

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**NORIDIAN HEALTHCARE
SOLUTIONS, LLC, CLAIMED
SOME UNALLOWABLE
MEDICARE POSTRETIREMENT
BENEFIT COSTS**

*Inquiries about this report may be addressed to the Office of Public Affairs at
Public.Affairs@oig.hhs.gov.*



Gloria L. Jarmon
Deputy Inspector General
for Audit Services

November 2019
A-07-19-00569

Office of Inspector General

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

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

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: November 2019

Report No. A-07-19-00569

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



Why **OIG** Did This Review

The Centers for Medicare & Medicaid Services (CMS) reimburses contractors for a portion of their postretirement benefit (PRB) costs, which are funded by the contributions that contractors make to their dedicated trust fund.

At CMS's request, the HHS, **OIG**, Office of Audit Services, Region VII pension audit team reviews the cost elements related to qualified defined-benefit, PRB, and any other pension-related cost elements claimed by Medicare contractors through Final Administrative Cost Proposals (FACPs). Previous **OIG** reviews found that Medicare contractors did not always comply with Federal requirements when claiming PRB costs for Medicare reimbursement.

Our objective was to determine whether the fiscal years (FYs) 2011 through 2013 PRB costs that Noridian Healthcare Solutions, LLC (NHS), claimed for Medicare reimbursement under its fiscal intermediary and carrier contracts, and reported on its FACPs, were allowable and correctly claimed.

How **OIG** Did This Review

We reviewed negative \$159,399 of PRB costs claimed by NHS for Medicare reimbursement on its FACPs for FYs 2011 through 2013. (Negative PRB costs represent reimbursements of prior contributions in cases when there is a plan change because a contractor reduces benefits already earned by plan participants.)

Noridian Healthcare Solutions, LLC, Claimed Some Unallowable Medicare Postretirement Benefit Costs

What **OIG** Found

NHS claimed FYs 2011 through 2013 PRB costs of negative \$159,399 for Medicare reimbursement; however, we determined that the allowable PRB costs during this period were negative \$263,130. The difference, negative \$103,731, represented unallowable Medicare PRB costs that NHS claimed on its FACPs for FYs 2011 through 2013. NHS claimed these unallowable Medicare PRB costs primarily because it incorrectly calculated the assignable PRB costs for this time period.

What **OIG** Recommends and Auditee Comments

We recommend that NHS revise its FACPs for FYs 2011 through 2013 to decrease its Medicare PRB costs by \$103,731.

NHS concurred with our recommendation. NHS stated that it would work with CMS to decrease its Medicare PRB costs by \$103,731 in the closeout agreement for FYs 2011 through 2013.

TABLE OF CONTENTS

INTRODUCTION.....	1
Why We Did This Review	1
Objective	1
Background	1
Noridian Healthcare Solutions, LLC, and Medicare	1
Medicare Reimbursement of Postretirement Benefit Costs	2
How We Conducted This Review	3
FINDING.....	3
Claimed Medicare Postretirement Benefit Costs	3
Unallowable Postretirement Benefit Costs Claimed	3
RECOMMENDATION	4
AUDITEE COMMENTS	4
APPENDICES	
A: Audit Scope and Methodology	5
B: Federal Requirements Related to Reimbursement of Postretirement Benefit Costs	7
C: Allowable Medicare Postretirement Benefit Costs for Noridian Healthcare Solutions, LLC, for Fiscal Years 2011 Through 2013.....	8
D: Auditee Comments.....	10

INTRODUCTION

WHY WE DID THIS REVIEW

Medicare contractors are eligible to be reimbursed a portion of their postretirement benefit (PRB) costs, which are funded by contributions that these contractors make to their dedicated trust fund. The amount of PRB costs that the Centers for Medicare & Medicaid Services (CMS) reimburses to the contractors is determined by the cost reimbursement principles contained in the Federal Acquisition Regulation (FAR) as required by the Medicare contracts. Previous Office of Inspector General reviews found that Medicare contractors did not always comply with Federal requirements when claiming PRB costs for Medicare reimbursement.

At CMS's request, the Office of Inspector General, Office of Audit Services, Region VII pension audit team reviews the cost elements related to qualified defined-benefit, nonqualified defined-benefit, PRB, and any other pension-related cost elements claimed by Medicare fiscal intermediaries and carrier contractors and Medicare administrative contractors (MACs) through Final Administrative Cost Proposals (FACPs), Incurred Cost Proposals, or both.

For this review, we focused on one Medicare contractor, Noridian Healthcare Solutions, LLC (NHS). We examined the Medicare segment and Other segment allowable PRB costs that NHS claimed for Medicare reimbursement on its FACPs.

OBJECTIVE

Our objective was to determine whether the fiscal years (FYs) 2011 through 2013 PRB costs that NHS claimed for reimbursement under its fiscal intermediary and carrier contracts, and reported on its FACPs, were allowable and correctly claimed.

BACKGROUND

Noridian Healthcare Solutions, LLC, and Medicare

NHS is a subsidiary of Blue Cross Blue Shield of North Dakota (formerly Noridian Mutual Insurance Company), whose home office is in Fargo, North Dakota. NHS administered Medicare Part A fiscal intermediary, Medicare Part B carrier, and Medicare Durable Medical Equipment (DME) contract operations under cost reimbursement contracts with CMS until its contractual relationships ended on August 10, 2013, February 24, 2012, and March 31, 2011, respectively.

With the implementation of Medicare contracting reform,¹ NHS continued to perform Medicare work after being awarded the MAC contracts for Medicare DME Jurisdiction D² and Medicare Parts A and B Jurisdiction 3,³ effective June 30, 2006, and July 31, 2006, respectively. Currently, NHS is the Medicare Parts A and B MAC contractor for Jurisdictions E⁴ and F⁵ and the Medicare DME contractor for Jurisdictions A⁶ and D.⁷ During our audit period, NHS administered both fiscal intermediary and carrier contracts and MAC-related contracts.

This report addresses the allowable PRB costs claimed by NHS under the provisions of its fiscal intermediary and carrier contracts. NHS claimed PRB costs using the segmented accrual basis of accounting.

Medicare Reimbursement of Postretirement Benefit Costs

CMS reimburses a portion of the Medicare contractors' annual PRB costs, which are funded by contributions that contractors make to their PRB plans. Federal regulations (FAR 31.205-6(o)) require that to be allowable for Medicare reimbursement, PRB costs must be (1) measured, assigned, and allocated in accordance with Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 715-60 (formerly Statement of Financial Accounting Standards (SFAS) 106) and (2) funded as specified by part 31 of the FAR.

¹ Section 911 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, P.L. No. 108-173, required CMS to transfer the functions of fiscal intermediaries and carriers to MACs between October 2005 and October 2011. Most, but not all, of the MACs are fully operational; for jurisdictions where the MACs are not fully operational, the fiscal intermediaries and carriers continue to process claims. For purposes of this report, the term "Medicare contractor" means the fiscal intermediary, carrier, or MAC, whichever is applicable.

² The original Medicare DME Jurisdiction D included the States of Alaska, Arizona, California, Hawaii, Idaho, Iowa, Kansas, Missouri, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, and the U.S. Territories of American Samoa, Guam, and the Northern Mariana Islands.

³ The original Medicare Parts A and B Jurisdiction 3 included the States of Arizona, Montana, North Dakota, South Dakota, Utah, and Wyoming.

⁴ Medicare Parts A and B Jurisdiction E includes the States of California, Hawaii, and Nevada, and the U.S. Territories of American Samoa, Guam, and the Northern Mariana Islands.

⁵ Medicare Parts A and B Jurisdiction F includes the States of Alaska, Arizona, Idaho, Montana, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.

⁶ Medicare DME Jurisdiction A includes the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, and the District of Columbia.

⁷ Medicare DME Jurisdiction D includes the States of Alaska, Arizona, California, Hawaii, Idaho, Iowa, Kansas, Missouri, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, and the U.S. Territories of American Samoa, Guam, and the Northern Mariana Islands.

In claiming costs, contractors must follow cost reimbursement principles contained in the FAR and the Medicare contracts. For contractors that account for costs using ASC 715 valuation method, a negative plan amendment can produce negative PRB costs.⁸

HOW WE CONDUCTED THIS REVIEW

We reviewed negative \$159,399 of PRB costs claimed by NHS for Medicare reimbursement on its FACPs for FYs 2011 through 2013.⁹

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 finding and conclusions based on our audit objectives.

Appendix A contains details of our audit scope and methodology.

FINDING

NHS claimed FYs 2011 through 2013 PRB costs of negative \$159,399 for Medicare reimbursement; however, we determined that the allowable PRB costs during this period were negative \$263,130. The difference, negative \$103,731, represented unallowable Medicare PRB costs that NHS claimed on its FACPs for FYs 2011 through 2013. NHS claimed these unallowable Medicare PRB costs primarily because it incorrectly calculated the assignable PRB costs for this time period.

CLAIMED MEDICARE POSTRETIREMENT BENEFIT COSTS

NHS claimed Medicare PRB costs of negative \$159,399 for Medicare reimbursement, under the provisions of its fiscal intermediary and carrier contracts, on its FACPs for FYs 2011 through 2013. We calculated the allowable Medicare PRB costs based on separately computed PRB costs for the Medicare segment and the Other segment in accordance with the FAR. For details on the Federal requirements, see Appendix B.

UNALLOWABLE POSTRETIREMENT BENEFIT COSTS CLAIMED

We determined that the allowable PRB costs for FYs 2011 through 2013 were negative \$263,130. Thus, NHS claimed negative \$103,731 of unallowable Medicare PRB costs on its FACPs for FYs 2011 through 2013. NHS claimed these unallowable Medicare PRB costs

⁸ A negative plan amendment can occur when there is a plan change because a contractor reduces benefits already earned by plan participants for past services.

⁹ Negative PRB costs represent reimbursements of prior trust contributions for benefits that were reduced by the negative plan amendment.

primarily because it based its claim for Medicare reimbursement on incorrectly calculated assignable PRB costs. More specifically, this overclaim occurred primarily because of differences in the identification of the Medicare segment participants.

The table below shows the differences between the allowable PRB costs and the PRB costs that NHS claimed on its FACPs and reflected in its accounting documents. Appendix C shows the development of the allowable PRB costs.

Table: Comparison of Allowable PRB Costs and Claimed PRB Costs

	<u>Medicare PRB Costs</u>		
FY	Allowable Per Audit	Claimed by NHS	Difference
2011	(\$64,863)	\$5,627	(\$70,490)
2012	(120,387)	(94,410)	(25,977)
2013	(77,880)	(70,616)	(7,264)
Total	(\$263,130)	(\$159,399)	(\$103,731)

RECOMMENDATION

We recommend that Noridian Healthcare Solutions, LLC, revise its FACPs for FYs 2011 through 2013 to decrease its Medicare PRB costs by \$103,731.

AUDITEE COMMENTS

In written comments on our draft report, NHS concurred with our recommendation. NHS stated that it would work with CMS to decrease its Medicare PRB costs by \$103,731 in the closeout agreement for FYs 2011 through 2013.

NHS’s comments appear in their entirety as Appendix D.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed negative \$159,399 of PRB costs that NHS claimed for Medicare reimbursement on its FACPs for FYs 2011 through 2013 (footnote 9).

Achieving our objective did not require that we review NHS's overall internal control structures. We reviewed the internal controls related to the PRB costs claimed for Medicare reimbursement to ensure that the PRB costs were allowable in accordance with the FAR.

We performed fieldwork at NHS located in Fargo, North Dakota.

METHODOLOGY

To accomplish our objective, we:

- reviewed the portions of the FAR and Medicare contracts applicable to this audit;
- reviewed accounting records and FACP information provided by NHS to identify the amount of PRB costs claimed for Medicare reimbursement for FYs 2011 through 2013;
- used information that Blue Cross Blue Shield of North Dakota's actuarial consulting firm provided, including information on VEBA assets, PRB obligations, service costs, contributions, claims paid, claims reimbursed, investment earnings, and administrative expenses;
- examined NHS's PRB plan documents and annual actuarial valuation reports, which included SFAS 106 information;
- determined the extent to which NHS funded PRB costs with contributions to the VEBA trust, accumulated prepayment credits, and direct payments;
- engaged the CMS Office of the Actuary, which provides technical actuarial advice, to calculate the PRB costs based on the SFAS 106 methodology applied in accordance with FAR 31.205-6(o);
- reviewed and verified the CMS actuaries' methodology and calculations and used this information to calculate the PRB costs for the Medicare segment and the Other segment for FYs 2011 through 2013; and
- provided the results of our review to NHS officials on August 1, 2019.

We performed this review in conjunction with the following audits and used the information obtained during these audits:

- *Noridian Healthcare Solutions, LLC, Understated Its Medicare Segment Postretirement Benefit Assets (A-07-19-00567)* and
- *Noridian Healthcare Solutions, LLC, Did Not Claim Some Allowable Medicare Postretirement Benefit Costs Through Its Incurred Cost Proposals (A-07-19-00568)*.

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 finding and conclusions based on our audit objectives.

APPENDIX B: FEDERAL REQUIREMENTS RELATED TO REIMBURSEMENT OF POSTRETIREMENT BENEFIT COSTS

FEDERAL REGULATIONS

Federal regulations (FAR 31.205-6(o)) require that PRB accrual costs be determined in accordance with SFAS 106 and funded into a dedicated trust fund, such as a VEBA trust. The FAR states that accrual accounting may be used to determine the allowable PRB costs if the cost is measured and assigned (actuarially determined) according to generally accepted accounting principles based on amortization of any transition obligation. Costs attributable to past service (transition obligation) must be assigned under the delayed recognition methodology described in paragraphs 112 and 113 of SFAS 106. The FAR also states that allowable costs must be funded by the time set for filing the Federal income tax return or any extension thereof, and must comply with the applicable standards promulgated by the Actuarial Standards Board.

**APPENDIX C: ALLOWABLE MEDICARE POSTRETIREMENT BENEFIT COSTS
FOR NORIDIAN HEALTHCARE SOLUTIONS, LLC,
FOR FISCAL YEARS 2011 THROUGH 2013**

Date	Description	Total Company	Other Segment	Medicare Segment	Total Medicare
2010	CY Allocable PRB Cost <u>1/</u>		\$95,026	\$0	
2011	Contributions	\$0	\$0	\$0	
	Contributions Receivable	\$0	\$0	\$0	
	Benefits Paid	\$0	\$0	\$0	
	Discount for Interest	\$0	\$0	\$0	
January 1, 2011	Present Value Contributions	\$0	\$0	\$0	
	Prepayment Credit Applied	\$0	\$0	\$0	
	Present Value of Funding	\$0	\$0	\$0	
January 1, 2011	CAS Funding Target <u>2/</u>	(\$110,933)	\$323,582	(\$434,515)	
	Percentage Funded <u>3/</u>		0.00%	100.00%	
	Funded PRB Cost <u>4/</u>		\$0	(\$434,515)	
	Allowable Interest		\$0	\$0	
	CY Allocable PRB Cost		\$0	(\$434,515)	
2011	FY Allocable PRB Cost <u>5/</u>		\$23,757	(\$325,886)	
	FY Medicare LOB* Percentage <u>6/</u>		2.28%	20.07%	
2011	FY Allowable PRB Costs <u>7/</u>		\$542	(\$65,405)	(\$64,863)

Date	Description	Total Company	Other Segment	Medicare Segment	Total Medicare
2012	Contributions	\$0	\$0	\$0	
	Contributions Receivable	\$0	\$0	\$0	
	Benefits Paid	\$0	\$0	\$0	
	Discount for Interest	\$0	\$0	\$0	
January 1, 2012	Present Value Contributions	\$0	\$0	\$0	
	Prepayment Credit Applied	\$0	\$0	\$0	
	Present Value of Funding	\$0	\$0	\$0	
January 1, 2012	CAS Funding Target	(\$1,284,007)	(\$376,953)	(\$907,054)	
	Percentage Funded		100.00%	100.00%	
	Funded PRB Cost		(\$376,953)	(\$907,054)	
	Allowable Interest		\$0	\$0	
	CY Allocable PRB Cost		(\$376,953)	(\$907,054)	
2012	FY Allocable PRB Cost		(\$282,715)	(\$788,919)	
	FY Medicare LOB* Percentage		1.59%	14.69%	
2012	FY Allowable PRB Costs		(\$4,495)	(\$115,892)	(\$120,387)

Date	Description	Total Company	Other Segment	Medicare Segment	Total Medicare
2013	Contributions	\$0	\$0	\$0	
	Contributions Receivable	\$0	\$0	\$0	
	Benefits Paid	\$0	\$0	\$0	
	Discount for Interest	\$0	\$0	\$0	
January 1, 2013	Present Value Contributions	\$0	\$0	\$0	
	Prepayment Credit Applied	\$0	\$0	\$0	
	Present Value of Funding	\$0	\$0	\$0	
January 1, 2013	CAS Funding Target	(\$1,844,317)	(\$577,779)	(\$1,266,538)	
	Percentage Funded		100.00%	100.00%	
	Funded PRB Cost		(\$577,779)	(\$1,266,538)	
	Allowable Interest		\$0	\$0	
	CY Allocable PRB Cost		(\$577,779)	(\$1,266,538)	
2013	FY Allocable PRB Cost		(\$527,573)	(\$1,176,667)	
	FY Medicare LOB* Percentage		0.80%	6.26%	
2013	FY Allowable PRB Costs		(\$4,221)	(\$73,659)	(\$77,880)

ENDNOTES

- 1/ The allocable PRB cost is the amount of PRB cost that may be allocated for contract cost purposes. We obtained the calendar year (CY) 2010 allocable pension cost from our prior NHS review (A-07-13-00421).
- 2/ The CAS funding target is based on the assignable PRB costs computed during our review. The CAS funding target must be funded by accumulated prepayment credits or current-year contributions or direct benefit payments to satisfy the funding requirements contained in the FAR.
- 3/ The percentage of costs funded is a measure of the portion of the CAS funding target that was funded during the CY. Because any funding in excess of the CAS funding target is accounted for as a prepayment, the funded ratio may not exceed 100 percent. We computed the percentage funded as the present value of funding divided by the CAS funding target. For purposes of illustration, the percentage of costs funded has been rounded to four decimal places.
- 4/ We computed the funded PRB cost as the CAS funding target multiplied by the percent funded. Negative costs are considered to be 100 percent funded.
- 5/ We converted the CY allocable PRB costs to an FY basis. We calculated the FY PRB costs as 1/4 of the prior year's costs plus 3/4 of the current year's costs.
- 6/ We calculated the line of business (LOB) percentages based on information provided by NHS.
- 7/ We computed the FY allowable PRB costs as the FY allocable PRB cost multiplied by the Medicare LOB percentage.

APPENDIX D: AUDITEE COMMENTS



Office of Audit Services, Region VII
601 East 12th Street, Room 0429
Kansas City, MO 64106

Mr. David Breuer
Executive Vice President and Chief Financial Officer
Blue Cross Blue Shield of North Dakota
4510 13th Avenue South
Fargo, ND 58121

Report Number: A-07-19-00569

Report Title: Noridian Healthcare Solutions, LLC, Claimed Some Unallowable Medicare Postretirement Benefit Costs

Recommendation – From Report

We recommend that Noridian Healthcare Solutions, LLC, revise its FACPs for FYs 2011 through 2013 to decrease its Medicare PRB costs by \$103,731.

Statement of concurrence or non-concurrence:

Noridian Healthcare Solutions, LLC concurs with the above recommendation.

- For a concurrence, please include a statement describing the nature of the corrective action taken or planned.
- For a nonconcurrence, please include specific reasons for the nonconcurrence and a statement of any alternative corrective action taken or planned.

Noridian will work with CMS to include the decrease in its Medicare PRB costs by \$103,731 in the close out agreement for FYs 2011 through 2013.

Signed: _____/David Breuer/_____ Date: ____10/15/2019_____
David Breuer, Executive Vice President and Chief Financial Officer
Blue Cross Blue Shield of North Dakota

Noridian Healthcare Solutions, LLC, Postretirement Benefit Costs Claimed (A-07-19-00569)

4510 13th Avenue South, Fargo, North Dakota 58121

This information is available to individuals with disabilities in alternate formats, free of charge, by calling Member Services at 1-800-342-4718 (toll-free) or through the North Dakota Relay at 1-800-366-6888 or 711.

Blue Cross Blue Shield of North Dakota is an independent licensee of the Blue Cross & Blue Shield Association.