

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**NORIDIAN HEALTHCARE  
SOLUTIONS, LLC, DID NOT CLAIM  
ALLOWABLE MEDICARE  
NONQUALIFIED COSTS**

*Inquiries about this report may be addressed to the Office of Public Affairs at  
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Deputy Inspector General  
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November 2019  
A-07-19-00574

# *Office of Inspector General*

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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-07-19-00574

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



### Why OIG Did This Audit

The Centers for Medicare & Medicaid Services (CMS) reimburses a portion of its contractors' nonqualified plan (nonqualified) costs.

At CMS's request, the HHS, OIG, Office of Audit Services, Region VII pension audit team reviews the cost elements related to nonqualified plans and any other pension-related cost elements claimed by Medicare contractors through Final Administrative Cost Proposals (FACPs).

Previous OIG audits found that Medicare contractors did not always comply with Federal requirements when claiming nonqualified costs for Medicare reimbursement.

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

### How OIG Did This Audit

We reviewed \$282,481 of nonqualified costs claimed by NHS for Medicare reimbursement on its FACPs for FYs 2011 through 2013.

## Noridian Healthcare Solutions, LLC, Did Not Claim Allowable Medicare Nonqualified Costs

### What OIG Found

NHS claimed FYs 2011 through 2013 nonqualified costs of \$282,481 for Medicare reimbursement; however, we determined that the allowable nonqualified costs during this period were \$385,553. The difference, \$103,072, represented allowable Medicare nonqualified costs that NHS did not claim on its FACPs for FYs 2011 through 2013. NHS did not claim these allowable Medicare nonqualified costs primarily because it did not calculate these costs in accordance with Federal regulations and the Medicare contracts' requirements.

### What OIG Recommends and Auditee Comments

We recommend that NHS revise its FACPs for FYs 2011 through 2013 to increase its Medicare nonqualified costs by \$103,072.

NHS concurred with our recommendation. NHS stated that it would work with CMS to increase its Medicare nonqualified costs by \$103,072 in the closeout agreement for FYs 2011 through 2013.

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## **INTRODUCTION**

### **WHY WE DID THIS AUDIT**

The Centers for Medicare & Medicaid Services (CMS) reimburses a portion of its contractors' nonqualified plan (nonqualified) costs. In claiming nonqualified costs, contractors must follow cost reimbursement principles contained in the Federal Acquisition Regulation (FAR), the Cost Accounting Standards (CAS), and the Medicare contracts. Previous Office of Inspector General (OIG) audits found that Medicare contractors did not always comply with Federal requirements when claiming nonqualified costs for Medicare reimbursement.

At CMS's request, the OIG, Office of Audit Services, Region VII pension audit team reviews the cost elements related to qualified defined-benefit, nonqualified defined-benefit, postretirement benefit, 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 audit, we focused on one Medicare contractor, Noridian Healthcare Solutions, LLC (NHS). In particular, we examined the nonqualified costs that NHS claimed for Medicare reimbursement, under the provisions of its fiscal intermediary and carrier contracts, and reported on its FACPs.

### **OBJECTIVE**

Our objective was to determine whether the fiscal years (FYs) 2011 through 2013 nonqualified 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 (BCBS 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,<sup>1</sup> NHS continued to perform Medicare work after being awarded the MAC contracts for Medicare DME Jurisdiction D<sup>2</sup> and Medicare Parts A and B Jurisdiction 3,<sup>3</sup> effective June 30, 2006, and July 31, 2006, respectively. Currently, NHS is the Medicare Parts A and B MAC contractor for Jurisdictions E<sup>4</sup> and F<sup>5</sup> and the Medicare DME contractor for Jurisdictions A<sup>6</sup> and D.<sup>7</sup> During our audit period, NHS administered both fiscal intermediary and carrier contracts and MAC-related contracts.

## **Nonqualified Plan**

BCBS North Dakota sponsors a nonqualified plan called the Supplemental Retirement Program for Certain Employees of Blue Cross Blue Shield of North Dakota. The purpose of this plan is to provide deferred compensation for a select group of management or highly compensated employees within the meaning of the Employee Retirement Income Security Act of 1974. NHS claimed nonqualified costs using pay-as-you-go basis of accounting.

This report addresses the allowable nonqualified costs claimed by NHS under the provisions of its fiscal intermediary and carrier contracts. We are addressing the Supplemental Executive Retirement Plan costs that NHS claimed under the provisions of its MAC contracts in a separate audit (A-07-19-00573; Appendix A).

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<sup>1</sup> 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.

<sup>2</sup> 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.

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

<sup>4</sup> 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.

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

<sup>6</sup> 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.

<sup>7</sup> 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.

## **Accounting Methodologies**

The Medicare contracts require NHS to calculate nonqualified costs in accordance with the FAR and CAS 412 and 413. The FAR and the CAS require that the costs for nonqualified plans be measured under either the accrual method or the pay-as-you-go method. Under the accrual method, allowable costs are based on the annual contributions that the employer deposits into its trust fund. For nonqualified plans that are not funded through the use of a funding agency, costs are to be accounted for under the pay-as-you-go method. This method is based on the actual benefits paid to participants, which are comprised of lump-sum payments and annuity payments.

## **HOW WE CONDUCTED THIS AUDIT**

We reviewed \$282,481 of nonqualified costs claimed by NHS for Medicare reimbursement on its FACPs for FYs 2011 through 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 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 nonqualified costs of \$282,481 for Medicare reimbursement; however, we determined that the allowable nonqualified costs during this period were \$385,553. The difference, \$103,072, represented allowable Medicare nonqualified costs that NHS did not claim on its FACPs for FYs 2011 through 2013. NHS did not claim these allowable Medicare nonqualified costs primarily because it did not calculate these costs in accordance with Federal regulations and the Medicare contracts' requirements.

## **NONQUALIFIED PLAN COSTS CLAIMED**

NHS claimed Medicare nonqualified costs of \$282,481 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 nonqualified costs in accordance with the FAR and the CAS. For details on the Federal requirements, see Appendix B.

## **CALCULATION OF ALLOWABLE NONQUALIFIED COSTS**

We determined that the allowable nonqualified costs for FYs 2011 through 2013 were \$385,553. Thus, NHS did not claim \$103,072 of allowable Medicare nonqualified costs on its



FACPs for FYs 2011 through 2013. This underclaim occurred because NHS did not calculate its nonqualified costs in accordance with Federal regulations and the Medicare contracts' requirements. More specifically, NHS based its claim for Medicare reimbursement on an incorrect cost accounting method when calculating its nonqualified costs for Medicare reimbursement.

The Medicare contracts require that nonqualified costs be calculated in accordance with the FAR and the CAS. NHS calculated its nonqualified costs in accordance with CAS 412. However, the nonqualified plan did not offer a benefit that is payable for life; therefore, the plan did not qualify as a "pension plan" as defined in FAR 31.001. Thus, NHS did not claim costs in accordance with Federal regulations. NHS should have identified the nonqualified costs in accordance with the regulations for a deferred compensation plan and should have calculated those costs in accordance with the FAR and CAS 415.

Because NHS's plan did not qualify as a pension plan, we calculated its plan costs in accordance with FAR 31.205-6(k) and CAS 415, which govern deferred compensation plans. Specifically, we calculated the allowable nonqualified costs based on actual payments to nonqualified plan participants in accordance with CAS 415.40(a). Accordingly, we determined the allowable nonqualified costs for FYs 2011 through 2013.

The table below compares the allowable nonqualified costs that we calculated to the costs claimed on NHS's FACPs.

**Table: Comparison of Nonqualified Plans Costs**

<b>Fiscal Year</b>	<b>Per Audit</b>	<b>Per NHS</b>	<b>Difference</b>
2011	\$235,244	\$160,655	\$74,589
2012	131,960	88,526	43,434
2013	18,349	33,300	(14,951)
<b>Total</b>	<b>\$385,553</b>	<b>\$282,481</b>	<b>\$103,072</b>

Because NHS did not calculate the nonqualified costs in accordance with Federal regulations and the Medicare contracts' requirement, it did not claim \$103,072 of allowable nonqualified costs.

**RECOMMENDATION**

We recommend that Noridian Healthcare Solutions, LLC, revise its FACPs for FYs 2011 through 2013 to increase its Medicare nonqualified costs by \$103,072.

## **AUDITEE COMMENTS**

In written comments on our draft report, NHS concurred with our recommendation. NHS stated that it would work with CMS to increase its Medicare nonqualified costs by \$103,072 in the closeout agreement for FYs 2011 through 2013.

NHS's comments appear in their entirety as Appendix C.

## APPENDIX A: AUDIT SCOPE AND METHODOLOGY

### SCOPE

We reviewed \$282,481 of nonqualified costs that NHS claimed for Medicare reimbursement on its FACPs for FYs 2011 through 2013.

Achieving our objective did not require that we review NHS's overall internal control structure. We reviewed the internal controls related to the nonqualified costs claimed for Medicare reimbursement to ensure that those costs were allocable in accordance with the CAS and 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, CAS, and Medicare contracts applicable to this audit;
- reviewed the Supplemental Retirement Program for Certain Employees of BCBS North Dakota plan documents;
- reviewed accounting records and FACP information provided by NHS to identify the amount of nonqualified costs claimed for Medicare reimbursement for FYs 2011 through 2013;
- calculated allowable nonqualified costs in accordance with applicable provisions of the FAR and CAS; and
- provided the results of our audit to NHS officials on August 8, 2019.

We performed this audit in conjunction with the following audit and used the information obtained during this audit: *Noridian Healthcare Solutions, LLC, Did Not Claim Allowable Medicare Nonqualified Costs Through Its Incurred Cost Proposals (A-07-19-00573)*.

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 NONQUALIFIED PLAN COSTS**

### **FEDERAL REGULATIONS**

FAR 31.001 defines a “pension plan” as follows:

‘Pension plan’ means a deferred compensation plan established and maintained by one or more employers to provide systematically for the payment of benefits to plan participants after their retirements, provided that the benefits are paid for life or are payable for life at the option of the employees. Additional benefits such as permanent and total disability and death payments, and survivorship payments to beneficiaries of deceased employees, may be an integral part of a pension plan.

FAR 31.001 also defines “deferred compensation” as follows:

‘Deferred compensation’ means an award made by an employer to compensate an employee in a future cost accounting period or periods for services rendered in one or more cost accounting periods before the date of the receipt of compensation by the employee. This definition shall not include the amount of year end accruals for salaries, wages, or bonuses that are to be paid within a reasonable period of time after the end of a cost accounting period.

The allowability of costs for deferred compensation plans is governed by FAR 31.205-6. FAR 31.205-6(k) states that costs shall be measured, assigned, and allocated in accordance with CAS 415.

Federal regulations (CAS 415.40(a)) state that the cost of deferred compensation shall be assigned to the cost accounting period in which the contractor incurs an obligation to compensate the employee. In the event no obligation is incurred prior to payment, the cost shall be assigned to the cost accounting period in which the payment is made.

### **MEDICARE CONTRACTS**

The determination and allocation of pension costs are addressed by the Medicare contracts, which 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.”

APPENDIX C: AUDITEE COMMENTS



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**Report Number:** A-07-19-00574

**Report Title:** Noridian Healthcare Solutions, LLC, Did Not Claim Allowable Medicare Nonqualified Costs

**Recommendation – From Report**

We recommend that NHS revise its FACPs for FYs 2011 through 2013 to increase its Medicare nonqualified costs by \$103,072.

**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 increase in its Medicare nonqualified costs by \$103,072 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