

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**NORIDIAN HEALTHCARE SOLUTIONS,
LLC, MADE IMPROPER MEDICARE
PAYMENTS OF \$4 MILLION TO
PHYSICIANS IN JURISDICTION E FOR
SPINAL FACET-JOINT INJECTIONS**

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**February 2021
A-09-20-03010**

Office of Inspector General

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Report in Brief

Date: February 2021

Report No. A-09-20-03010

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



Why OIG Did This Audit

Facet-joint injections of an anesthetic with or without a steroid are used to diagnose or treat chronic neck and back pain. A prior OIG review found that 47 percent of Medicare payments to physicians for facet-joint injections nationwide in calendar year (CY) 2006, or approximately \$96 million, did not meet Medicare requirements. In addition, Noridian Healthcare Solutions, LLC (Noridian), the Medicare Administrative Contractor for Jurisdiction E, identified during audits performed in CYs 2016 through 2018 various errors in which physicians did not bill for facet-joint injections in accordance with Medicare requirements.

Our objective was to determine whether Noridian paid physicians in Jurisdiction E for spinal facet-joint injections in accordance with Medicare requirements.

How OIG Did This Audit

Our audit covered Medicare Part B payments of \$9.2 million for 99,447 claim lines for facet-joint injections, which we grouped into 33,125 beneficiary days, with dates of service from January 2018 through May 2019 (audit period). We selected a random sample of 100 beneficiary days. For each beneficiary day, we reviewed medical records to evaluate compliance with selected Medicare billing requirements but did not use medical review to determine whether services were medically necessary. We confirmed our findings with the medical review staff at Noridian.

Noridian Healthcare Solutions, LLC, Made Improper Medicare Payments of \$4 Million to Physicians in Jurisdiction E for Spinal Facet-Joint Injections

What OIG Found

Noridian did not pay physicians in Jurisdiction E for spinal facet-joint injections in accordance with Medicare requirements. Of the sampled 100 beneficiary days, 49 complied with the requirements; however, the remaining 51 beneficiary days did not comply with 1 or more of the requirements. As a result, Noridian improperly paid physicians \$12,546.

These improper payments occurred because Noridian's education of physicians and their billing staff was not sufficient to ensure that they complied with billing requirements for spinal facet-joint injections. On the basis of our sample results, we estimated that Noridian improperly paid physicians \$4.2 million for facet-joint injections for our audit period.

What OIG Recommends and Noridian Comments

We recommend that Noridian: (1) recover \$12,546 in improper payments made to physicians; (2) based upon the results of this audit, notify appropriate physicians (i.e., those for whom Noridian determines this audit constitutes credible information of potential overpayments) so that the physicians can exercise reasonable diligence to identify, report, and return any overpayments in accordance with the 60-day rule and identify any of those returned overpayments as having been made in accordance with this recommendation; and (3) provide annual training to physicians and their billing staff in Jurisdiction E specific to Medicare requirements for billing of facet-joint injections, which could have saved an estimated \$4.2 million for our audit period.

Noridian concurred with our recommendations and described actions that it planned to take to address our recommendations, such as developing a webinar presentation to support physician education on facet-joint injections.

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INTRODUCTION

WHY WE DID THIS AUDIT

Facet-joint injections of an anesthetic with or without a steroid are used to diagnose or treat chronic neck and back pain. A prior Office of Inspector General (OIG) review found that 47 percent of Medicare payments to physicians for facet-joint injections nationwide in calendar year (CY) 2006, or approximately \$96 million, did not meet Medicare program requirements.¹ In addition, Noridian Healthcare Solutions, LLC (Noridian), one of the Medicare Administrative Contractors (MACs), identified during audits performed in CYs 2016 through 2018 various errors in which physicians did not bill for facet-joint injections in accordance with Medicare requirements. Therefore, we conducted this audit to determine whether Noridian made improper payments for facet-joint injections in Jurisdiction E from January 1, 2018, through May 31, 2019 (audit period).²

OBJECTIVE

Our objective was to determine whether Noridian paid physicians in Jurisdiction E for spinal facet-joint injections in accordance with Medicare requirements.

BACKGROUND

Medicare Part B

Medicare Part B provides supplementary medical insurance, including coverage for the cost of facet-joint injections when they are medically reasonable and necessary. The Centers for Medicare & Medicaid Services (CMS) administers Part B and contracts with MACs to, among other things, determine reimbursement amounts and pay claims, conduct audits, and safeguard against fraud and abuse. Each MAC is responsible for processing claims submitted by physicians³ within 1 of 12 designated regions, or jurisdictions, of the United States and its territories.

¹ *Medicare Payments for Facet Joint Injection Services* ([OEI-05-07-00200](#)), issued September 2008.

² We issued a nationwide report on Medicare payments for more than five spinal facet-joint injection sessions during a rolling 12-month period, entitled *Medicare Improperly Paid Physicians for More Than Five Spinal Facet-Joint Injection Sessions During a Rolling 12-Month Period* ([A-09-20-03003](#)), issued October 9, 2020.

³ Examples of physicians who administer facet-joint injections include those who specialize in interventional pain management, anesthesiology, and internal medicine.

Noridian Healthcare Solutions, LLC

During our audit period, Noridian was the MAC for Jurisdiction E, which covers California, Hawaii, Nevada, and the U.S. territories of American Samoa, Guam, and Northern Mariana Islands.

Spinal Facet Joints

Facet joints in the spine aid stability and allow the spine to bend and twist. They are located between each vertebra in the spinal column. There are 28 levels of facet joints in the spine, which are divided, from top to bottom, into the cervical, thoracic, lumbar, and sacral regions.⁴ (See Figure 1.) Each level has a pair of facet joints: one on the right side and one on the left side of the spine.

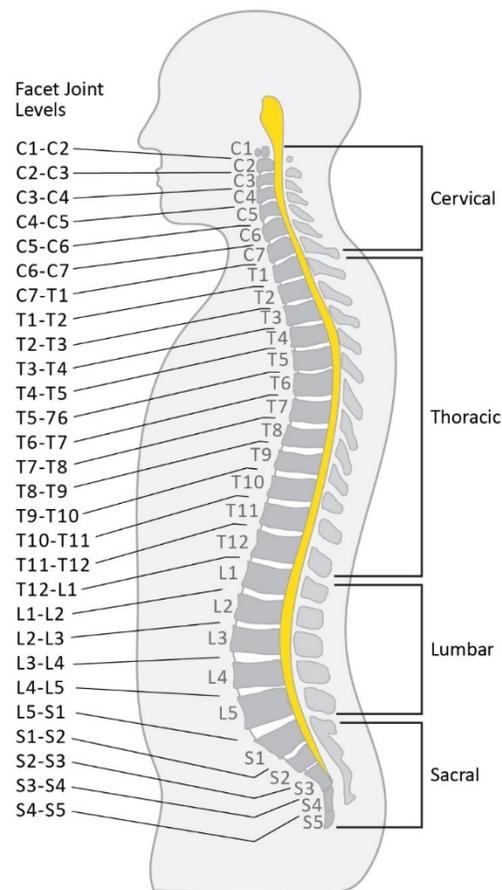
A facet-joint injection is an interventional technique used to diagnose or treat neck and back pain. For some people with chronic pain due to a facet-joint injury, these injections help reduce inflammation and relieve pain. Diagnostic injections are performed to confirm whether a facet joint is the source of pain. Therapeutic injections are performed to treat the pain after a facet joint is identified as the source of pain.

Physician Submission of Claims for Facet-Joint Injections and the Use of Healthcare Common Procedure Coding System Codes

Federal law prohibits Medicare payment unless the physician has furnished information necessary to determine the amounts due (the Social Security Act (the Act) § 1833(e)). Each submitted Medicare Part B claim contains detail regarding each provided service.

To receive Medicare payment for a facet-joint injection, the physician submits a claim and indicates on it the spinal region and the number of levels in which injections were administered using Healthcare Common Procedure Coding System (HCPCS) codes.⁵ Three HCPCS codes are specific to facet-joint injections administered in levels of the cervical and thoracic regions of the spine (cervical/thoracic spine), and three HCPCS codes are specific to facet joint-injections

Figure 1: Spinal Regions and Facet-Joint Levels



⁴ Three of these facet-joint levels connect one spinal region to another.

⁵ HCPCS codes are used throughout the health care industry to standardize coding for medical procedures, services, products, and supplies.

administered in levels of the lumbar and sacral regions of the spine (lumbar and sacral spines).⁶ Appendix B lists the HCPCS codes used for billing facet-joint injections.

Medicare Coverage of Facet-Joint Injections

Medicare Part B covers facet-joint injections based on the HCPCS codes' narrative descriptions, including the number of levels in which facet-joint injections were administered. Medicare also increases the reimbursement rate for each HCPCS code if the physician indicates that the injections were administered bilaterally. (A bilateral injection is performed on the left and right sides of a facet-joint level, and a unilateral injection is performed on only one side of a facet-joint level.) Noridian's local coverage determination (LCD)⁷ includes additional requirements that physicians in Jurisdiction E must meet to receive Medicare reimbursement for administered facet-joint injections.⁸

Medicare Requirements for Physicians To Identify and Return Overpayments

OIG believes that this audit report constitutes credible information of potential overpayments. Upon receiving credible information of potential overpayments, physicians must exercise reasonable diligence to identify overpayments (i.e., determine receipt of and quantify any overpayments) during a 6-year lookback period. Physicians must report and return any identified overpayments by the later of: (1) 60 days after identifying those overpayments or (2) the date that any corresponding cost report is due (if applicable). This is known as the 60-day rule.⁹

The 6-year lookback period is not limited by OIG's audit period or restrictions on the Government's ability to reopen claims or cost reports. To report and return overpayments

⁶ There are only three HCPCS codes associated with the cervical/thoracic spine and three HCPCS codes associated with the lumbar and sacral spines because Medicare pays physicians for up to three levels in which injections were administered during a session. A session is a single date of service on which a beneficiary received facet-joint injections. A facet-joint injection session can consist of injections administered to multiple facet-joint levels, but Medicare will pay for only the first three levels.

⁷ An LCD is a decision by a MAC whether to cover a particular item or service on a contractor-wide basis in accordance with 1862(a)(1)(A) of the Act.

⁸ LCD L34993, "Facet Joint Injections, Medial Branch Blocks, and Facet Joint Radiofrequency Neurotomy," effective for facet-joint injections performed on or after October 1, 2015. (This LCD does not cover conditions of or injections in the sacral spine.) According to the LCD, ongoing coverage of facet-joint injections requires outcomes reporting as described in this LCD to allow future analysis of these injections' clinical efficacy. Evidence of clinical efficacy and utility has not been well-established in the medical literature, which is particularly problematic given the steroid dosages administered. These drugs alone may relieve the pain experienced by patients but are associated with serious adverse health events and could also be administered orally.

⁹ The Act § 1128J(d); 42 CFR §§ 401.301–401.305; 81 Fed. Reg. 7654 (Feb. 12, 2016).

under the 60-day rule, physicians can request the reopening of initial claims determinations, submit amended cost reports, or use any other appropriate reporting process.¹⁰

HOW WE CONDUCTED THIS AUDIT

Our audit covered Medicare Part B payments of \$9.2 million for 99,447 claim lines for facet-joint injections, which we grouped into 33,125 beneficiary days, with dates of service during our audit period.¹¹ We selected a simple random sample of 100 of these beneficiary days, for which Medicare paid \$26,304.¹² For each beneficiary day, we reviewed medical records to evaluate compliance with selected Medicare billing requirements, but we did not use medical review to determine whether services were medically necessary. However, we confirmed our findings with the medical review staff at Noridian as to whether it agreed with our determinations of beneficiary days that did not comply with Medicare requirements.

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 describes our audit scope and methodology, Appendix C describes our statistical sampling methodology, and Appendix D contains our sample results and estimates.

FINDINGS

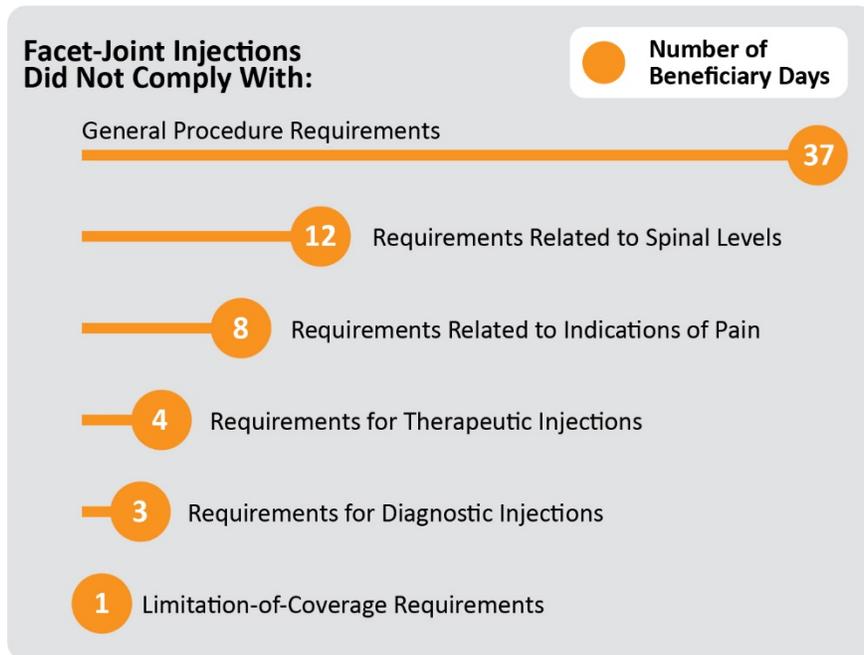
Noridian did not pay physicians in Jurisdiction E for spinal facet-joint injections in accordance with Medicare requirements. Of the sampled 100 beneficiary days, 49 complied with the requirements; however, the remaining 51 beneficiary days did not comply with 1 or more of the requirements. Figure 2 on the following page shows the number of deficiencies for the sampled beneficiary days by type of deficiency.

¹⁰ 42 CFR §§ 401.305(d), 405.980(c)(4), and 413.24(f); CMS, *Provider Reimbursement Manual*—Part 1, Pub. No. 15-1, § 2931.2; 81 Fed. Reg. at 7670.

¹¹ A beneficiary day included all Medicare Part B claim lines for a single date of service for a beneficiary in which facet-joint injections were administered to three levels of the cervical/thoracic spine or three levels of the lumbar and sacral spines. Of the 33,125 beneficiary days, 33,101 consisted of 3 claim lines, and 24 consisted of 6 claim lines. We did not confirm with Noridian whether any of these 33,125 beneficiary days were included in any of the audits that Noridian performed in CY 2018.

¹² According to Noridian, diagnosis codes related to the sacral spine would not negate the application of the LCD if the injections were performed in the appropriate regions of the spine as defined by the LCD (i.e., the cervical/thoracic and lumbar spines). (This LCD does not cover conditions of or injections in the sacral spine.) None of the 100 sampled beneficiary days were for conditions of or injections in the sacral spine.

Figure 2: Sampled Beneficiary Days That Did Not Comply With Medicare Requirements by Type of Deficiency¹³



As a result, Noridian improperly paid physicians \$12,546. These improper payments occurred because Noridian’s education of physicians and their billing staff was not sufficient to ensure that they complied with billing requirements for spinal facet-joint injections. On the basis of our sample results, we estimated that Noridian improperly paid physicians approximately \$4.2 million¹⁴ for facet-joint injections for our audit period.

FACET-JOINT INJECTIONS DID NOT COMPLY WITH BILLING REQUIREMENTS

Facet-Joint Injections Did Not Comply With General Procedure Requirements

Noridian’s LCD for facet-joint injections requires that the following general procedure requirements are met:

- The physician’s procedure notes must include sufficient detail to allow reconstruction (i.e., reperforming) of the injection procedure. Required elements of the notes include a description of the techniques employed, the nerves injected and the site or sites of the injections, drugs and doses with volumes and concentrations, and pre- and postprocedural pain assessments.

¹³ The number of deficiencies is greater than 51 because 12 beneficiary days had more than 1 type of deficiency.

¹⁴ We estimated for our audit period that Noridian improperly paid physicians \$4,155,889.

- Total medial-branch-block anesthetic volume shall be limited to a maximum of 0.5 milliliters per medial-branch nerve for diagnostic purposes and 2 milliliters for therapeutic purposes.¹⁵
- In total, no more than 100 milligrams of triamcinolone or methylprednisolone, or 15 milligrams of betamethasone or dexamethasone or equivalents, shall be injected during any single session.¹⁶
- Facet-joint interventions (diagnostic or therapeutic or both) must be performed under fluoroscopic or computed-tomography (CT) image guidance.¹⁷ Facet-joint interventions performed under ultrasound guidance will not be reimbursed.

Compliance With Requirements Is Important for Beneficiary Quality of Care

According to Noridian’s LCD, the evidence of clinical efficacy and utility of facet-joint injections has not been well-established in the medical literature. This is particularly problematic given the steroid dosages administered. Steroids alone may relieve the pain that beneficiaries experience but are associated with serious adverse health events and could also be administered orally. Excessively frequent (i.e., repeated) injections in the same area can cause the bone, ligaments, and tendons to weaken.

For 37 sampled beneficiary days,¹⁸ facet-joint injections did not meet general procedure requirements:

- The physician’s procedure notes did not include all of the required elements, e.g., pre- and postprocedural pain assessments (30 beneficiary days).
- Total medial-branch-block anesthetic volume exceeded 0.5 milliliters per medial-branch nerve for diagnostic purposes or 2 milliliters for therapeutic injections (14 beneficiary days).
- More than 15 milligrams of betamethasone were injected during an injection session (two beneficiary days).
- A physician administered injections under ultrasound guidance (one beneficiary day).

See the following page for an example of a physician who did not comply with general procedure requirements for facet-joint injections.

¹⁵ A medial-branch block is a type of spinal injection to temporarily block pain signals coming from the medial-branch nerves, which branch out from the facet joints in the spine and carry pain signals to the brain.

¹⁶ These drugs are steroids that can be administered with an anesthetic as part of a facet-joint injection.

¹⁷ Image guidance is used to visualize needle placement during an injection.

¹⁸ Of the 37 sampled beneficiary days, 10 did not meet more than 1 of the general procedure requirements.

Example: A Physician Was Improperly Paid for Facet-Joint Injections That Did Not Comply With General Procedure Requirements

A physician received a \$237 payment from Noridian for billing facet-joint injections administered to three levels of a beneficiary's lumbar spine for diagnostic purposes. Based on the medical records provided, the injections did not comply with the following general procedure requirements:

- The procedure notes did not include pre- and postprocedural pain assessments.
- The physician administered 2 milliliters of an anesthetic agent per medial-branch nerve, which exceeded the limit of 0.5 milliliters per medial-branch nerve for diagnostic facet-joint injections.

Because the injections did not comply with the requirements, the physician should not have been paid the \$237.

Facet-Joint Injections Did Not Comply With Requirements Related to Spinal Levels

Medicare requires a uniform procedure coding system for all physicians' services (the Act § 1848(c)(5)). Physicians are required to use HCPCS codes when billing Medicare for physicians' services (45 CFR §§ 162.1000(a) and 162.1002(c)(1) and (a)(5)). Two primary HCPCS codes, 64490 and 64493, are used for a single injection to a facet-joint level in the cervical/thoracic spine and lumbar spine, respectively. Each primary HCPCS code has associated add-on codes for use when injections are administered to the second and third levels of the spine: 64491 and 64492 for the cervical/thoracic spine and 64494 and 64495 for the lumbar spine.

Physician payments vary based on modifiers billed with the HCPCS code. For example, facet-joint injections administered on the right and left sides of a level should be billed using modifier 50, which increases reimbursement to 150 percent of the base rate (CMS, *Medicare Claims Processing Manual*, Pub. No. 100-04, chapter 12, § 40.7.B).

For 12 sampled beneficiary days,¹⁹ facet-joint injections did not meet requirements related to spinal levels:²⁰

- Physicians billed for injections administered to 3 levels of the spine (11 beneficiary days), even though the medical records indicated that the injections were administered to only 2 levels.

¹⁹ Of the 12 sampled beneficiary days, 1 did not meet more than 1 of the requirements related to spinal levels.

²⁰ Billing improperly for an injection to an additional spinal level or the other side of a facet-joint level resulted in a partial improper payment for the procedure. Only the payment for the additional level or the other side of the level would be disallowed.

- A physician billed for bilateral injections but actually administered unilateral injections (one beneficiary day).
- A physician billed for unilateral injections but actually administered bilateral injections (one beneficiary day).²¹

Example: A Physician Was Improperly Paid for Facet-Joint Injections That Did Not Comply With Requirements Related to Spinal Levels

A physician received a \$369 payment from Noridian for billing facet-joint injections administered bilaterally to three levels of a beneficiary's lumbar spine. Based on the medical records provided, the physician administered unilateral instead of bilateral injections and administered injections to two instead of three levels of the spine. Because the injections did not comply with requirements related to spinal levels, the physician should have been paid \$177 instead of \$369, an improper payment of \$192.

Facet-Joint Injections Did Not Comply With Requirements Related to Indications of Pain

Noridian's LCD for facet-joint injections requires that the following requirements related to indications of beneficiary pain are met:

- The beneficiary must have a history of at least 3 months of moderate to severe pain with functional impairment, and pain is inadequately responsive to conservative care as tolerated (e.g., nonsteroidal anti-inflammatory drugs and physical therapy).
- The pain is predominantly axial and, with the possible exception of facet-joint cysts, not associated with radiculopathy or neurogenic claudication.²²
- A clinical assessment implicates the facet joint as the putative (i.e., supposed) source of pain.
- There is no nonfacet pathology (i.e., an origin or a cause other than facet joints) that could explain the source of the beneficiary's pain, such as a fracture, a tumor, an infection, or a significant deformity.

²¹ The physician's improper billing resulted in an underpayment for this beneficiary day.

²² Axial pain is pain confined to one spot or region. Radiculopathy is a disease of the root of a nerve, such as from a pinched nerve or a tumor. Neurogenic claudication is leg pain or weakness with walking because of a problem at a nerve.

For eight sampled beneficiary days,²³ facet-joint injections did not meet the requirements related to indications of pain:

- Beneficiaries did not have a history of at least 3 months of moderate to severe pain with functional impairment (five beneficiary days).
- Beneficiaries' pain was in multiple regions and not predominantly axial (four beneficiary days).
- A clinical assessment did not implicate the facet joint as the putative source of pain (three beneficiary days).
- The source of beneficiary pain could be explained by a nonfacet pathology (two beneficiary days). For example, one beneficiary had spinal stenosis, a narrowing of the spaces within the spine that can put pressure on the nerves that travel through the spine.

Example: A Physician Was Improperly Paid for Facet-Joint Injections That Did Not Comply With Requirements Related to Indications of Pain

A physician received a \$313 payment from Noridian for billing facet-joint injections administered to three levels of a beneficiary's cervical/thoracic spine. Based on the medical records provided, the injections did not comply with the following requirements related to indications of pain:

- The beneficiary did not have a history of at least 3 months of moderate to severe pain with functional impairment.
- The beneficiary's pain was not predominantly axial.
- A clinical assessment was not performed to implicate the facet joint as the putative source of pain.

Because the injections did not comply with requirements related to indications of pain, the physician should not have been paid the \$313.

Facet-Joint Injections Did Not Comply With Requirements for Therapeutic Injections

Noridian's LCD for facet-joint injections states that therapeutic injections may be repeated if the previous injection results in significant pain relief (greater than 50 percent) for at least 3 months.

²³ Of the eight sampled beneficiary days, five did not meet more than one of the requirements related to indications of pain.

For four sampled beneficiary days, therapeutic injections were repeated, but the previous injections did not result in significant pain relief for at least 3 months.²⁴

Facet-Joint Injections Did Not Comply With Requirements for Diagnostic Injections

Noridian's LCD for facet-joint injections states that intra-articular facet blocks will not be reimbursed as a diagnostic test unless medial-branch blocks cannot be performed because of specific documented anatomic restrictions.²⁵

For three sampled beneficiary days, intra-articular facet blocks were administered as diagnostic tests, and no anatomic restrictions were documented that would have prevented medial-branch blocks from being administered.

A Facet-Joint Injection Did Not Comply With Limitation-of-Coverage Requirements

Noridian's LCD for facet-joint injections states that intra-articular or extra-articular facet joint prolotherapy is not covered.²⁶

For one sampled beneficiary day, a physician billed for facet-joint injections but performed facet-joint prolotherapy, which should not have been paid for by Noridian.

NORIDIAN'S EDUCATION OF PHYSICIANS AND BILLING STAFF WAS NOT SUFFICIENT TO ENSURE COMPLIANCE WITH BILLING REQUIREMENTS

During our audit period, Noridian's education of physicians in Jurisdiction E was not sufficient to ensure that they complied with billing requirements for spinal facet-joint injections. Noridian confirmed that it conducted webinars specific to billing requirements for facet-joint injections in October 2014 and March 2018. Noridian also stated that "while [it] has trained [physicians] on proper billing for [these] procedure[s], the complicated anatomy of the spine leads to confusion in the translation of services to billing." In addition, Noridian stated that "many physicians have [billing staff] who have no formal training" and "it may be difficult for [the billing staff] to understand this coding convention of billing the joint level no matter what number of medial branch nerves may be injected"

²⁴ For two beneficiary days, the medical records did not provide sufficient detail as to whether the beneficiaries had significant pain relief for at least 3 months to justify the repeated therapeutic injections. For another beneficiary day, the pain relief from the previous injections lasted for only 2 months. For the last beneficiary day, the repeated therapeutic injections were administered before 3 months had passed.

²⁵ "Intra-articular" means being situated within, occurring within, or administered by entry into a joint.

²⁶ "Extra-articular" means being situated or occurring outside of a joint. Prolotherapy is a nonsurgical injection procedure used to relieve back pain by treating connective tissue injuries (ligaments and tendons) of the musculoskeletal system that have not healed with either rest or conservative therapy to relieve back pain.

The results of audits that Noridian performed related to facet-joint injections also confirmed that some of the deficiencies identified were identical to the ones we identified in our audit, such as physicians' procedure notes not including all of the required elements (e.g., pre- and postprocedural pain assessments) and beneficiaries not having a history of 3 months of moderate to severe pain with functional impairment. If Noridian were to conduct webinars annually, it could help to reduce the number of incorrectly billed facet-joint injections. The webinars could also explain that the purpose of the LCD requirements is to allow future analysis of the clinical efficacy of facet-joint injections.

MEDICARE IMPROPERLY PAID PHYSICIANS AN ESTIMATED \$4.2 MILLION FOR FACET-JOINT INJECTIONS

The improper payments for the 51 incorrectly billed beneficiary days in our sample totaled \$12,546. On the basis of our sample results, we estimated that \$4.2 million of the \$9.2 million (46 percent) that Noridian paid to physicians for facet-joint injections was improperly paid.

RECOMMENDATIONS

We recommend that Noridian Healthcare Solutions, LLC:

- recover \$12,546 in improper payments made to physicians;
- based upon the results of this audit, notify appropriate physicians (i.e., those for whom Noridian determines this audit constitutes credible information of potential overpayments) so that the physicians can exercise reasonable diligence to identify, report, and return any overpayments in accordance with the 60-day rule and identify any of those returned overpayments as having been made in accordance with this recommendation; and
- provide annual training to physicians and their billing staff in Jurisdiction E specific to Medicare requirements for billing of facet-joint injections, which could have saved an estimated \$4,155,889 for our audit period.

NORIDIAN COMMENTS

In written comments on our draft report, Noridian concurred with our recommendations and described actions that it planned to take to address our recommendations, including developing a webinar presentation to support physician education on facet-joint injections (which will be available on Noridian's website). Noridian's comments appear in their entirety as Appendix E.

**OTHER MATTERS: PHYSICIANS DID NOT ALWAYS DOCUMENT
MEDICAL NECESSITY FOR SEDATION**

Neither conscious sedation nor monitored anesthesia care is routinely necessary for intra-articular facet-joint injections or medial-branch blocks and is not routinely reimbursable. Individual consideration may be given for payment in unique circumstances if the medical necessity of sedation is unequivocal and clearly documented (Noridian's LCD L34993).

For 27 of the 100 sampled beneficiary days, the physicians provided sedation to the beneficiaries for the facet-joint injections without documenting the need for sedation to be administered. Although not documenting medical necessity for sedation does not affect the payment for facet-joint injections reviewed in this audit, the physicians may have billed separately for and received payment from Noridian for sedation for these beneficiary days.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit covered Medicare Part B payments of \$9,183,351 for 99,447 claim lines for facet-joint injections, which we grouped into 33,125 beneficiary days, with dates of service from January 1, 2018, through May 31, 2019.²⁷ We selected a simple random sample of 100 of these beneficiary days, for which Medicare paid \$26,304.²⁸ For each beneficiary day, we reviewed medical records to evaluate compliance with selected Medicare billing requirements, but we did not use medical review to determine whether services were medically necessary. However, we confirmed our findings with the medical review staff at Noridian as to whether it agreed with our determinations of beneficiary days that did not comply with Medicare requirements.

We did not perform an overall assessment of Noridian's internal control structure. Rather, we reviewed only the internal controls that pertained to our objective. Specifically, we interviewed staff at Noridian regarding the types of provider education it had in place before and during our audit period and assessed the effectiveness of the education based on whether physicians billed for facet-joint injections in accordance with Medicare requirements during our audit period.

Our audit enabled us to establish reasonable assurance of the authenticity and accuracy of the data obtained from CMS's National Claims History (NCH) file, but we did not assess the completeness of the file.

We conducted our audit from January to December 2020, which included contacting Noridian in Fargo, North Dakota, and the physicians who administered the facet-joint injections for the 100 sampled beneficiary days.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and guidance, as well as Noridian's LCD;

²⁷ A beneficiary day included all Medicare Part B claim lines for a single date of service for a beneficiary in which facet-joint injections were administered to three levels of the cervical/thoracic spine or three levels of the lumbar and sacral spines. Of the 33,125 beneficiary days, 33,101 consisted of 3 claim lines, and 24 consisted of 6 claim lines. We did not confirm with Noridian whether any of these 33,125 beneficiary days were included in any of the audits that Noridian performed in CY 2018.

²⁸ According to Noridian, diagnosis codes related to the sacral spine would not negate the application of the LCD if the injections were performed in the appropriate regions of the spine as defined by the LCD (i.e., the cervical/thoracic and lumbar spines). None of the 100 sampled beneficiary days were for conditions of or injections in the sacral spine.

- interviewed staff at Noridian regarding the types of provider education it had provided specific to reimbursing physicians in Jurisdiction E for facet-joint injections;
- used CMS’s NCH file to identify claim lines for facet-joint injections with dates of service for our audit period in which physicians in Jurisdiction E administered injections to 3 levels of the cervical/thoracic spine (billed using HCPCS codes 64490 through 64492) or 3 levels of the lumbar spine (billed using HCPCS codes 64493 through 64495);
- grouped the claim lines into beneficiary days by Health Insurance Claim number (i.e., the beneficiary’s identification number) and date of service;
- selected a simple random sample of 100 beneficiary days and:
 - obtained from physicians supporting documentation for each sampled beneficiary day,
 - determined whether the physicians met Medicare requirements for billing facet-joint injections,
 - confirmed our findings with the medical review staff at Noridian as to whether it agreed with our determinations of sampled beneficiary days that did not comply with Medicare requirements,²⁹
 - calculated the improper payment for each sampled beneficiary day that was incorrectly billed, and
 - estimated the potential cost savings if the sampled beneficiary days had been billed in accordance with Medicare requirements; and
- discussed the results of our audit with Noridian officials.

See Appendix C for our statistical sampling methodology and Appendix D for our sample results and estimates.

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.

²⁹ We revised our findings for sampled beneficiary days if the medical review staff did not agree with our determinations.

APPENDIX B: HEALTHCARE COMMON PROCEDURE CODING SYSTEM CODES USED FOR BILLING FACET-JOINT INJECTIONS

HCPCS Code	Description
	<i>Cervical/Thoracic Spine Codes</i>
64490	Injection(s), diagnostic or therapeutic agent, paravertebral facet (zygapophyseal) joint (or nerves innervating that joint) with image guidance (fluoroscopy or CT), cervical or thoracic; single level
64491	Injection(s), diagnostic or therapeutic agent, paravertebral facet (zygapophyseal) joint (or nerves innervating that joint) with image guidance (fluoroscopy or CT), cervical or thoracic; second level (list separately in addition to code for primary procedure)
64492	Injection(s), diagnostic or therapeutic agent, paravertebral facet (zygapophyseal) joint (or nerves innervating that joint) with image guidance (fluoroscopy or CT), cervical or thoracic; third and any additional level(s) (list separately in addition to code for primary procedure)
	<i>Lumbar and Sacral Spine Codes</i>
64493	Injection(s), diagnostic or therapeutic agent, paravertebral facet (zygapophyseal) joint (or nerves innervating that joint) with image guidance (fluoroscopy or CT), lumbar or sacral; single level
64494	Injection(s), diagnostic or therapeutic agent, paravertebral facet (zygapophyseal) joint (or nerves innervating that joint) with image guidance (fluoroscopy or CT), lumbar or sacral; second level (list separately in addition to code for primary procedure)
64495	Injection(s), diagnostic or therapeutic agent, paravertebral facet (zygapophyseal) joint (or nerves innervating that joint) with image guidance (fluoroscopy or CT), lumbar or sacral; third and any additional level(s) (list separately in addition to code for primary procedure)

APPENDIX C: STATISTICAL SAMPLING METHODOLOGY

SAMPLING FRAME

We obtained from CMS's NCH file the paid Medicare Part B claim data for facet-joint injections billed by physicians in Jurisdiction E with dates of service during our audit period, consisting of 170,493 claim lines totaling \$16,369,856.³⁰ We excluded from our audit 6,995 claim lines, totaling \$484,559, that: (1) had payment amounts to physicians that were less than \$40; (2) were reviewed by other review entities; (3) had different from and through dates of service; and (4) were for facet-joint injections not administered in an office, ambulatory surgical center, or outpatient hospital setting.³¹

To create our sampling frame, we grouped the remaining 163,498 claim lines, totaling \$15,885,297, by Health Insurance Claim number and date of service. We removed 64,051 claim lines, totaling \$6,701,946, that were paid to physicians in which facet-joint injections were administered to fewer than 3 levels of the cervical/thoracic spine or lumbar spine for a beneficiary on a single date of service. As a result, our sampling frame consisted of 99,447 claim lines that were grouped into 33,125 beneficiary days, totaling \$9,183,351.³²

SAMPLE UNIT

The sample unit was a beneficiary day.

SAMPLE DESIGN

We used a simple random sample.

SAMPLE SIZE

We selected a total of 100 sample units.

³⁰ These claim lines were not included in our audit of Medicare payments for more than five spinal facet-joint injection sessions during a rolling 12-month period (A-09-20-03003).

³¹ Facet-joint injections administered in these settings accounted for almost 100 percent of facet-joint injections administered in Jurisdiction E that were billed to Medicare Part B.

³² A beneficiary day included all Medicare Part B claim lines for a single date of service for a beneficiary in which facet-joint injections were administered to three levels of the cervical/thoracic spine or three levels of the lumbar and sacral spines. Of the 33,125 beneficiary days, 33,101 consisted of 3 claim lines, and 24 consisted of 6 claim lines. We did not confirm with Noridian whether any of these 33,125 beneficiary days were included in any of the audits that Noridian performed in CY 2018.

SOURCE OF RANDOM NUMBERS

We generated the random numbers with the OIG, Office of Audit Services (OAS), statistical software.

METHOD OF SELECTING SAMPLE UNITS

We consecutively numbered the sample units in the sampling frame from 1 to 33,125. After generating 100 random numbers, we selected the corresponding frame items.

ESTIMATION METHODOLOGY

We used the OIG/OAS statistical software to estimate the total dollar amount of the improper payments for facet-joint injections.

APPENDIX D: SAMPLE RESULTS AND ESTIMATES

Table 1: Sample Results

No. of Beneficiary Days in Sampling Frame	Value of Beneficiary Days in Sampling Frame	Sample Size	Value of Sample	No. of Improperly Billed Beneficiary Days	Net Value of Improper Payments
33,125	\$9,183,351	100	\$26,304	51	\$12,546

**Table 2: Estimated Value of Improper Payments in the Sampling Frame
(Limits Calculated for a 90-Percent Confidence Interval)**

Point estimate	\$4,155,889
Lower limit	3,320,663
Upper limit	4,991,115

APPENDIX E: NORIDIAN COMMENTS



900 42nd Street S.
Fargo, ND 58103

January 20, 2021

Lori A. Ahlstrand, Regional Inspector General
Office of Inspector General
Office of Audit Services, Region IX
90 - 7th Street, Suite 3-650
San Francisco, CA 94103

Report Number: A-09-20-03010

Dear Ms. Ahlstrand:

Noridian Healthcare Solutions, LLC (Noridian) appreciates the opportunity to review and comment on the Office of Inspector General's (OIG) draft report entitled: *Noridian Healthcare Solutions, LLC, Made Improper Medicare Payments of \$4 Million to Physicians in Jurisdiction E for Spinal Facet-Joint Injections (A-09-20-03010)*. As noted in the report, Noridian was the Medicare contractor for Jurisdiction E during the entire audit period. As such, Noridian assumes responsibility for all claims processed in Jurisdiction E and will take all appropriate measures to reduce and prevent improper Medicare payments and protect the integrity of the Medicare Trust Fund. In addition to taking the corrective actions described below relative to facet-joint injections, Noridian is dedicated to continuously monitoring its internal control environment and collaborating with other Medicare Administrative Contractors to mitigate risks of improper payments and improve service delivery for Medicare beneficiaries. Although the claims associated with the HCPCS codes noted in this report account for less than one percent of the total claims processed in Jurisdiction E during the audit period, we agree with the OIG's overall assessment that improvements should be undertaken to reduce the number of billing errors.

The OIG's recommendations and Noridian's responses are below.

OIG Recommendation 1:

Recover \$12,546 in improper payments made to physicians.

Noridian Response:

Noridian concurs with the recommendation to recover improper payments made to physicians noted within the OIG's sample. Adjustments will be made and demand letters will be issued as appropriate to collect the identified overpayments. Noridian will also continue to research and track debt collection activity on the overpayments identified in the OIG's sample.

A CMS Medicare Administrative Contractor

Noridian Healthcare Solutions, LLC



29312033 (3203) 4-13

OIG Recommendation 2:

Based upon the results of this audit, notify appropriate physicians (i.e., those for whom Noridian determines this audit constitutes credible information of potential overpayments) so that the physicians can exercise reasonable diligence to identify, report, and return any overpayments in accordance with the 60-day rule and identify any of those returned overpayments as having been made in accordance with this recommendation.

Noridian Response:

Noridian concurs with this recommendation to notify appropriate physicians of their responsibilities to exercise reasonable diligence to identify, report, and return any overpayments in accordance with the 60-day rule. Noridian will track any returned overpayments made in accordance with this recommendation and the 60-day rule.

OIG Recommendation 3:

Provide annual training to physicians and their billing staff in Jurisdiction E specific to Medicare requirements for billing of facet-joint injections, which could have saved an estimated \$4,155,889 for our audit period.

Noridian Response:

Noridian concurs with the OIG's recommendation to provide additional training to physicians and their billing staff specific to Medicare requirements for billing of facet-joint injections. Provider Outreach and Education partnered with Medical Review to present a webinar entitled, *Facet Joint Injections* on March 14, 2018 to support providers with the coverage and documentation requirements for this service.

On February 11, 2021, seven Medicare Administrative Contractors (MACs), including Noridian Healthcare Solutions (Jurisdictions E and F), will host a multi-jurisdictional contractor advisory committee (CAC) meeting. The purpose of the CAC meeting is to provide a formal mechanism for healthcare professionals to be informed of the evidence used in developing a Local Coverage Determination (LCD) and promote communications between the MACs and the healthcare community. The CAC panel will discuss the clinical literature on a variety of topics, including epidurals and facet-joint injections for chronic pain management, and rate their confidence in a series of key questions. Facilitated discussions between CAC panelists and Contractor Medical Directors will occur. Once the LCD has been finalized and is made available for physicians, we plan to establish website content to support physicians with coverage and billing resources for facet injections. Noridian's Provider Education will partner with Medical Review to develop a webinar presentation to support physician education on facet injections. This global webinar educational presentation will also be recorded as a self-paced tutorial to be available for physicians in the On-Demand Tutorial library from the Noridian Medicare website. We anticipate these resources will be delivered and/or available for viewing by June 30, 2021.

In summary, Noridian is aware of the concerns outlined in this draft report and is taking steps to address those concerns. We appreciate the opportunity to comment on this report and the recommendations. Should you have any additional questions on this response and Noridian's actions, please contact feel free to contact me at (Paul.O'Donnell@noridian.com), or our Vice President of Project Management – JE, Becky Gunderson (Becky.Gunderson@noridian.com).

Sincerely,

/s/ Paul O'Donnell

Senior Vice President of Government Contracts

CC: Dorinda Fain, JE COR, CMS
Paul J. Wilson, President and Chief Executive Officer, Noridian Healthcare Solutions, LLC
Becky Gunderson, Vice President of Project Management – MAC, Noridian Healthcare Solutions, LLC