

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**MEDICARE COULD HAVE SAVED
MILLIONS IF ORGAN PROCUREMENT
ORGANIZATIONS HAD CORRECTLY
REPORTED PROCUREMENT OF
DOUBLE LUNGS AS TWO ORGANS**

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December 2013
A-09-12-02085

Office of Inspector General

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EXECUTIVE SUMMARY

Medicare could have saved an estimated \$8.9 million if organ procurement organizations had correctly reported procurement of double lungs as two organs in their fiscal year 2011 Medicare cost reports.

WHY WE DID THIS REVIEW

Organ procurement organizations (OPOs) are not-for-profit organizations that facilitate organ donation and transplantation. An OPO may be an independent entity or part of a hospital. A previous Office of Inspector General review identified an issue related to how independent OPOs reported procurement of double lungs (the left and right lungs) for cost allocation purposes.

The objectives of this review were (1) to determine whether OPOs nationwide reported lung statistics correctly by reporting double lungs as two organs instead of one organ in their fiscal year (FY) 2011 Medicare cost reports and, if they did not, (2) to estimate how much the Medicare program could have saved if OPOs had correctly reported double lungs.

BACKGROUND

Transplant hospitals perform organ transplants and provide other medical services to transplant patients; these hospitals may have one or more types of organ transplant centers. To be reimbursed by Medicare, a transplant center must be Medicare certified. Independent OPOs are paid for procuring kidneys and other organs by transplant hospitals. The Centers for Medicare & Medicaid Services (CMS) makes retroactive adjustments directly with independent OPOs to reconcile any overpayments and underpayments the OPOs received from transplant hospitals for kidneys furnished for transplant to Medicare beneficiaries. In total, independent OPOs were reimbursed about \$391 million for procuring kidneys in FY 2011. Medicare reimburses hospital-based OPOs through associated transplant hospitals for the costs of procuring all organs transplanted to Medicare beneficiaries (about \$77 million in FY 2011).

For cost allocation purposes, independent OPOs report the number of kidney and nonkidney organs (including lungs) that they procured or processed. CMS guidance instructs independent OPOs to report kidneys as two organs when both kidneys are procured. CMS guidance does not specifically address reporting of double lungs; however, because lungs (like kidneys) are in pairs, they are procured as one or two organs and should be reported as such. If an independent OPO understates the number of lungs procured, organ procurement costs will not be properly allocated among kidney and nonkidney organs. Kidney procurement costs will reflect costs that should have been allocated to nonkidney organs, resulting in Medicare's share of costs being overstated.

Hospital-based OPOs report the number of organs procured or processed for each type of organ they are certified to transplant. Medicare reimburses hospital-based OPOs for organ procurement costs according to the ratio of Medicare usable organs to total usable organs. If a hospital-based OPO overstates or understates the number of usable lungs procured, the complex

calculations that include the ratio of Medicare usable lungs to total usable lungs will be affected, and Medicare's share of organ procurement costs will be overstated or understated.

HOW WE CONDUCTED THIS REVIEW

In their FY 2011 Medicare cost reports, the 51 independent OPOs reported \$88.6 million for the costs of procuring 2,645 lungs, and the 3 hospital-based OPOs with Medicare-certified lung transplant centers reported \$5 million for the Medicare reimbursable costs of procuring 213 total usable lungs. We reviewed the lung statistics reported for the 54 OPOs to determine whether they reported double lungs as 1 or 2 organs and estimated how much the Medicare program could have saved if OPOs had correctly reported double lungs as 2 organs.

WHAT WE FOUND

Of the 54 OPOs, 44 reported lung statistics incorrectly in their FY 2011 Medicare cost reports:

- Of the 51 independent OPOs reviewed, 43 incorrectly reported double lungs as 1 organ. Specifically, the OPOs understated the number of lungs procured by reporting 1,691 lungs instead of 3,382 lungs. We estimated that Medicare's share of organ procurement costs was overstated by \$9,039,419.
- Of the three hospital-based OPOs reviewed, one incorrectly reported double lungs as one organ. Specifically, the OPO understated the number of lungs procured by reporting 30 lungs instead of 60 lungs. We estimated that Medicare's share of organ procurement costs was understated by \$188,401.

Both independent and hospital-based OPOs incorrectly reported lung statistics because they relied on CMS's *Provider Reimbursement Manual*, which does not provide specific instructions on reporting double lungs. If the 44 OPOs (43 independent OPOs and 1 hospital-based OPO) had reported procurement of 1,721 double lungs correctly, the Medicare program could have saved an estimated net amount of \$8,851,018 during the year.

WHAT WE RECOMMEND

To help realize future savings for the Medicare program, we recommend that CMS:

- clarify instructions on how independent and hospital-based OPOs should report lung statistics in Medicare cost reports and
- work with the Medicare contractors to educate OPOs on the correct reporting of double lungs in Medicare cost reports.

CMS COMMENTS

In written comments on our draft report, CMS concurred with our recommendations and provided information on actions that it planned to take to address our recommendations.

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INTRODUCTION

WHY WE DID THIS REVIEW

Organ procurement organizations (OPOs) are not-for-profit organizations that facilitate organ donation and transplantation. An OPO may be an independent entity or part of a hospital. A previous Office of Inspector General review identified an issue related to how independent OPOs reported procurement of double lungs (the left and right lungs) for cost allocation purposes.¹

OBJECTIVES

Our objectives were (1) to determine whether OPOs nationwide reported lung statistics correctly by reporting double lungs as two organs instead of one organ in their fiscal year (FY) 2011 Medicare cost reports and, if they did not, (2) to estimate how much the Medicare program could have saved if OPOs had correctly reported double lungs.

BACKGROUND

Medicare Program

The Medicare program provides health insurance for people aged 65 and over, those with certain disabilities, and those with end-stage renal disease, which is permanent kidney failure. The Social Security Act (the Act) authorizes Medicare reimbursement for dialysis and transplantation and procurement of kidneys (§ 1881). The Centers for Medicare & Medicaid Services (CMS) administers the Medicare program.

Organ Procurement Organizations

OPOs coordinate the procurement, preservation, and transport of organs and maintain a system for locating prospective recipients for available organs. CMS certifies OPOs to recover or procure organs in CMS-defined exclusive geographic service areas. For organ procurement costs to be reimbursed under Medicare, an OPO must be a “qualified organ procurement organization”² and meet several other statutory requirements, which include membership in the Organ Procurement and Transplantation Network (the Act, § 1138(b)(1)).

Independent OPOs are freestanding organizations that have a distinct governing body separate from any transplant hospital; hospital-based OPOs operate within an associated transplant hospital’s administrative and financial structure. Transplant hospitals perform organ transplants and provide other medical services required to care for transplant patients.

¹ *LifeCenter Northwest Did Not Fully Comply With Medicare Requirements for Reporting Organ Statistics in Its Fiscal Year 2009 Medicare Cost Report (A-09-11-02039)*, issued November 15, 2012.

² As described in section 371(b) of the Public Health Service Act.

Transplant hospitals may have one or more types of organ transplant centers (e.g., kidney, lung, heart, liver, and pancreas transplant centers). To be reimbursed by Medicare, a transplant center must be Medicare certified.

Medicare Reimbursement of Organ Procurement Organizations

CMS requires OPOs to submit Medicare cost reports annually to determine the amounts payable under Medicare for the reasonable costs of procuring organs. At the end of the year, each OPO files a Medicare cost report. The Medicare contractor³ reconciles any direct Medicare payments as well as payments that the OPO received from other OPOs and transplant hospitals with Medicare allowable costs to determine any Medicare overpayment or underpayment to the OPO.

All independent OPOs submit their cost reports to the same Medicare contractor. Hospital-based OPOs' organ procurement costs are included in their associated transplant hospitals' cost reports, which are submitted to the Medicare contractors in their respective regions.

Medicare reimburses OPOs on a reasonable cost basis. Section 1861(v)(1)(A) of the Act requires that costs be properly allocated and apportioned to ensure that Medicare pays only for costs related to patient care and only its share of those costs.

Independent Organ Procurement Organizations

Independent OPOs do not bill Medicare directly for organ procurement services. Independent OPOs are paid for procuring kidneys and other organs, generally by transplant hospitals, which pay the OPOs' standard acquisition charges for those organs. Using the independent OPOs' cost reports, CMS makes retroactive adjustments directly with the OPOs to reconcile any overpayments or underpayments resulting from the total payments that these OPOs received from the transplant hospitals for kidneys furnished for transplant to Medicare beneficiaries; however, there are no such adjustments for nonkidney organs (42 CFR § 413.200).

Organ procurement costs consist of direct, overhead, and administrative and general costs. Independent OPOs assign direct costs to a particular organ if the costs are specifically identifiable to that organ. For direct costs that are not specifically identifiable, OPOs are required to allocate those costs among the organs procured (CMS's *Provider Reimbursement Manual* (the Manual), part 2, chapter 33, § 3306). For cost allocation purposes, OPOs report the number of kidney and nonkidney organs (including lungs) that they procured or processed (the Manual, part 2, § 3303.1). Overhead costs are allocated on the basis of the total number of organs procured. Administrative and general costs are allocated to a particular organ on the basis of the total accumulated direct and overhead costs (the Manual, part 2, § 3311).

If an independent OPO overstates the number of kidneys procured or understates the number of nonkidney organs procured, organ procurement costs will not be properly allocated among

³ For purposes of this report, the term "Medicare contractor" means the fiscal intermediary, carrier, or Medicare administrative contractor, whichever is applicable.

kidney and nonkidney organs. Kidney procurement costs will reflect costs that should have been allocated to nonkidney organs, resulting in Medicare's share of costs being overstated.

In their FY 2011 Medicare cost reports, 51 independent OPOs reported total organ procurement costs of approximately \$1.34 billion. Of this amount, about \$391 million was for kidney procurement costs that were reimbursable under Medicare Part A. In addition, the independent OPOs reported \$88.6 million for the costs of procuring 2,645 lungs.

Hospital-Based Organ Procurement Organizations

Medicare directly reimburses hospital-based OPOs through associated transplant hospitals for the costs of procuring kidney and nonkidney organs transplanted in a certified transplant center. These costs consist of direct, allocated general service and routine and ancillary costs, as well as costs for certain interns and residents and teaching physicians.

Hospital-based OPOs report total Medicare reimbursable organ procurement costs in the applicable worksheet of their associated transplant hospitals' Medicare cost reports. To be reimbursed by Medicare for a specific type of organ, the transplant hospital must operate a Medicare-certified transplant center for that organ (the Manual, part 2, chapter 40, § 4028).

Medicare reimburses organ procurement costs according to the ratio of Medicare usable organs to total usable organs (the Manual, part 2, § 4028.3).⁴ If a hospital-based OPO overstates or understates the number of usable lungs procured, the complex calculations that include the ratio of Medicare usable lungs to total usable lungs will be affected, and Medicare's share of organ procurement costs will be overstated or understated.

In their FY 2011 Medicare cost reports, seven hospital-based OPOs were associated with a transplant hospital that had at least one certified transplant center and reported approximately \$76.9 million of organ procurement costs that were reimbursable under Medicare Part A. Three of these OPOs were associated with transplant hospitals that had Medicare-certified lung transplant centers; these OPOs reported \$5 million for the Medicare reimbursable costs of procuring 213 total usable lungs.

HOW WE CONDUCTED THIS REVIEW

We reviewed the lung statistics reported in the FY 2011⁵ Medicare cost reports of 54 OPOs (51 independent and 3 hospital-based OPOs) to determine whether they reported double lungs as 1 or 2 organs. We did not review lung statistics for four hospital-based OPOs because the associated transplant hospitals did not have Medicare-certified lung transplant centers.

⁴ Medicare usable organs are all transplantable organs except organs sold to military hospitals (with limited exceptions), organs sold to veterans' hospitals, organs sent outside the United States, and organs transplanted into non-Medicare beneficiaries. Total usable organs include all organs except those that could not be transplanted.

⁵ The specific beginning and ending dates for FY 2011 varied among the OPOs, ranging from a beginning date of June 1, 2010, to an ending date of December 31, 2011.

We estimated the cost savings to Medicare if the OPOs had correctly reported double lungs as two organs instead of one organ; however, our estimate did not include the impact associated with the reallocation of direct costs not specifically identifiable to an organ.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A contains the details of our audit scope and methodology.

FINDINGS

Of the 54 OPOs, 44 reported lung statistics incorrectly in their FY 2011 Medicare cost reports:

- Of the 51 independent OPOs reviewed, 43 incorrectly reported double lungs as 1 organ. Specifically, the OPOs understated the number of lungs procured by reporting 1,691 lungs instead of 3,382 lungs. We estimated that Medicare's share of organ procurement costs was overstated by \$9,039,419.
- Of the three hospital-based OPOs reviewed, one incorrectly reported double lungs as one organ. Specifically, the OPO understated the number of lungs procured by reporting 30 lungs instead of 60 lungs. We estimated that Medicare's share of organ procurement costs was understated by \$188,401.

Both independent and hospital-based OPOs incorrectly reported lung statistics because they relied on the Manual, which does not provide specific instructions on reporting double lungs. If the 44 OPOs (43 independent OPOs and 1 hospital-based OPO) had reported procurement of 1,721 double lungs correctly, the Medicare program could have saved an estimated net amount of \$8,851,018 during the year.

FORTY-THREE INDEPENDENT ORGAN PROCUREMENT ORGANIZATIONS INCORRECTLY REPORTED DOUBLE LUNGS

The Manual, part 2, chapter 33, instructs independent OPOs on how to complete the Medicare cost report, including reporting of organ statistics. Section 3303.1 of the Manual requires independent OPOs to report the total number of kidney and nonkidney organs that were procured and/or processed. For cost allocation purposes, section 3306 further instructs independent OPOs to report kidneys as two organs when both kidneys are procured. Chapter 33 of the Manual does not provide specific instructions on how to report double lungs. However, CMS confirmed that, because lungs (like kidneys) are in pairs, they are procured as either one or two organs and should be reported as such.

The 51 independent OPOs reported 2,645 lungs instead of 4,336 lungs in their FY 2011 Medicare cost reports. The number of lungs was understated by approximately 39 percent

because 43 OPOs incorrectly reported double lungs as 1 organ. Specifically, the 43 OPOs understated the number of lungs procured by reporting 1,691 lungs instead of 3,382 lungs. Because the number of lungs procured was understated, organ procurement costs were not properly allocated among kidney and nonkidney organs, and kidney procurement costs reflected costs that should have been allocated to nonkidney organs, including lungs. As a result, Medicare's share of organ procurement costs was overstated.

According to the 43 OPOs, they relied on chapter 33 of the Manual, which does not specifically instruct independent OPOs on how to report double lungs. In addition, 17 of the 43 OPOs stated that they also relied on Medicare contractor⁶ guidance, which instructed the OPOs to report double lungs on the basis of the number of transplant recipients (that is, double lungs for 1 recipient would be counted as 1 organ). The guidance also instructed the OPOs to report double lungs as two organs if the lungs were billed at double the rate of a single lung.⁷

We estimated that Medicare's share of organ procurement costs was overstated by \$9,039,419 in FY 2011. The estimated overstated amounts for the 43 OPOs ranged from \$23,770 to \$758,953 for incorrectly reporting from 3 to 121 double lungs.

ONE HOSPITAL-BASED ORGAN PROCUREMENT ORGANIZATION INCORRECTLY REPORTED DOUBLE LUNGS

The Manual, part 2, chapter 40, instructs hospitals and hospital health-care complexes on how to complete the hospital Medicare cost report. Chapter 40 instructs hospital-based OPOs on the reporting of Medicare usable organs and total usable organs. However, it does not specifically instruct hospital-based OPOs on how to report double lungs.

The 3 hospital-based OPOs that we reviewed reported 213 total usable lungs in their FY 2011 Medicare cost reports. One of these OPOs incorrectly reported double lungs as one organ. Specifically, the OPO understated the number of lungs procured by reporting 30 lungs instead of 60 lungs. Because the number of Medicare usable lungs procured was understated, the ratio of Medicare usable lungs to total usable lungs was understated and Medicare's share of organ procurement costs was understated.

According to the OPO that reported double lungs incorrectly, it relied on chapter 40 of the Manual; however, chapter 40 provides instructions on computing organ procurement costs and charges for transplant hospitals, not reporting double lungs. In addition, the OPO stated that it did not receive Medicare contractor guidance on reporting organ statistics.

We estimated that Medicare's share of organ procurement costs was understated by \$188,401 in FY 2011.

⁶ The OPOs referred to Medicare contractor guidance published as long ago as 1986.

⁷ According to the 43 OPOs that reported double lungs as 1 organ, the amounts billed for single lungs ranged from \$24,000 to \$52,500, and the amounts billed for double lungs ranged from \$30,000 to \$73,000. Of these OPOs, 30 billed for double lungs at a higher rate than single lungs but less than double the rate of a single lung.

MEDICARE COULD HAVE SAVED AN ESTIMATED \$8.9 MILLION IF DOUBLE LUNGS HAD BEEN CORRECTLY REPORTED

Of the 54 independent and hospital-based OPOs, 44 reported lung statistics incorrectly in their FY 2011 Medicare cost reports. If the 44 OPOs had reported procurement of 1,721 double lungs correctly, the Medicare program could have saved an estimated net amount of \$8,851,018.

RECOMMENDATIONS

To help realize future savings for the Medicare program, we recommend that CMS:

- clarify instructions on how independent and hospital-based OPOs should report lung statistics in Medicare cost reports and
- work with the Medicare contractors to educate OPOs on the correct reporting of double lungs in Medicare cost reports.

CMS COMMENTS

In written comments on our draft report, CMS concurred with our recommendations and provided information on actions that it planned to take to address our recommendations. CMS's comments are included in their entirety as Appendix B.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed the lung statistics reported in the FY 2011 Medicare cost reports of 54 OPOs (51 independent and 3 hospital-based OPOs) to determine whether they reported double lungs as 1 or 2 organs. We did not review lung statistics for four hospital-based OPOs because the associated transplant hospitals did not have Medicare-certified lung transplant centers.

We estimated the cost savings to Medicare if the OPOs had correctly reported double lungs as two organs instead of one organ; however, our estimate did not include the impact associated with the reallocation of direct costs not specifically identifiable to an organ.

We did not review the overall internal control structure of the 54 OPOs. Rather, we limited our review of internal controls to those that were significant to the objectives of our audit.

We conducted our fieldwork from October 2012 to April 2013, which consisted of contacting the independent and hospital-based OPOs and five Medicare contractors.

METHODOLOGY

To accomplish our objectives, we:

- reviewed Federal laws, regulations, and guidance;
- held discussions with CMS and Medicare contractors to obtain an understanding of how Medicare reimburses independent and hospital-based OPOs and how double lungs should be reported for Medicare cost allocation purposes;
- contacted Medicare contractors for independent and hospital-based OPOs to determine what, if any, guidance was provided to OPOs related to the reporting of organ statistics;
- contacted all 58 OPOs nationwide to determine whether they reported Medicare reimbursable lung statistics in their FY 2011 cost reports;
- reviewed Medicare cost report documentation from 54 OPOs to determine how they reported double lungs and what guidance they relied on for reporting organ statistics;
- used the OPOs' cost reports to calculate the effect on Medicare reimbursement for the independent OPOs that incorrectly reported double lungs;
- requested that the Medicare contractor rerun the cost report for the hospital-based OPO that incorrectly reported double lungs and calculate the effect on Medicare reimbursement;

- estimated the net amount that Medicare could have saved if both independent and hospital-based OPOs had correctly reported double lungs in their FY 2011 Medicare cost reports; and
- discussed the results of our audit with CMS officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: CMS COMMENTS



DEPARTMENT OF HEALTH & HUMAN SERVICES

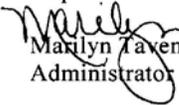
Centers for Medicare & Medicaid Services

Administrator

Washington, DC 20201

DATE: NOV 29 2013

TO: Daniel R. Levinson
Inspector General

FROM: 
Marilyn Tavenner
Administrator

SUBJECT: Office of Inspector General (OIG) Draft Report: Medicare Could Have Saved Millions if Organ Procurement Organizations Had Correctly Reported Procurement of Double Lungs as Two Organs (A-09-12-02085)

Thank you for the opportunity to review and comment on the subject report. OIG's objectives of this review were (1) to determine whether Organ Procurement Organizations (OPOs) nationwide reported lung statistics correctly by reporting double lungs as two organs instead of one organ in their fiscal year 2011 Medicare cost reports and, if they did not, (2) to estimate how much the Medicare program could have saved if OPOs had correctly reported double lungs.

The OIG recommendations and CMS responses to those recommendations are discussed below.

OIG Recommendation

The OIG recommends that CMS clarify instructions on how independent and hospital-based OPOs should report lung statistics in Medicare cost reports.

CMS Response

The CMS concurs with this recommendation. CMS will review the Provider Reimbursement Manual (PRM) and cost reporting instructions to clarify how independent and hospital-based OPOs should report lung statistics. CMS will evaluate the need to issue further guidance through a proposed and final rulemaking process to reflect the proper counting methodology.

OIG Recommendation

The OIG recommends that CMS work with the Medicare contractors to educate OPOs on the correct reporting of double lungs in Medicare cost reports.

CMS Response

The CMS concurs with this recommendation. CMS will educate the Medicare contractors on any changes to the PRM and cost reporting instructions and the proper counting methodology for double lungs to ensure accurate payments in the future for Medicare's share of organ procurement costs.

The CMS thanks the OIG for their efforts on this issue and looks forward to working with OIG on this and other issues in the future.