



DEPARTMENT OF HEALTH AND HUMAN SERVICES

## OFFICE OF INSPECTOR GENERAL



OFFICE OF AUDIT SERVICES, REGION VII  
601 EAST 12<sup>TH</sup> STREET, ROOM 0429  
KANSAS CITY, MO 64106

March 7, 2012

Report Number: A-07-11-00365

Ms. Suzanne M. Gannon  
Executive Director and Chief Financial Officer  
MedUS Services, LLC  
HealthNow New York, Inc.  
257 West Genesee Street  
Buffalo, NY 14202

Dear Ms. Gannon:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled *Audit of HealthNow New York, Inc.'s Unfunded Pension Costs for 1995 Through 2006*. 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 (816) 426-3591, or contact Jenenne Tambke, Audit Manager, at (573) 893-8338, extension 21, or through email at [Jenenne.Tambke@oig.hhs.gov](mailto:Jenenne.Tambke@oig.hhs.gov). Please refer to report number A-07-11-00365 in all correspondence.

Sincerely,

/Patrick J. Cogley/  
Regional Inspector General  
for Audit Services

Enclosure

Page 2 – Ms. Suzanne M. Gannon

**Direct Reply to HHS Action Official:**

Ms. Deborah Taylor  
Director and Chief Financial Officer  
Office of Financial Management  
Centers for Medicare & Medicaid Services  
Mail Stop C3-01-24  
7500 Security Boulevard  
Baltimore, MD 21244-1850

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**AUDIT OF  
HEALTHNOW NEW YORK, INC.'S  
UNFUNDED PENSION COSTS  
FOR 1995 THROUGH 2006**



Daniel R. Levinson  
Inspector General

March 2012  
A-07-11-00365

# *Office of Inspector General*

<http://oig.hhs.gov>

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The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

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# *Notices*

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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.

## **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**

During our audit period (plan years 1995 through 2006), HealthNow New York, Inc. (HealthNow), administered Medicare Part B and Durable Medical Equipment Regional Carrier operations under cost reimbursement contracts with the Centers for Medicare & Medicaid Services (CMS).

Beginning with fiscal year 1988, CMS incorporated segmentation requirements into Medicare contracts. The contracts specify segmentation requirements and require the separate identification of unfunded costs for the Medicare segment and the business units comprising the rest of the company, which are aggregated and identified as the “Other” segment.

### **OBJECTIVE**

Our objective was to determine whether HealthNow:

- funded pension costs for plan years 1995 through 2006 in accordance with the Federal Acquisition Regulation (FAR) and Cost Accounting Standards (CAS) and
- identified and properly accounted for any unallowable unfunded pension costs.

### **SUMMARY OF FINDINGS**

HealthNow did not properly fund the pension costs allocable to the Medicare contracts in accordance with the FAR and CAS for plan year 1996. In addition, HealthNow did not identify or properly account for unallowable unfunded pension costs. As a result of these errors, HealthNow understated the January 1, 2007, accumulated unallowable unfunded pension costs by \$133,371 (\$21,189 for the Medicare segment plus \$112,182 for the “Other” segment).

### **RECOMMENDATIONS**

We recommend that HealthNow:

- identify \$133,371 of accumulated unallowable unfunded pension costs (\$21,189 as an unallowable component of the Medicare segment pension costs and \$112,182 as an unallowable component of the “Other” segment pension costs) as of January 1, 2007; and
- properly identify, and update with interest, unallowable unfunded pension costs in subsequent years.

## **AUDITEE COMMENTS**

In written comments on our draft report, HealthNow described corrective actions that it planned to take, actions that were in accordance with our first recommendation. HealthNow did not directly address our second recommendation. HealthNow's comments are included in their entirety as the Appendix.

## **OFFICE OF INSPECTOR GENERAL RESPONSE**

After reviewing HealthNow's comments, we maintain that our findings and both of our recommendations remain valid.

## INTRODUCTION

### BACKGROUND

#### HealthNow New York, Inc., and Medicare

During our audit period (plan years 1995 through 2006), HealthNow New York, Inc. (HealthNow), administered Medicare Part B and Durable Medical Equipment Regional Carrier (DMERC) operations under cost reimbursement contracts with the Centers for Medicare & Medicaid Services (CMS).<sup>1</sup>

In claiming costs, contractors must follow cost reimbursement principles contained in the Federal Acquisition Regulations (FAR), Cost Accounting Standards (CAS), and Medicare contracts.

Since its inception, Medicare has paid a portion of the annual contributions made by contractors to their pension plans. The payments are allowable pension costs under the FAR and its predecessor, the Federal Procurement Regulations (FPR). In 1980, the Medicare contracts and the FPR incorporated CAS 412 and 413.

#### Cost Accounting Standards

The CAS works to ensure stability between contract periods and requires that pension costs be consistently measured and assigned to contract periods and allocated to cost objectives, including Federal contracts. On March 30, 1995, the Office of Federal Procurement Policy, Cost Accounting Standards Board, revised the CAS relating to accounting for pension costs applicable with the start of the first accounting period thereafter.

The revised CAS removed the regulatory conflict between the funding limits of the Employee Retirement Income Security Act of 1974 (ERISA) and the period assignment provisions of the CAS. The transition provisions of the new rule (48 CFR § 9904.412-64) allow the reassignment of prior period pension costs, with interest, which were not funded because they lacked tax deductibility.

The CAS revision does not remove the requirement to fund pension costs with contributions that are not in conflict with ERISA. If a contractor could have funded pension costs and chose not to, the costs and any accrued interest are unallowable in future periods. The unallowable portion of pension costs must be updated, with interest, in accordance with the FAR and CAS.

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<sup>1</sup> The DMERC contractual relationship was terminated on June 30, 2006. The effective closing date for the DMERC Medicare segment was January 1, 2007. We are reviewing this segment closing in a separate audit (A-07-11-00366) of HealthNow. Unless otherwise noted, all subsequent references to Medicare segment pension assets in the body of this report relate to the Medicare Part B segment pension assets.

## **Federal Acquisition Regulation**

The FAR addresses the allowability of pension costs and requires that pension costs assigned to contract periods be substantiated by funding. The FAR (48 CFR § 31.205-6(j)(2)(i) and (iii))<sup>2</sup> states: "... pension costs ... assigned to the current accounting period, but not funded during it, are not allowable in subsequent years.... Increased pension costs are unallowable if the increase is caused by a delay in funding beyond 30 days after each quarter of the year to which they are assignable."

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

### **Objective**

Our objective was to determine whether HealthNow:

- funded pension costs for plan years 1995 through 2006 in accordance with the Federal Acquisition Regulation (FAR) and Cost Accounting Standards (CAS) and
- identified and properly accounted for any unallowable unfunded pension costs.

### **Scope**

Our review covered plan years 1995 through 2006. Achieving our objectives did not require that we review HealthNow's internal control structure. However, we reviewed internal controls related to the funding of pension costs to ensure that the pension costs had been funded in accordance with the FAR and CAS.

We performed fieldwork at HealthNow's office in Buffalo, New York.

### **Methodology**

The CMS Office of the Actuary developed the methodology used for computing CAS pension costs based on HealthNow's historical practices.

In performing this review, we used information provided by HealthNow's actuarial consulting firm, which included assets, liabilities, normal costs, contributions, benefit payments, investment earnings, and administrative expenses. We reviewed HealthNow's accounting records, the pension plan documents, annual actuarial valuation reports, and Form 5500 Series disclosure documents.<sup>3</sup> Using these documents, the CMS Office of the Actuary calculated the assignable CAS pension costs for each plan year of the period 1995 through 2006. The assignable CAS pension costs for the period 1995 through 2006 were calculated for the Medicare segment, the

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<sup>2</sup> During the period covered by our review, FAR 31.205-6 was amended with sections being renumbered and reworded. Refer to FAR 31.205-6(j)(3)(i) and (iii) for relevant prior FAR citations.

<sup>3</sup> Employee benefit plans are required to file these forms with the U.S. Department of Labor and the Internal Revenue Service.

DMERC Medicare segment, and the business units comprising the rest of the company, which are aggregated and identified as the “Other” segment.

Additionally, the CMS Office of the Actuary determined the extent to which HealthNow funded those costs with contributions to the pension trust fund. We reviewed the methodology for the calculations and update of HealthNow’s unfunded pension costs for plan years 1995 through 2006, for the Medicare segment, the DMERC Medicare segment, and the “Other” segment.

We performed this review in conjunction with our audits of Medicare segmentation (A-07-11-00363) and pension costs claimed for Medicare reimbursement (A-07-11-00364); we used the information obtained during those audits in this review.

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**

HealthNow did not properly fund the pension costs allocable to the Medicare contracts in accordance with the FAR and CAS for plan year 1996. In addition, HealthNow did not identify or properly account for unallowable unfunded pension costs. As a result of these errors, HealthNow understated the January 1, 2007, accumulated unallowable unfunded pension costs by \$133,371 (\$21,189 for the Medicare segment plus \$112,182 for the “Other” segment).

### **UNALLOWABLE UNFUNDED PENSION COSTS**

For Medicare reimbursement, pension costs must be (1) measured, assigned, and allocated in accordance with CAS 412 and 413 and (2) funded as specified by part 31 of the FAR. The Medicare contracts state: “The calculation of and accounting for pension costs charged to this agreement/contract are governed by the Federal Acquisition Regulation and Cost Accounting Standards 412 and 413.”

The revised CAS states that if a contractor could have funded pension costs and chose not to, the costs and any accrued interest are unallowable in future periods. The unallowable portion of pension costs must be updated, with interest, in accordance with the FAR and CAS.

For plan year 1996 we identified \$64,118 of pension costs<sup>4</sup> that HealthNow could have funded with contributions as provided for by ERISA. However, HealthNow did not fund these costs in this manner. As of January 1, 2007, HealthNow had accumulated \$133,371 in unallowable pension costs (\$21,189 for the Medicare segment plus \$112,182 for the “Other” segment). The pension costs are unallowable because they were not funded within specific time periods set by

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<sup>4</sup> Total Company unfunded pension costs as of the end of the plan year.

the provisions of the FAR. Imputed interest on the unfunded costs is also unallowable pursuant to the CAS. The \$133,371 represents unfunded pension costs and imputed interest for the years 1995 through 2006.

## **RECOMMENDATIONS**

We recommend that HealthNow:

- identify \$133,371 of accumulated unallowable unfunded pension costs (\$21,189 as an unallowable component of the Medicare segment pension costs and \$112,182 as an unallowable component of the “Other” segment pension costs) as of January 1, 2007; and
- properly identify, and update with interest, unallowable unfunded pension costs in subsequent years.

## **AUDITEE COMMENTS**

In written comments on our draft report, HealthNow described corrective actions that it planned to take, actions that were in accordance with our first recommendation. HealthNow did not directly address our second recommendation.

HealthNow’s comments are included in their entirety as the Appendix.

## **OFFICE OF INSPECTOR GENERAL RESPONSE**

After reviewing HealthNow’s comments, we maintain that our findings and both of our recommendations remain valid.

# **APPENDIX**

## APPENDIX: AUDITEE COMMENTS



January 30, 2012

Mr. Patrick J. Cogley  
Regional Inspector General, Office of Audit Services  
Region VII  
601 East 12<sup>th</sup> Street  
Room 0429  
Kansas City, Missouri 64106

Re: Report Number: A-07-11-00365

Dear Mr. Cogley:

This letter is in response to the U.S. Department of Health & Human Services, Office of Inspector General, Office of Audit Services' draft report entitled "AUDIT OF HEALTHNOW NEW YORK INC'S UNFUNDED PENSION COSTS FOR 1995 THROUGH 2006" HealthNow New York Inc. (HealthNow) has reviewed the draft report in conjunction with our actuaries at Hooker and Holcombe, Inc. Following are comments regarding the specific findings.

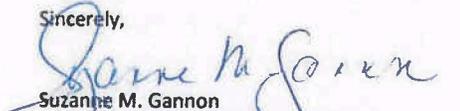
- HealthNow will establish and update with interest an unallowable unfunded pension cost as of January 1, 2007 equal to \$133,371. This is allocated as follows:
  - \$21,189 to the Medicare Segment
  - \$112,182 to the "Other" Segment

This action is in accordance with the Recommendations stated in Report Number: A-07-11-00365.

HealthNow would like to thank the audit team for their professionalism and recognition of the ongoing operation during the audit. I am also grateful to Jenenne Tambke for the extension to respond to this draft report.

If you have any questions, please contact me at 716.887.6922.

Sincerely,



Suzanne M. Gannon  
Executive Director & CFO, Medicare Operation  
MedUS Services, LLC  
HealthNow New York Inc.

CC: Carmen L. Snell, Esq.  
Christopher Leardini  
Catherine M. Campbell