



October 1, 2010

Report Number: A-09-09-00087

Ms. Cindy Siljestrom  
Chief Executive Officer  
California Transplant Donor Network  
1000 Broadway, Suite 600  
Oakland, CA 94607

Dear Ms. Siljestrom:

Enclosed is the U.S. Department of Health & Human Services (HHS), Office of Inspector General (OIG), final report entitled *Review of California Transplant Donor Network's Reported Fiscal Year 2007 Organ Acquisition Overhead Costs and Administrative and General Costs*. 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.

Section 8L of the Inspector General Act, 5 U.S.C. App., requires that OIG post its publicly available reports on the OIG Web site. Accordingly, this report will be posted at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at (415) 437-8360, or contact James Kenny, Audit Manager, at (415) 437-8370 or through email at [James.Kenny@oig.hhs.gov](mailto:James.Kenny@oig.hhs.gov). Please refer to report number A-09-09-00087 in all correspondence.

Sincerely,

/Lori A. Ahlstrand/  
Regional Inspector General  
for Audit Services

Enclosure

**Direct Reply to HHS Action Official:**

Ms. Nanette Foster Reilly  
Consortium Administrator  
Consortium for Financial Management & Fee for Service Operations  
Centers for Medicare & Medicaid Services  
601 East 12<sup>th</sup> Street, Room 235  
Kansas City, MO 64106

Department of Health & Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF CALIFORNIA TRANSPLANT  
DONOR NETWORK'S REPORTED  
FISCAL YEAR 2007  
ORGAN ACQUISITION OVERHEAD  
COSTS AND ADMINISTRATIVE AND  
GENERAL COSTS**



Daniel R. Levinson  
Inspector General

October 2010  
A-09-09-00087

# *Office of Inspector General*

<http://oig.hhs.gov>

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## **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

Pursuant to Title XVIII of the Social Security Act (the Act), the Medicare program provides health insurance for people aged 65 or older, people under the age of 65 with certain disabilities, and people of all ages with end-stage renal disease, which is permanent kidney failure requiring dialysis or a kidney transplant. Section 1881 of the Act authorizes Medicare reimbursement for dialysis, transplantation, and procurement of kidneys. The Centers for Medicare & Medicaid Services (CMS) administers the Medicare program.

Organ procurement organizations (OPO) are not-for-profit organizations that are responsible for procuring and preserving transplantable organs and transporting them to transplant centers. Pursuant to section 1138(b)(1) of the Act, for organ procurement costs to be reimbursed under Medicare, an OPO must be a “qualified organ procurement organization” as described in section 371(b) of the Public Health Service Act and meet several other statutory requirements.

An OPO may be independent or hospital-based. Independent OPOs work closely with donor hospitals and transplant centers to facilitate organ donation and transplantation. CMS requires independent OPOs to submit Medicare cost reports annually to determine the amounts payable under Medicare associated with the procurement of kidneys. (Medicare does not reimburse independent OPOs for the costs of procuring organs other than kidneys.) The cost report includes direct costs, overhead costs, and administrative and general costs associated with organ procurement. Overhead costs include costs for procurement coordinators, professional education, public education, and organ placement. Administrative and general costs include such costs as accounting and legal fees, office salaries and supplies, and travel and meetings.

The costs claimed in the cost report must be related to the care of beneficiaries; reasonable, necessary, and proper; and allowable under Medicare regulations (42 CFR § 413.9(a), (b), and (c)(3)). In addition, the OPO’s cost information must be accurate and in sufficient detail to support payments made for services provided (42 CFR § 413.24(a) and (c)). The Medicare *Provider Reimbursement Manual* (Manual) states that independent OPOs are reimbursed on the basis of reasonable cost and requires them to use the policies contained in the Manual.

California Transplant Donor Network (CTDN), a federally designated independent OPO serving counties in Northern and Central California and Northern Nevada, submitted to the Medicare contractor its fiscal year (FY) 2007 Medicare cost report covering the period January 1 through December 31, 2007. CTDN reported \$10,926,155 of OPO overhead costs and \$5,557,647 of administrative and general costs, from which we judgmentally selected a total of \$1,595,845 to review.

### OBJECTIVE

Our objective was to determine whether CTDN complied with Medicare requirements for reporting selected OPO overhead costs and administrative and general costs in its FY 2007 Medicare cost report.

## **SUMMARY OF FINDINGS**

CTDN did not fully comply with Medicare requirements for reporting selected OPO overhead costs and administrative and general costs in its FY 2007 Medicare cost report. Of the \$1,595,845 of costs we reviewed, \$1,428,781 was allowable. The remaining \$167,064 represents \$65,912 of unallowable costs and \$101,152 of unsupported costs:

- Contrary to Federal requirements, CTDN reported \$65,912 of costs that were not related to patient care or did not comply with other Medicare requirements and therefore were not allowable. This amount included costs incurred for donations and gifts, a retirement party, entertainment, lobbying, and meals. We estimated that Medicare's share of the unallowable costs related to kidney procurement was \$33,431.
- Contrary to Federal requirements, CTDN reported \$101,152 of costs that were unsupported. For \$1,984 of this amount, no documentation existed to support the reported costs. For the remaining \$99,168, CTDN was unable to provide adequate documentation to support the allowability of the reported costs. Based on Federal regulations and the Manual, we considered the unsupported costs to be unallowable for Medicare reimbursement. We estimated that Medicare's share of the unsupported costs related to kidney procurement was \$51,304.

CTDN did not have procedures to ensure that all OPO overhead costs and administrative and general costs reported in its Medicare cost report were allowable, supportable, and in compliance with Medicare requirements. As a result, CTDN overstated its Medicare reimbursement in the FY 2007 Medicare cost report by an estimated \$84,735.

## **RECOMMENDATIONS**

We recommend that CTDN:

- submit a revised FY 2007 Medicare cost report to the Medicare contractor to correct the estimated Medicare overstatement of \$84,735 and
- develop and implement procedures to ensure that costs reported in future Medicare cost reports are allowable, supportable, and in compliance with Medicare requirements.

## **AUDITEE COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE**

In its comments on our draft report, CTDN agreed with the findings related to unallowable lobbying and meal costs and unsupported costs. CTDN also agreed with the finding related to the portion of entertainment costs incurred for alcoholic beverages. CTDN explained the purposes of the costs incurred for donations and gifts and for the remaining entertainment costs but did not explicitly disagree with those findings. However, CTDN disagreed with the finding related to retirement party costs.

Regarding our first recommendation, CTDN stated that it will discuss the FY 2007 cost report with CMS. Regarding our second recommendation, CDTN described corrective actions that it had taken or planned to take.

CTDN's comments are included as the Appendix. We excluded additional documentation that CDTN provided because of its length.

Nothing in CTDN's comments or additional documentation caused us to revise our findings.

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## **INTRODUCTION**

### **BACKGROUND**

#### **Medicare Program**

Pursuant to Title XVIII of the Social Security Act (the Act), the Medicare program provides health insurance for people aged 65 or older, people under the age of 65 with certain disabilities, and people of all ages with end-stage renal disease (ESRD), which is permanent kidney failure requiring dialysis or a kidney transplant. The ESRD Amendments of 1978, P.L. No. 95-292, added to the Act section 1881, which authorizes Medicare reimbursement for dialysis, transplantation, and procurement of kidneys. The Centers for Medicare & Medicaid Services (CMS) administers the Medicare program.

#### **Organ Procurement Organizations**

Organ procurement organizations (OPO) are not-for-profit organizations that are responsible for procuring and preserving transplantable organs and transporting them to transplant centers. CMS certifies OPOs to recover or procure organs in CMS-defined exclusive geographic service areas pursuant to section 371(b)(1)(F) of the Public Health Service Act. Section 1138(a)(1)(A)(iii) of the Act provides that a hospital must notify its designated OPO of potential organ donors.

Pursuant to section 1138(b)(1) of the Act, for organ procurement costs to be reimbursed under Medicare, an OPO must be a “qualified organ procurement organization” as described in section 371(b) of the Public Health Service Act and meet several other statutory requirements. Qualified OPOs have an agreement with the Secretary of Health & Human Services to be reimbursed under Title XVIII of the Act for the procurement of kidneys.

An OPO may be independent or hospital-based. Independent OPOs work closely with donor hospitals and transplant centers to facilitate organ donation and transplantation. Hospital-based OPOs operate within a hospital’s administrative and financial structure.

#### **Medicare Reimbursement of Independent Organ Procurement Organizations**

OPOs do not bill Medicare directly for organ procurement services. For kidneys, the donor hospital providing the organ bills the OPO its customary charge.<sup>1</sup> The OPO provides the kidney to the certified transplant center, which pays the OPO and reports the kidney procurement cost in its Medicare cost report. The OPO submits its own Medicare cost report, in which it reports the cost of procuring the kidney and the payment it received from the certified transplant center. Based on the cost report, Medicare Part A makes a retroactive adjustment directly with the independent OPO to reconcile any overpayment or underpayment resulting from the total payments that the independent OPO received from transplant centers for kidneys furnished for transplantation.

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<sup>1</sup> Donor hospital charges are not limited to reasonable costs and are not regulated by Medicare.

## Medicare Cost Reports

CMS requires independent OPOs to submit Medicare cost reports annually so that it can properly determine the amounts payable under Medicare associated with kidney procurement. The cost report, which is divided into multiple worksheets, summarizes the OPO's financial records and statistical data to determine the amount claimed for Medicare reimbursement. That amount is made up of direct costs, overhead costs, and administrative and general costs associated with organ procurement:

- Direct costs include, for example, costs for operating rooms, anesthesiology, respiratory therapy, intensive care units, and donor tissue typing.
- Overhead costs include, for example, costs for procurement coordinators, professional education, public education, and organ placement.
- Administrative and general costs include, for example, costs for accounting and legal fees, office salaries and supplies, and travel and meetings.

Pursuant to the cost finding methodology in the Medicare *Provider Reimbursement Manual* (Manual), part II, section 3311, independent OPOs allocate overhead costs to the specific types of organs based on the total number of organs procured. After overhead costs are allocated to each organ, independent OPOs allocate administrative and general costs to the specific types of organs based on the total accumulated direct and overhead costs.

The cost report must provide a complete accounting of costs incurred by the OPO in providing covered services, the total number of Medicare beneficiaries who received those services, and any other data necessary to enable the Medicare contractor<sup>2</sup> to determine the reasonable cost of covered services provided to Medicare beneficiaries (42 CFR § 413.200(e)).

The costs claimed in the cost report must be related to the care of beneficiaries; reasonable, necessary, and proper; and allowable under Medicare regulations (42 CFR § 413.9(a), (b), and (c)(3)). In addition, the OPO's cost information must be accurate and in sufficient detail to support payments made for services provided (42 CFR § 413.24(a) and (c)). The Manual, part I, section 2773, states: “[I]ndependent OPOs are reimbursed on the basis of reasonable cost. In determining the reasonable cost of ... services and cost reporting requirements, the policies contained in the Provider Reimbursement Manual (PRM) are to be used.”

## California Transplant Donor Network

California Transplant Donor Network (CTDN), incorporated in 1987 as a nonprofit corporation, is a federally designated independent OPO serving people in Northern and Central California and

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<sup>2</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 to Medicare administrative contractors (MAC) 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 continue to process claims. For purposes of this report, the term “Medicare contractor” means the fiscal intermediary or MAC, whichever is applicable.

Northern Nevada. Its corporate office is located in Oakland, California. CTDN submitted its fiscal year (FY) 2007 (January 1 through December 31, 2007) Medicare cost report to the fiscal intermediary, Riverbend Government Benefits Administrator (Riverbend), which was responsible for reviewing the annual Medicare cost reports submitted by the 50 independent OPOs nationwide.<sup>3</sup>

## **OBJECTIVE, SCOPE, AND METHODOLOGY**

### **Objective**

Our objective was to determine whether CTDN complied with Medicare requirements for reporting selected OPO overhead costs and administrative and general costs in its FY 2007 Medicare cost report.

### **Scope**

CTDN reported \$10,926,155 of OPO overhead costs and \$5,557,647 of administrative and general costs in its FY 2007 Medicare cost report. For our review, we judgmentally selected \$1,595,845 of these costs. We limited our review of CTDN's internal controls to the procedures that CTDN used to accumulate and report OPO overhead costs and administrative and general costs in its cost report.

We conducted our audit from June 2009 to May 2010 and performed fieldwork at CTDN's corporate office in Oakland, California.

### **Methodology**

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and guidance;
- obtained CTDN's FY 2007 Medicare cost report from Riverbend and reviewed audit documentation from prior fiscal intermediary audits;
- obtained an understanding of CTDN's procedures for reporting OPO overhead costs and administrative and general costs in its Medicare cost reports;
- verified that the total costs reported in CTDN's FY 2007 Medicare cost report reconciled to its audited financial statements;
- reconciled the OPO overhead costs and administrative and general costs reported in CTDN's FY 2007 Medicare cost report to its detailed general ledger;

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<sup>3</sup> Effective August 3, 2009, Cahaba Government Benefit Administrators, LLC, is the MAC for independent OPOs.

- reconciled the organ statistics reported in the FY 2007 Medicare cost report to CTDN's organ donor log, which included the number of organs procured for each type of organ and the transplant hospital receiving the organ(s);
- judgmentally selected for testing \$1,595,845 of OPO overhead costs and administrative and general costs reported in CTDN's FY 2007 detailed general ledger, based on whether the costs were material in amount or considered to be high risk;
- reviewed supporting documentation for the judgmentally selected costs and determined the allowability of those costs;
- interviewed CTDN officials and personnel;
- estimated that the percentage of OPO overhead costs and administrative and general costs allocated to kidneys in CTDN's FY 2007 Medicare cost report was 50.72 percent;<sup>4</sup> and
- estimated the Medicare overpayment related to kidney procurement by applying the estimated percentage of 50.72 to the unallowable and unsupported OPO overhead and administrative and general costs.

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 objective.

## **FINDINGS AND RECOMMENDATIONS**

CTDN did not fully comply with Medicare requirements for reporting selected OPO overhead costs and administrative and general costs in its FY 2007 Medicare cost report. Of the \$1,595,845 we reviewed, \$1,428,781 was allowable. The remaining \$167,064 represents \$65,912 of unallowable costs and \$101,152 of unsupported costs. CTDN did not have procedures to ensure that all OPO overhead costs and administrative and general costs reported in its Medicare cost report were allowable, supportable, and in compliance with Medicare requirements. As a result, CTDN overstated its Medicare reimbursement in the FY 2007 Medicare cost report by an estimated \$84,735.

### **UNALLOWABLE COSTS**

CTDN reported \$65,912 of OPO overhead costs and administrative and general costs that were not related to patient care or did not comply with other Medicare requirements and therefore were not allowable. The estimated Medicare overpayment for the unallowable costs related to kidney procurement was \$33,431. The table shows details of the unallowable costs.

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<sup>4</sup> We calculated this percentage by averaging the 49.80 percent of overhead costs and 51.64 percent of administrative and general costs allocated to kidneys in the cost report.

## Unallowable Costs

Cost Category	Unallowable Costs	Estimated Medicare Overpayment
Donations and Gifts	\$33,411	\$16,946
Retirement Party	18,967	9,620
Entertainment	6,019	3,053
Lobbying	5,775	2,929
Meals	1,740	883
<b>Total</b>	<b>\$65,912</b>	<b>\$33,431</b>

### Donations and Gifts

The Manual, part I, section 2102.3, states that the costs of gifts or donations are not related to patient care and therefore are not allowable in computing reimbursable costs. Section 2105.7 states: “Costs incurred by providers for gifts or donations to charitable, civic, educational, medical or political entities are not allowable.”

Contrary to the Manual, CTDN reported \$33,411 of OPO overhead costs related to donations and gifts. This amount consisted of \$31,400 incurred for donations made to charitable entities and \$2,011 incurred for gifts to non-employees. For example, CTDN reported \$5,000 for sponsorship of an annual gala and jazz show. Highlights of the gala included a reception, gourmet food and exotic drinks, and a jazz show. CTDN also reported \$5,000 for its sponsorship of the Rose Parade and \$3,000 for a golf tournament that benefited a health foundation. The estimated Medicare share of the unallowable costs related to kidney procurement was \$16,946.

### Retirement Party

The Manual, part I, section 2100, states: “All payments to providers of services must be based on the reasonable cost of services covered under title XVIII of the Act and related to the care of beneficiaries ....”

The Manual, part I, section 2102.3, defines costs not related to patient care as “costs which are not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities and activities. ... Such costs are not allowable ... and include, for example: ... [c]ost of entertainment, including tickets to sporting and other entertainment events ... and [c]ost of travel incurred in connection with non-patient care related purposes.”

Contrary to Federal regulations (42 CFR § 413.9(a)) and the Manual, CTDN reported \$18,967 of OPO overhead costs and administrative and general costs for a retirement party. CTDN held the retirement party for its former chief executive officer in June 2007. At the retirement party, CTDN catered for 300 guests, including CTDN’s employees and their spouses, the board of directors, the audit and finance committee, and transplant center officials. The estimated Medicare share of the unallowable costs related to kidney procurement was \$9,620.

## **Entertainment**

The Manual, part I, section 2102.3, states that the costs of entertainment and alcoholic beverages are not related to patient care and therefore are not allowable in computing reimbursable costs. Further, section 2102.3 defines unallowable costs as “[c]ost of alcoholic beverages furnished to employees or to others regardless of how or where furnished, such as cost of alcoholic beverages furnished at a provider picnic or furnished as a fringe benefit ....”

The Manual, part I, section 2105.8, states: “Costs incurred by providers for entertainment, including tickets to sporting or other events, alcoholic beverages, golf outings, ski trips, cruises, professional musicians or other entertainers, are not allowable.”

Contrary to the Manual, CTDN reported \$6,019 of OPO overhead costs and administrative and general costs related to entertainment and alcohol. This amount consisted of \$2,619 for transportation and lodging for dancers for a donor family gathering, \$2,337 for alcoholic beverages purchased by CTDN personnel, \$577 for a party held for individuals who were not CTDN employees, and \$486 for ushers’ services at the donor family gathering. The estimated Medicare share of the unallowable costs related to kidney procurement was \$3,053.

## **Lobbying**

The Manual, part I, section 2139, states: “Provider political and lobbying activities are not related to the care of patients. Therefore, costs incurred for such activities are unallowable.” Further, section 2139.2, paragraph A, defines lobbying as “any activity whereby a directed effort is made to influence legislation.” The Manual further states: “The policy applies whether the lobbying involves Medicare activities or activities unrelated to Medicare and whether the provider lobbies with its own employees or engages others, directly or indirectly, to lobby on its behalf.”

Contrary to the Manual, CTDN reported \$5,775 of administrative and general costs related to lobbying. CTDN removed \$23,925 of the \$29,700 incurred for lobbying; however, it failed to remove the remaining \$5,775. The estimated Medicare share of the unallowable costs related to kidney procurement was \$2,929.

## **Meals**

The Manual, part I, section 2105.2, states: “The cost of meals for other than provider personnel, whether served in a cafeteria, coffee shop, canteen, etc., is unallowable under the program because it is not related to patient care. (See §2102.3) Providers must maintain adequate cost data in order to determine the cost of these meals.”

Contrary to the Manual, CTDN reported \$1,740 of OPO overhead costs for meals provided to donor hospitals’ staff and others who were not CTDN employees without documenting valid business purposes for the expenditures. The estimated Medicare share of the unallowable costs related to kidney procurement was \$883.

## UNSUPPORTED COSTS

The Manual, part I, section 2300, states: “Providers receiving payment on the basis of reimbursable cost must provide adequate cost data based on financial and statistical records which can be verified by qualified auditors.” Further, section 2304 of the Manual states:

Cost information as developed by the provider must be current, accurate, and in sufficient detail to support payments made for services rendered to beneficiaries. This includes all ledgers, books, records and original evidences of cost (purchase requisitions, purchase orders, vouchers, requisitions for materials, inventories, labor time cards, payrolls, bases for apportioning costs, etc.), which pertain to the determination of reasonable cost, capable of being audited.

Contrary to Federal regulations (42 CFR § 413.24) and the Manual, CTDN reported \$101,152 of OPO overhead costs and administrative and general costs that were unsupported. For \$1,984 of this amount, no documentation existed to support the reported costs. For the remaining \$99,168, CTDN was unable to provide adequate documentation to support the allowability of the reported costs.

Of the \$99,168 of inadequately supported costs, CTDN provided only credit card statements for \$33,006 and did not provide adequate supporting documentation for \$66,162 incurred for various expenditures.

CTDN provided only credit card statements for \$33,006. CTDN provides corporate credit cards to a limited number of managers and certain other employees. Some of those credit cards’ charges were processed for payment without supporting documentation that provided justification for the costs or identification of business purposes. These charges included airfares, hotels, meals at various restaurants, and miscellaneous charges. For example, CTDN was unable to provide an invoice or itemized receipt to support \$3,398 listed on its June 2007 credit card statement for costs incurred at a hotel in Emeryville, California.

For the remaining \$66,162, CTDN did not provide adequate supporting documentation, such as itemized bills indicating the types of expenditures incurred, the purpose of the expenditures, or the benefits received in exchange for its sponsorships and donations. This amount consisted of \$27,400 incurred for sponsorships and donations, \$25,773 incurred for hotel banquet charges, \$9,719 incurred for various meals, and \$3,270 incurred for miscellaneous expenditures.

The following are two examples of CTDN’s unsupported costs:

- CTDN was unable to adequately support \$12,264 of hotel banquet charges incurred for a quarterly staff meeting held at a hotel in Berkeley, California. The hotel bill that CTDN provided as support did not itemize the costs of the meeting, specifically the costs of food and beverages. In addition, CTDN did not provide sufficient documentation of the purpose of the meeting, such as an agenda and list of attendees, to demonstrate that the costs were reasonable, necessary, and proper.
- CTDN was unable to adequately support \$10,500 paid to a minor league baseball team. According to CTDN, the payments benefited CTDN by maximizing public awareness

and encouraging donor registry signups. However, the baseball team's invoice only identified the payments as being for 2007 season sponsorship of the team and did not itemize the benefits received or business services purchased. In addition, CTDN did not provide sufficient documentation to support the benefits that it claimed it had received from sponsoring the team.

Based on Federal regulations and the Manual, we considered the unsupported costs to be unallowable for Medicare reimbursement. The estimated Medicare share of the unsupported costs related to kidney procurement was \$51,304.

## **CAUSE AND EFFECT OF UNALLOWABLE AND UNSUPPORTED COSTS REPORTED**

CTDN reported unallowable and unsupported costs because it did not have procedures to ensure that all OPO overhead costs and administrative and general costs were allowable, supportable, and in compliance with Medicare requirements. As a result, CTDN overstated its Medicare reimbursement in the FY 2007 Medicare cost report by an estimated \$84,735.

## **RECOMMENDATIONS**

We recommend that CTDN:

- submit a revised FY 2007 Medicare cost report to the Medicare contractor to correct the estimated Medicare overstatement of \$84,735 and
- develop and implement procedures to ensure that costs reported in future Medicare cost reports are allowable, supportable, and in compliance with Medicare requirements.

## **AUDITEE COMMENTS**

In its comments on our draft report, CTDN agreed with the findings related to unallowable lobbying and meal costs and unsupported costs. CTDN also agreed with the finding related to the portion of entertainment costs incurred for alcoholic beverages. CTDN explained the purposes of the costs incurred for donations and gifts and for the remaining entertainment costs but did not explicitly disagree with those findings. However, CTDN disagreed with the finding related to retirement party costs. CTDN stated that, based on the executive's length of service and the role the executive played in founding the organization, it believes that the retirement party costs were reasonable.

Regarding our first recommendation, CTDN stated that it will discuss the FY 2007 cost report with CMS. Regarding our second recommendation, CDTN described corrective actions that it had taken or planned to take.

CTDN's comments are included as the Appendix. We excluded additional documentation that CDTN provided because of its length.

## **OFFICE OF INSPECTOR GENERAL RESPONSE**

Nothing in CTDN's comments or additional documentation caused us to revise our findings. Federal regulations (42 CFR § 413.9(a)) state that payments "must be based on the reasonable cost of services covered under Medicare and related to the care of beneficiaries." (Emphasis added.) Federal regulations (42 CFR § 413.9(c)(3)) also state that "[t]he determination of reasonable cost ... must be based on cost related to the care of Medicare beneficiaries." Moreover, under the specific cost reimbursement principles in the Manual, part I, section 2102.3, costs are not related to patient care if they are "not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities and activities." Costs incurred for the retirement party were not related to patient care and therefore were not allowable.

### **OTHER MATTER**

Federal regulations (42 CFR § 486.324(a)) require OPOs to have an advisory board effective July 31, 2006.<sup>5</sup> Specifically, 42 CFR § 486.324(a) states that while an OPO may have more than one board, the OPO must have an advisory board to recommend policies for the procurement of organs. In addition, 42 CFR § 486.324(c) states that the advisory board "may not serve as the OPO's governing body or board of directors."

CTDN had a governing board of directors; however, during 2007, CTDN did not have a separate advisory board to recommend organ procurement policies, as required by Federal regulations. To comply with Federal requirements, CTDN created an advisory board in 2008.

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<sup>5</sup> 71 Fed. Reg. 30982, 31008 (May 31, 2006), which added 42 CFR § 486.324 as part of the revision of subpart G, effective July 31, 2006.

# **APPENDIX**

## APPENDIX: AUDITEE COMMENTS



July 29, 2010



A Shared Life Organization

888.570.9400

24-Hour Donor  
Referral Hotline  
800.55.DONOR**MAIN OFFICE**1000 Broadway  
Suite 600  
Oakland, CA  
94607-4099  
510.444.8500  
510.444.8501 fax**MODESTO OFFICE**4216 Kieran Avenue  
Suite 205  
Modesto, CA  
95356-8500  
209.545.8000  
209.545.8001 fax**FRESNO OFFICE**1040 E. Herndon Avenue  
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TRANSPLANT  
CENTERS:**California Pacific  
Medical CenterLucile Packard  
Children's HospitalStanford University  
Medical CenterUniversity of California  
San Francisco

Ms. Lori A. Ahlstrand  
Regional Inspector General for Audit Services  
Department of Health & Human Services  
Office of Inspector General  
Office of Audit Services, Region IX  
90 – 7<sup>th</sup> Street, Suite 3-650  
San Francisco, CA 94103

Report Number: A-09-09-00087

Dear Ms. Ahlstrand:

Thank you for the opportunity to respond to the above referenced draft report. OIG identified \$65,912 of unallowable costs and \$101,152 of unsupported costs. In response to the above referenced report, California Transplant Donor Network wishes to submit the following comments for your consideration.

**UNALLOWABLE COSTS - \$65,912**

**Donations & Gifts** – the purpose of the expenses in this category is to support the mission of community outreach and public education on donation. In order to participate in community events that provide a forum for community outreach and education, CTDN is often asked to contribute to the cost of the event as funding for these types of activities is extremely limited. Volunteers are recruited as additional resources for the events. CTDN occasionally identifies a small way to thank those who volunteer to support this part of our mission, hence the gifts to non-employees.

**Retirement Party** - OIG determined the \$18,967 expense for the retirement of the CEO who had served the organization 20 years unreasonable. Based on the length of service and the role this executive played in founding this organization, CTDN believes the cost to be reasonable. However, given the unusual circumstances around this event, CTDN does not plan to sponsor such an event in the future.

**Entertainment**

The Donor Family Gathering is an annual event that CTDN sponsors to thank donor families and allow transplant recipients to tell their stories and express thanks as well. The event provides a forum for family support and education on donation. (\$2,619+\$486)

"Saving and improving lives through organ and tissue donation."



The party for volunteers fulfilled the same purpose as described above regarding gifts to non-employees. (\$577)

CTDN concurs that \$2,337 spent for alcohol is unallowable.

**Lobbying** - CTDN concurs that the additional \$5,775 incurred for lobbying is unallowable.

**Meals** - CTDN concurs that \$1,740 with the OIG determination that the business purposes of these costs are not documented and are therefore unallowable.

#### **UNSUPPORTED COSTS - \$101,152**

While CTDN was able to provide documentation supporting \$99,168 of the reported costs and believes all the costs are legitimate, OIG has determined the documentation provided does not adequately support the costs. CTDN concurs with OIG's finding.

#### **RECOMMENDATIONS**

- 1) Submittal of revised FY 2007 cost report - further conversations between CTDN and Medicare regarding the 2007 cost report are forthcoming.
- 2) Development and implementation of procedures to ensure reported costs are in compliance with Medicare requirements - Based on conversations with the auditors and the exit interview, CTDN began a corrective action plan immediately after the on-site audit took place in 2009.

August 10, 2009 - staff was notified by the Vice President of Finance that the expense reporting policy must be followed

August 16, 2009 - a follow-up email to staff outlined changes that would be included in policy revision and asked staff to comply with those changes immediately

September – October, 2009 – Vice President of Finance performed weekly review of all employee expense reports to further define weaknesses in process and training

November 24 and December 24, 2009 – updates to staff on the progress of compliance with expense reporting policy

January 2010 – implementation of updated policy including training and effectiveness check completed by all staff



April 2010 – internal audit function created to review expense reports and credit card documentation. This plan includes follow up reports to management to include tracking and trending of exceptions to compliance. Ongoing noncompliance issues will be addressed in staff performance evaluations.

July 2010 – effective September 1, 2010 CTDN will discontinue paying the corporate credit card invoice directly. Staff will be notified of the pending change during the last week of July. New credit cards will be issued by the bank. Staff will be billed at the home address, will pay the bank directly and will be reimbursed by CTDN only with complete and proper documentation submitted on a timely basis for approval and reimbursement.

As you see from the continued work in this area, CTDN takes improvement of expense reporting seriously. In addition to the steps outlined above, CTDN has included continuous compliance and improvement as one of its 2011 goals.

Thank you for the opportunity to comment on this report. We appreciate your review of our plan for improvement and look forward to any feedback you may wish to offer.

Sincerely,

/Cindy Siljstrom/, CEO

California Transplant Donor Network

Enclosures