Medicare contractors paid providers. For each of the 895 claims, we determined that CMS received the information from SSA *after* the contractors had paid the claims.

A Medicare contractor confirmed to us that CMS had not notified it of the beneficiaries' loss of entitlement for this type of claim and explained that it made the payments because the information in CMS's data systems at the time of payment indicated that the beneficiaries were entitled to Medicare benefits. After analyzing information from us, the contractor stated that claims of this type were not allowable for Medicare payment. The contractor stated that it would have canceled these claims and recouped the payments if CMS had notified it of the terminated entitlements.

CMS Did Not Have Policies and Procedures To Detect and Recoup Improper Payments on a Postpayment Basis

The improper payments remained uncollected because CMS did not have policies and procedures to review information for entitlement-terminated beneficiaries on a postpayment basis to detect improper payments that the prepayment edit could not prevent.

Because CMS has instructed its Medicare contractors to rely on the information that CMS receives from SSA to prevent improper payments and because this information must be present for the prepayment edit to be effective, using the same information to notify contractors of terminated entitlements after claims have been paid is a reasonable extension of CMS's efforts. Once notified, the contractors could then detect and recoup improper payments.

Improper Payments on Behalf of Entitlement-Terminated Beneficiaries Remain Uncollected

Because CMS did not have policies and procedures to detect improper payments, it did not notify the Medicare contractors to recoup the improper payments. Thus, \$18,374,440 in improper payments for CYs 2010 through 2012 remained uncollected.

Table: Improper Payments That Remained Uncollected

Reasons for Termination of Beneficiary Entitlement to Medicare	Medicare Part A	Medicare Part B	Total Payments
No longer had a qualifying disability	\$4,845,639	\$3,207,030	\$8,052,669
Voluntarily withdrew from coverage	157,911	3,218,518	3,376,429
No longer met provisions for kidney disease	2,510,418	864,682	3,375,100
Did not pay Medicare Part A or Part B premiums	862,808	1,351,861	2,214,669
Lost Social Security benefits	930,359	0	930,359
Part B enrollment voided or invalidated	0	425,214	425,214
Total	\$9,307,135	\$9,067,305	\$18,374,440

RECOMMENDATIONS

We recommend that CMS:

- ensure that Medicare contractors recoup the \$18,374,440 in improper payments,
- implement policies and procedures to detect and recoup improper payments made for Medicare services rendered to entitlement-terminated beneficiaries in cases when entitlement termination information is received on previously paid Medicare claims, and
- identify improper payments made on behalf of entitlement-terminated beneficiaries after our audit period but before implementation of policies and procedures and ensure that Medicare contractors recoup those improper payments.

CMS COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, CMS did not concur with our recommendations. CMS stated that according to section 1870 of the Act and 42 CFR § 405.350, "... CMS must waive recovery of overpayments if the provider/supplier was 'without fault' in causing the overpayment." In addition, CMS said our report did "... not provide any evidence that the provider/supplier knew (or could have reasonably determined) that entitlement was terminated on or before the date of service at issue...."

CMS's comments appear in their entirety as Appendix B.

Nothing in CMS's comments caused us to change our findings or our recommendations. CMS comments notwithstanding, our recommendations are not limited to recouping improper payments from providers. The Manual states: "... if the [Medicare contractor] determines that an overpaid provider or physician was without fault and therefore not liable for the overpayment, it relieves the provider of liability for the overpayment. The beneficiary automatically becomes liable, whether or not the beneficiary was at fault" (chapter 3, § 70). In addition, the Manual provides specific guidance to Medicare contractors on recouping overpayments from entitlement-terminated beneficiaries (chapter 3, § 110.6.D).

Therefore, we continue to recommend that CMS instruct the Medicare contractors to initiate recoupment on the improper payments identified in our report and implement policies and procedures to prevent future improper payments. In recouping overpayments, contractors should assess the “without fault” provision and recoup the overpayments accordingly.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

The audit scope covered 59,962 claims for which CMS's data systems indicated that Medicare contractors made \$18,374,440 in payments to providers on behalf of 7,426 beneficiaries who received services after their Medicare entitlements had been classified as terminated during CYs 2010 through 2012. We did not review CMS's overall internal control structure because our objective did not require us to do so. We reviewed only the internal controls directly related to our objective.

We performed audit work from February through August 2013.

METHODOLOGY

To accomplish our objective, we performed the following steps:

- We reviewed applicable Federal laws, regulations, and guidance.
- We held discussions with CMS officials and Medicare contractors to gain an understanding of how they processed Medicare claims for entitlement-terminated beneficiaries.
- We used CMS's Enrollment Database (as of February 23, 2013) to identify 2,192,486 beneficiaries whose entitlements to Medicare had been classified as terminated at some point during CYs 2010 through 2012. Our comparison to CMS's National Claims History file (as of December 31, 2012) showed that Medicare contractors paid 59,962 claims (on behalf of 7,426 beneficiaries with \$18,374,440 in associated payments) for which the services were rendered after the beneficiaries' Medicare entitlements were terminated. The amounts for Medicare Part A were identified only for those beneficiaries whose entitlement to Part A had been terminated. Likewise, the amounts for Medicare Part B were identified only for those beneficiaries whose entitlement to Part B had been terminated.
- We judgmentally selected 895 claims and, for those claims, compared the dates on which CMS's data systems were updated with termination information from SSA to the dates on which Medicare contractors paid providers.
- We discussed the results of our review with CMS officials on October 31, 2013.

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: CMS COMMENTS



DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

DATE: JAN - 8 2014

TO: Daniel R. Levinson
Inspector General

FROM: Marilyn Tavenner
Acting Administrator 

SUBJECT: Office of Inspector General (OIG) Draft Report: Medicare Improperly Paid Providers Millions of Dollars for Entitlement – Terminated Beneficiaries Who Received Services during 2010 through 2012 (A-07-13-01127)

The Centers for Medicare & Medicaid Services (CMS) appreciates the opportunity to review and comment on the above subject OIG Draft Report. The objective of this audit was to determine whether CMS had adequate controls to prevent and detect improper payments for Medicare services rendered to entitlement-terminated beneficiaries. OIG's recommendations and the CMS responses to those recommendations are discussed below.

OIG Recommendation

The OIG recommends that CMS ensure that Medicare contractors recoup \$18,374,440 in improper payments.

CMS Response

The CMS non-concurs with the recommendation. Pursuant to section 1870 of the Social Security Act and 42 CFR section 405.350, CMS must waive recovery of overpayments if the provider/supplier was "without fault" in causing the overpayment. OIG's report stated that CMS data systems did not indicate, until after the claims were processed, that a beneficiary's entitlement to Medicare had been terminated, because CMS did not always receive timely updates regarding entitlement-terminated beneficiaries from the Social Security Administration. OIG's report does not provide any evidence that the provider/supplier knew (or could have reasonably determined) that entitlement was terminated on or before the date of service at issue or was "not without fault" for some other reason with respect to these overpayments. Without this information, CMS is precluded from collecting these overpayments. We also note that Medicare is terminated retroactively in some instances, a situation in which the provider/supplier would clearly be "without fault" with respect to the overpayment. The report contains no

information on whether, or to what extent, the identified overpayments were the result of retroactive termination actions.

OIG Recommendation

The OIG recommends that CMS implement policies and procedures to detect and recoup improper payments made for Medicare services rendered to entitlement-terminated beneficiaries in cases when entitlement termination information is received on previously paid Medicare claims.

CMS Response

The CMS non-concurs with the recommendation under the same rationale presented in the response to recommendation one.

OIG Recommendation

The OIG recommends that CMS identify improper payments made on behalf of entitlement-terminated beneficiaries after our audit period but before implementation of policies and procedures and ensure that Medicare contractors recoup those improper payments.

CMS Response

The CMS non-concurs with the recommendation under the same rationale presented in the response to recommendations one and two.

The CMS thanks OIG for the work done on this issue and looks forward to working with OIG in the future.