



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

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Region IX
Office of Audit Services
90 – 7th Street, Suite 3-650
San Francisco, CA 94103

Report Number: A-09-09-00031

Mr. D. Jeffrey Morrow
Senior Vice President, Corporate Benefits Manager
Union Bank of California, N.A.
400 California Street, 10th Floor
San Francisco, California 94104

Dear Mr. Morrow:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Review of Retiree Drug Subsidy Plan Sponsor Union Bank of California, N.A., for Plan Year Ended December 31, 2006." We will forward a copy of this report to the HHS action official noted below.

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, this report will be posted on the Internet at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please direct them to the HHS action official. Please refer to report number A-09-09-00031 in all correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori A. Ahlstrand".

Lori A. Ahlstrand
Regional Inspector General
for Audit Services

Enclosure

HHS Action Official:

Ms. Nanette Foster Reilly, Consortium Administrator
Consortium for Financial Management and 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
RETIREE DRUG SUBSIDY
PLAN SPONSOR
UNION BANK OF CALIFORNIA,
N.A.,
FOR PLAN YEAR ENDED
DECEMBER 31, 2006**



Daniel R. Levinson
Inspector General

January 2009
A-09-09-00031

Office of Inspector General

<http://oig.hhs.gov>

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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

Section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (P.L. No. 108-173) established the Retiree Drug Subsidy (RDS) program effective January 1, 2006. Under the program, the Centers for Medicare & Medicaid Services (CMS) makes subsidy payments to sponsors (employers and unions) of qualified retiree prescription drug plans for qualifying retirees covered under the plans. A qualifying covered retiree is a Medicare Part D-eligible individual who is not enrolled in a Part D plan but who is covered by a qualified retiree prescription drug plan. The subsidy payments for each qualifying covered retiree generally equal 28 percent of allowable retiree drug costs.

Medicare requires that the sponsor of a qualified retiree prescription drug plan submit an RDS application to CMS each year. As part of the application process, plan sponsors must submit a list of qualifying covered retirees. The submitted list should include retiree identification information, as well as the plan sponsor's coverage effective and termination dates. Plan sponsors, or their vendors, must accumulate retiree drug costs and prepare and submit cost reports to CMS before requesting subsidy payments. CMS created the RDS secure Web site as a secure portal for plan sponsors participating in the subsidy program to submit RDS applications and requests for payment.

Union Bank of California, N.A. (Union Bank), is a full-service commercial bank headquartered in San Francisco, California, that offers prescription drug coverage to its retired employees. For plan year 2006, Union Bank submitted the cost report to CMS. Union Bank received \$626,557 in plan year 2006 subsidy payments based on reported gross retiree drug costs of approximately \$3.4 million and allowable retiree costs of approximately \$2.2 million.

OBJECTIVES

Our objectives were to determine whether Union Bank (1) met the requirements to be a plan sponsor, (2) established controls to ensure that drug subsidy costs were correctly reported, and (3) established administrative safeguards over retiree data included in the RDS secure Web site.

SUMMARY OF RESULTS

Union Bank (1) met the requirements to be a plan sponsor, (2) established controls to ensure that drug subsidy costs were correctly reported, and (3) established administrative safeguards over retiree data included in the RDS secure Web site. Therefore, we are not making any recommendations to Union Bank.

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INTRODUCTION

BACKGROUND

Retiree Drug Subsidy

Section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (P.L. No. 108-173) established the Retiree Drug Subsidy (RDS) program effective January 1, 2006. Under the program, the Centers for Medicare & Medicaid Services (CMS) makes subsidy payments to sponsors (employers and unions) of qualified retiree prescription drug plans for qualifying retirees covered under the plans. A qualifying covered retiree is a Medicare Part D-eligible individual who is not enrolled in a Part D plan but who is covered by a qualified retiree prescription drug plan.

The subsidy payments for each qualifying covered retiree generally equal 28 percent of allowable retiree drug costs. Allowable retiree drug costs are based on gross retiree costs between a cost threshold and a cost limit, minus any price concessions such as discounts or rebates.

Plan Sponsor Requirements

Medicare requires that the sponsor of a qualified retiree prescription drug plan submit an RDS application to CMS each year. The application must include identifying information for the plan sponsor, an actuarial attestation that the actuarial value of the retiree prescription drug coverage under the plan is at least equal to the actuarial value of the defined standard prescription drug benefit under Medicare Part D, a list of qualifying covered retirees and identifying information, and a sponsor agreement signed by an authorized representative of the plan sponsor.

Qualifying Covered Retirees

As part of the application process, plan sponsors must submit a list of qualifying covered retirees. The submitted list should include retiree identification information, as well as the plan sponsor's coverage effective and termination dates.¹ To process a retiree file, CMS queries the Medicare Beneficiary Database and determines whether the individual is a qualifying covered retiree eligible for the subsidy based on Medicare entitlement. CMS then determines the periods of time during the plan year when the retiree is eligible for the subsidy. CMS includes the subsidy effective and termination dates in the retiree response file that it returns to the plan sponsor.

CMS recommends that plan sponsors submit updated retiree files periodically to reflect (1) new retirees not reported previously, (2) updates to previously accepted retiree records, (3) deletions for previously accepted retiree records, and (4) resubmissions. Each time a plan sponsor submits an updated retiree file, CMS prepares a response file. CMS also sends plan sponsors a

¹The plan sponsor's coverage effective and termination dates represent the dates that the plan sponsor provided the retiree with coverage under the qualified retiree prescription drug plan.

notification file when an event occurs—such as a retiree’s death or enrollment in Medicare Part D—that may affect a plan sponsor’s ability to receive the subsidy for a retiree.

Plan sponsors, or their vendors, must accumulate retiree drug costs and prepare and submit cost reports to CMS before requesting subsidy payments. Plan sponsors may elect to receive interim subsidy payments based on costs reported to date. A plan sponsor receiving interim payments is required to reconcile interim subsidy payments within 15 months after the end of its plan year. CMS makes any necessary adjustments to interim payments for the plan year when the reconciliation is completed.

Because plan sponsors submit retiree costs to CMS on an aggregate (rather than an individual retiree) basis, plan sponsors must carefully manage retiree response and notification files to ensure that costs are accumulated only for qualifying covered retirees during valid subsidy periods.

Retiree Drug Subsidy Secure Web Site

CMS, through its contractor ViPS, Inc., created the RDS secure Web site as a secure portal for plan sponsors participating in the subsidy program to submit RDS applications and requests for payment. Plan sponsor personnel requiring access to the secure Web site are assigned roles, including authorized representative, account manager, actuary, and designee. The authorized representative or account manager can assign designees various duties, including completing portions of the RDS application, submitting retiree data, and requesting subsidy payments.

Union Bank of California, N.A.

Union Bank of California, N.A. (Union Bank), is a full-service commercial bank headquartered in San Francisco, California, that offers prescription drug coverage to its retired employees.

Using information from its medical plan enrollment file, Union Bank creates a list of RDS-eligible retirees. Union Bank’s third-party vendor then downloads the list to accumulate retiree costs and to prepare cost reports. For plan year 2006, Union Bank submitted the cost report to CMS. Union Bank submitted a list of 1,278 retirees for its plan year 2006 application and received \$626,557 in plan year 2006 subsidy payments based on reported gross retiree drug costs of approximately \$3.4 million and allowable retiree costs of approximately \$2.2 million. Union Bank reconciled its plan year 2006 subsidy payments on March 21, 2008.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

Our objectives were to determine whether Union Bank (1) met the requirements to be a plan sponsor, (2) established controls to ensure that drug subsidy costs were correctly reported, and (3) established administrative safeguards over retiree data included in the RDS secure Web site.

Scope

We reviewed Union Bank's plan year 2006 RDS application, retiree lists, retiree response and notification files, and final cost report. We limited our review to determining whether Union Bank reported drug costs for qualifying covered retirees. We did not perform a review to determine the allowability of the drug costs reported. We reviewed the RDS secure Web site users associated with Union Bank's applications for plan year 2006.

Our objectives did not require an understanding or assessment of the complete internal control system at Union Bank. We limited our review of internal controls to obtaining an understanding of Union Bank's process for monitoring and updating its retiree files and coordinating with its third-party vendor to ensure that costs claimed for subsidy payments represented costs for qualifying covered retirees.

We performed our fieldwork at Union Bank's office in San Francisco, California, from June 2008 through January 2009.

Methodology

To accomplish our objectives, we:

- reviewed applicable Federal laws and regulations, Medicare program guidance, and the American Academy of Actuaries' (AAA) guidance;
- met with Union Bank's actuary and reviewed his workpapers to verify that the actuary had completed and submitted the attestation in accordance with CMS and AAA guidance;
- reviewed Union Bank's notice of creditable coverage sent to Part D-eligible retirees for the period beginning January 1, 2006;
- reviewed Union Bank's 2006 plan year RDS application to determine whether the information provided was complete, accurate, and submitted to CMS by the October 31, 2005, deadline and to verify that the application was approved;
- selected a judgmental sample of 50 plan year 2006 retirees for whom Union Bank reported costs and received subsidy payments;
- reviewed information from the Medicare Beneficiary Database to determine whether the sampled retirees were eligible for Medicare and Part D and not enrolled in a Part D prescription drug plan;
- reviewed documentation provided by Union Bank to determine whether the sampled retirees met Union Bank's criteria for retiree health coverage and were enrolled in a retiree health plan approved for the RDS;

- met with Union Bank personnel responsible for the RDS process to obtain an understanding of the application process and their procedures for submitting retiree files to CMS and processing retiree response and notification files received from CMS;
- reviewed Union Bank's plan year 2006 enrollment files and response and notification files to determine actions that the plan sponsor had taken to remove unqualified retirees from the RDS program;
- reviewed the plan year 2006 final cost report submitted by Union Bank's vendor to determine the total gross drug costs submitted and the total subsidy payments received by Union Bank; and
- identified Union Bank's secure Web site users for the 2006 plan year's application and determined whether the users were assigned and registered in accordance with program policies.

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.

RESULTS OF REVIEW

Union Bank (1) met the requirements to be a plan sponsor, (2) established controls to ensure that drug subsidy costs were correctly reported, and (3) established administrative safeguards over retiree data included in the RDS secure Web site. Therefore, we are not making any recommendations to Union Bank.