



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 12, 2012

Report Number: A-07-11-00366

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 *Review of Medicare Contractor's Pension Segmentation Requirements for the Durable Medical Equipment Regional Carrier Segment at HealthNow New York, Inc., a Terminated Medicare Contractor, for the Period January 1, 2002, to January 1, 2007*. 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-07-11-00366 in all correspondence.

Sincerely,

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

Enclosure

**Direct Reply to HHS Action Official:**

Ms. Deborah Taylor  
Director and Chief Financial Officer  
Office of Financial Management  
Centers for Medicare & Medicaid Services  
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Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**REVIEW OF MEDICARE CONTRACTOR'S  
PENSION SEGMENTATION  
REQUIREMENTS FOR THE DURABLE  
MEDICAL EQUIPMENT REGIONAL  
CARRIER SEGMENT AT HEALTHNOW  
NEW YORK, INC., A TERMINATED  
MEDICARE CONTRACTOR, FOR THE  
PERIOD JANUARY 1, 2002, TO  
JANUARY 1, 2007**



Daniel R. Levinson  
Inspector General

February 2012  
A-07-11-00366

# *Office of Inspector General*

<http://oig.hhs.gov>

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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 (January 1, 2002, to January 1, 2007), 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). The DMERC contractual relationship was terminated on June 30, 2006. The effective closing date for the DMERC Medicare segment was January 1, 2007. This report will address only the DMERC Medicare segment assets for the period of January 1, 2002, through January 1, 2007.

Since its inception, Medicare has paid a portion of contractors' contributions to their pension plans. These contributions are allowable Medicare costs subject to the criteria set forth in the Federal Acquisition Regulation, Cost Accounting Standards (CAS), and Medicare contracts. Furthermore, in situations such as contract terminations, the Medicare contracts require contractors to identify excess Medicare pension assets/liabilities, in accordance with CAS 413.

### **Pension Segmentation**

Beginning with fiscal year 1988, CMS incorporated segmentation requirements into the Medicare contracts to ensure conformance with CAS 413. The Medicare contracts define a segment and specify the methodology for the identification and initial allocation of pension assets to the segment. Additionally, the contracts require Medicare segment assets to be updated for each year after the initial allocation in accordance with CAS 412 and 413.

Upon the termination of its DMERC Medicare contracts, HealthNow identified Medicare's share of the DMERC Medicare segment excess pension liabilities to be \$203,556.

### **OBJECTIVE**

Our objective was to determine whether HealthNow complied with Federal requirements and the Medicare contracts' pension segmentation requirements when:

- identifying the DMERC Medicare segment's initial asset base,
- updating the DMERC Medicare segment's pension assets from January 1, 2002, to January 1, 2007, and
- determining Medicare's share of the DMERC Medicare segment excess pension assets/liabilities as a result of the termination of the DMERC Medicare contracts.

## **SUMMARY OF FINDINGS**

HealthNow complied with the Medicare contracts' pension segmentation requirements in identifying the DMERC Medicare segment's initial asset base as of January 1, 2002. However, HealthNow did not always comply with the Medicare contracts' pension segmentation requirements when updating DMERC Medicare segment assets from January 1, 2002, to January 1, 2007. HealthNow identified DMERC Medicare segment pension assets of (\$74,901); however, we determined that the DMERC Medicare segment pension assets were \$422,674 as of January 1, 2007. As a result, HealthNow understated the DMERC Medicare segment pension assets by \$497,575.

In addition, HealthNow did not fully comply with Federal requirements in its calculation of Medicare's share of the DMERC Medicare segment excess pension assets associated with the termination of the DMERC Medicare contracts. HealthNow computed Medicare's share of the DMERC Medicare segment excess pension liabilities to be \$203,556; however, we identified Medicare's share of the DMERC Medicare segment excess pension assets to be \$122,467 as of January 1, 2007. Accordingly, HealthNow understated Medicare's share of the DMERC Medicare segment excess pension assets, as a result of the termination of the DMERC Medicare contracts, by \$326,023.

## **RECOMMENDATIONS**

We recommend that HealthNow:

- increase DMERC Medicare segment pension assets as of January 1, 2007, by \$497,575, and recognize \$422,674 as the DMERC Medicare segment's pension assets,
- increase Medicare's share of the DMERC Medicare segment excess pension assets by \$326,023, and
- refund to the Federal Government \$122,467, which we calculated to be Medicare's share of the DMERC Medicare segment's excess pension assets as of the termination of the DMERC Medicare contracts.

## **AUDITEE COMMENTS**

In written comments on our draft report, HealthNow agreed with our first recommendation but disagreed with our second and third recommendations. HealthNow disagreed with our calculations of the DMERC Medicare segment excess pension assets and of Medicare's share of the DMERC Medicare segment excess pension assets because, according to HealthNow, those calculations did not include former DMERC employees. HealthNow proposed that we recognize \$43,333 as the DMERC Medicare segment pension assets as of January 1, 2007, and that HealthNow would thereby owe \$43,277 (99.87 percent of the excess pension assets) to the Federal Government as HealthNow's share of the DMERC Medicare segment excess pension assets as of the termination of the DMERC contract.

HealthNow's comments, from which we have redacted a listing of 19 former DMERC employees to protect personally identifiable information, are included as Appendix D.

### **OFFICE OF INSPECTOR GENERAL RESPONSE**

After reviewing HealthNow's comments, we maintain that our findings and recommendations remain valid. Eighteen of the 19 former DMERC employees listed in HealthNow's comments received a lump sum benefit payment from the plan during 2006 and as a result no longer had a vested benefit payable from the plan as of January 1, 2007. The liability associated with the other former DMERC employee was in fact included in our calculations of the DMERC Medicare segment excess pension assets and of Medicare's share of the DMERC Medicare segment excess pension assets.

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## **Glossary of Abbreviations and Acronyms**

CAS	Cost Accounting Standards
CMS	Centers for Medicare & Medicaid Services
DMERC	Durable Medical Equipment Regional Carrier
FAR	Federal Acquisition Regulation
HealthNow	HealthNow New York, Inc.
WAV	weighted average value

## INTRODUCTION

### BACKGROUND

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

During our audit period (January 1, 2002, to January 1, 2007), HealthNow New York, Inc. (HealthNow), administered Medicare Part B<sup>1</sup> and Durable Medical Equipment Regional Carrier (DMERC) operations under cost reimbursement contracts with the Centers for Medicare & Medicaid Services (CMS). The DMERC contractual relationship was terminated on June 30, 2006. The effective closing date for the DMERC Medicare segment was January 1, 2007.

HealthNow began administering DMERC operations in September 2000. On January 1, 2002, HealthNow created a new DMERC Medicare segment to separately account for its DMERC operations. During the audit period, the DMERC Medicare segment performed work on both the DMERC and Medicare Part B contracts. For the purposes of this report, we will address only the DMERC Medicare segment assets for the period of January 1, 2002, through January 1, 2007.

HealthNow sponsors a defined benefit pension plan, which is a deferred compensation plan in which an employer makes actuarially determined contributions to fund an employee's retirement benefit as defined by the plan's terms.

Since its inception, Medicare has paid a portion of contractors' contributions to their pension plans. These contributions are allowable Medicare costs subject to the criteria set forth in the Federal Acquisition Regulation (FAR), Cost Accounting Standards (CAS), and Medicare contracts. Furthermore, in situations such as contract terminations, the Medicare contracts require contractors to identify excess Medicare pension assets/liabilities, in accordance with CAS 413.

#### **Federal Requirements**

CAS 412 addresses the determination and measurement of pension cost components. It also addresses the assignment of pension costs to appropriate accounting periods.

CAS 413 addresses the valuation of pension assets, allocation of pension costs to segments of an organization, adjustment of pension costs for actuarial gains and losses, and assignment of gains and losses to cost accounting periods. CAS 413 also addresses the determination of segment assets and liabilities in the event of contract terminations, segment closings, or pension plan terminations.

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<sup>1</sup> We reviewed the HealthNow Part B Medicare segment assets in a separate report, *Review of Medicare Contractor's Pension Segmentation Requirements for the Part B Medicare Segment at HealthNow New York, Inc., for the Period April 1, 1995, to January 1, 2007* (A-07-11-00363).

## **Pension Segmentation**

Beginning with fiscal year 1988, CMS incorporated segmentation requirements into the Medicare contracts. The Medicare contracts define a segment and specify the methodology for the identification and initial allocation of pension assets to the segment. Additionally, the contracts require Medicare segment assets to be updated for each year after the initial allocation in accordance with CAS 412 and 413. In claiming costs, contractors must follow cost reimbursement principles contained in the FAR, CAS, and the Medicare contracts.

Upon termination of its DMERC Medicare contracts, HealthNow identified Medicare's share of the Medicare segment excess pension liabilities to be \$203,556.

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

### **Objective**

Our objective was to determine whether HealthNow complied with Federal requirements and the Medicare contracts' pension segmentation requirements when:

- identifying the DMERC Medicare segment's initial asset base,
- updating the DMERC Medicare segment's pension assets from January 1, 2002, to January 1, 2007, and
- determining Medicare's share of the DMERC Medicare segment excess pension assets/liabilities as a result of the termination of the DMERC Medicare contracts.

### **Scope**

We reviewed HealthNow's identification of its DMERC Medicare segment; computation of the initial assets allocated to the DMERC Medicare segment; update of DMERC Medicare segment assets from January 1, 2002, to January 1, 2007; and the DMERC Medicare segment's closing calculation as of January 1, 2007.

Achieving our objective did not require us to review HealthNow's overall internal control structure. We reviewed controls relating to the identification of the DMERC Medicare segment, the update of the DMERC Medicare segment's assets, and the DMERC Medicare segment's final assets and liabilities to ensure adherence to the Medicare contracts, CAS 412, and CAS 413.

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

## Methodology

To accomplish our objective, we took the following steps:

- We reviewed the portions of the FAR, CAS, and the Medicare contracts applicable to this audit.
- We reviewed HealthNow's development of the DMERC Medicare segment initial asset base as of January 1, 2002.
- We reviewed the annual actuarial valuation reports prepared by HealthNow's actuarial consulting firm. Prior to our review, HealthNow engaged its actuarial consulting firm to analyze and develop its Medicare segment pension asset accounting. This information included the pension plan's assets, liabilities, normal costs, contributions, benefit payments, investment earnings, and administrative expenses. We used this information to calculate the DMERC Medicare segment assets.
- We obtained and reviewed the pension plan documents and Department of Labor/Internal Revenue Service Forms 5500 used in calculating the DMERC Medicare segment assets.
- We interviewed HealthNow staff responsible for identifying the DMERC Medicare segment to determine whether the segment was properly identified in accordance with the Medicare contracts.
- We reviewed HealthNow's accounting records to verify the segment identification and benefit payments made to the DMERC Medicare segment.
- We reviewed the DMERC Medicare segment closing calculation prepared by HealthNow's staff and its actuarial consulting firm.
- We provided the CMS Office of the Actuary with the actuarial information necessary for it to calculate the DMERC Medicare segment pension assets from January 1, 2002, to January 1, 2007, and the DMERC Medicare segment's excess pension assets/liabilities as of January 1, 2007.
- We reviewed the CMS actuaries' methodology and calculations.

We performed this review in conjunction with our review of HealthNow's pension costs claimed for DMERC Medicare reimbursement for fiscal years 2000 through 2007 (A-07-11-00367).

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 complied with the Medicare contracts’ pension segmentation requirements in identifying the DMERC Medicare segment’s initial asset base as of January 1, 2002. However, HealthNow did not always comply with the Medicare contracts’ pension segmentation requirements when updating DMERC Medicare segment assets from January 1, 2002, to January 1, 2007. HealthNow identified DMERC Medicare segment pension assets of (\$74,901); however, we determined that the DMERC Medicare segment pension assets were \$422,674 as of January 1, 2007. As a result, HealthNow understated the DMERC Medicare segment pension assets by \$497,575.

Appendix A presents details of the DMERC Medicare segment’s pension assets from January 1, 2002, to January 1, 2007, as determined during our audit. Table 1 below summarizes the audit adjustments required to update the DMERC Medicare segment pension assets in accordance with Federal requirements.

<b>Table 1: Summary of Audit Adjustments in Updating DMERC Medicare Segment Assets</b>			
	<b>Per Audit</b>	<b>Per HealthNow</b>	<b>Difference</b>
<b>Update of DMERC Medicare Segment Assets</b>			
Benefit Payments	(\$947,095)	(\$1,411,805)	\$464,710
Contributions and Transferred Prepayment Credits	993,155	1,041,427	(48,272)
Transfers	0	17,699	(17,699)
Earnings, Net Expenses	373,966	275,130	98,836
<b>Understatement of DMERC Segment Assets</b>			<b>\$497,575</b>

In addition, CAS 413 requires a segment closing adjustment to be made in order to recognize Medicare’s share of the DMERC Medicare segment excess pension assets/liabilities as a result of the termination of the DMERC Medicare contracts. HealthNow did not fully comply with Federal requirements in its calculation of Medicare’s share of the DMERC Medicare segment excess pension assets associated with the termination of the DMERC Medicare contracts. HealthNow computed Medicare’s share of the DMERC Medicare segment excess pension liabilities to be \$203,556; however, we identified excess DMERC Medicare segment pension assets totaling \$122,627 as of January 1, 2007. We determined that Medicare’s share of the DMERC Medicare segment excess pension assets was \$122,467 as of January 1, 2007. Accordingly, HealthNow understated Medicare’s share of the DMERC Medicare segment excess pension assets, as a result of the termination of the DMERC Medicare contracts, by \$326,023.

### **DURABLE MEDICAL EQUIPMENT REGIONAL CARRIER MEDICARE SEGMENT INITIAL ASSET BASE**

HealthNow complied with the Medicare contracts’ pension segmentation requirements in identifying the DMERC Medicare segment’s initial asset base as of January 1, 2002. HealthNow identified an initial asset base of \$2,648 for the DMERC Medicare segment as of January 1, 2002. We reviewed HealthNow’s initial asset allocation and determined that it is a

reasonable representation of its DMERC Medicare segment pension assets as of January 1, 2002. Therefore, we accepted HealthNow's allocation of \$2,648 as the DMERC Medicare segment initial asset base as of January 1, 2002.

## **UPDATE OF DURABLE MEDICAL EQUIPMENT REGIONAL CARRIER MEDICARE SEGMENT PENSION ASSETS**

### **Federal Requirements**

The Medicare contracts identify a Medicare segment as:

... any organizational component of the contractor, such as a division, department, or other similar subdivision, having a significant degree of responsibility and accountability for the Medicare contract/agreement, in which:

1. The majority of the salary dollars is allocated to the Medicare agreement/contract; or,
2. Less than a majority of the salary dollars are charged to the Medicare agreement/contract, and these salary dollars represent 40% or more of the total salary dollars charged to the Medicare agreement/contract.

Furthermore, the Medicare contracts state that "... the pension assets allocated to each Medicare Segment shall be adjusted in accordance with CAS 413.50(c)(7)." CAS 413.50(c)(7) requires that the asset base be adjusted by contributions, permitted unfunded accruals, income, benefit payments, and expenses. For plan years beginning after March 30, 1995, the CAS requires investment income and expenses to be allocated among segments based on the ratio of the segment's weighted average value (WAV) of assets to Total Company WAV of assets.

In addition, CAS 413.50(c)(8) requires an adjustment to be made for transfers (participants who enter or leave the segment) if the transfers materially affect the segment's ratio of pension plan assets to actuarial accrued liabilities. For plan years beginning after March 30, 1995, the CAS requires that the amount of assets transferred equal the actuarial accrued liabilities as determined using the accrued benefit cost method.

Finally, CAS 412.50(a)(4) requires that contributions in excess of the pension cost assigned to the period be recognized as prepayment credits and accumulated at the assumed valuation interest rate until applied to future period costs. Prepayment credits that have not been applied to fund pension costs are excluded from the value of assets used to compute pension costs.

### **Benefit Payments Overstated**

HealthNow overstated benefit payments for the DMERC Medicare segment by \$464,710 because it did not provide documentation to support the total proposed benefit payments for 2006. HealthNow provided documentation to support only a portion of its 2006 proposed benefit payment amount. Pursuant to FAR 31.201-2(5)(d), for a cost to be allowable, "[a] contractor is

responsible for accounting for costs appropriately and for maintaining records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred [and] are allocable to the contract ....” Because HealthNow did not provide support for the remaining benefit payments, we considered the unsupported benefit payments to be unallowable.

Further, CAS 413.50(c)(7) requires that the asset base be adjusted by benefit payments “... attributable to the segment and paid from the pension plan.” We based our calculation of the DMERC Medicare segment’s benefit payments on actual benefit payments to DMERC Medicare segment participants as required by the CAS. This overstatement of benefit payments resulted in an understatement of DMERC Medicare segment pension assets by \$464,710.

### **Contributions and Transferred Prepayment Credits Overstated**

HealthNow overstated contributions and transferred prepayment credits by \$48,272 for the DMERC Medicare segment. This overstatement occurred because HealthNow did not correctly calculate the assignable pension cost upon which the contributions and transferred prepayment credits were based. As a result, HealthNow overstated the DMERC Medicare segment pension assets by \$48,272.

### **Net Transfers Overstated**

HealthNow overstated net transfers into the DMERC Medicare segment by \$17,699. The overstatement occurred because HealthNow transferred the liability of one participant from the Medicare segment but did not adjust the Medicare segment assets for this transfer as required by CAS 413.50(c)(8). This overstatement of the net transfer adjustment resulted in an overstatement of the DMERC Medicare segment assets by \$17,699.

### **Earnings, Net Expenses Understated**

HealthNow understated investment earnings, less administrative expenses, by \$98,836 for the DMERC Medicare segment because it used incorrect benefit payments, contributions and transferred prepayment credits, and net transfer amounts (all discussed above) to develop the Medicare segment pension asset base. In our audited update, we allocated earnings, net expenses based on the applicable CAS requirements.

## **DURABLE MEDICAL EQUIPMENT REGIONAL CARRIER MEDICARE SEGMENT EXCESS PENSION ASSETS**

### **Federal Requirements**

#### *Medicare Contracts*

In the event of a contract termination, the Medicare contracts require contractors to follow the segment closing provision of the CAS. Furthermore, in situations such as contract terminations, the Medicare contracts require contractors to identify excess Medicare pension assets/liabilities in accordance with CAS 413.

## *Cost Accounting Standards*

Contract terminations and segment closings are addressed by CAS 413.50(c)(12), which states:

If a segment is closed, if there is a pension plan termination, or if there is a curtailment of benefits, the contractor shall determine the difference between the actuarial liability for the segment and the market value of the assets allocated to the segment, irrespective of whether or not the pension plan is terminated. The difference between the market value of the assets and the actuarial accrued liability for the segment represents an adjustment of previously-determined pension costs.

(i) The determination of the actuarial accrued liability shall be made using the accrued benefit cost method. The actuarial assumptions employed shall be consistent with the current and prior long term assumptions used in the measurement of pension costs ....

(ii) ... The market value of the assets shall be reduced by the accumulated value of prepayment credits, if any. Conversely, the market value of assets shall be increased by the current value of any unfunded actuarial liability separately identified and maintained in accordance with 9904.412-50(a)(2).

(iii) The calculation of the difference between the market value of the assets and the actuarial accrued liability shall be made as of the date of the event (e.g., contract termination, plan amendment, plant closure) that caused the closing of the segment, pension plan termination, or curtailment of benefits. If such a date is not readily determinable, or if its use can result in an inequitable calculation, the contracting parties shall agree on an appropriate date.

### **Durable Medical Equipment Regional Carrier Medicare Segment Excess Pension Assets as of January 1, 2007**

HealthNow identified \$203,556 in DMERC Medicare segment excess pension liabilities as of January 1, 2007. However, we identified excess Medicare pension assets totaling \$122,627 as of January 1, 2007. Therefore, HealthNow understated the DMERC Medicare segment excess pension assets by \$326,183. The understatement occurred because HealthNow did not fully comply with Federal regulations in its calculation of the Medicare segment's excess pension assets. Specifically, HealthNow understated the excess pension assets because it (a) understated the DMERC Medicare segment's pension assets as of January 1, 2007, and (b) incorrectly identified the final participants and their respective liabilities as of January 1, 2007. As part of our review, we used the development of excess assets to identify Medicare's share of the DMERC Medicare segment's excess pension assets.

## **Medicare's Share of Durable Medical Equipment Regional Carrier Excess Pension Assets as of January 1, 2007**

### *Federal Requirements*

The methodology for determining the Federal Government's share of excess pension liabilities is addressed by CAS 413.50(c)(12)(vi), which states:

The Government's share of the adjustment amount determined for a segment shall be the product of the adjustment amount and a fraction. The adjustment amount shall be reduced for any excise tax imposed upon assets withdrawn from the funding agency of a qualified pension plan. The numerator of such fraction shall be the **sum of the pension plan costs** allocated to all contracts and subcontracts (including Foreign Military Sales) subject to this Standard during a period of years representative of the Government's participation in the pension plan. The denominator of such fraction shall be the **total pension costs** assigned to cost accounting periods during those same years. This amount shall represent an adjustment of contract prices or cost allowance as appropriate. The adjustment may be recognized by modifying a single contract, several but not all contracts, or all contracts, or by use of any other suitable technique. [Emphasis added.]

### *Medicare's Share of the Durable Medical Equipment Regional Carrier Medicare Segment Excess Pension Assets Understated*

HealthNow did not comply with the Medicare contracts in determining Medicare's share of the DMERC Medicare segment excess pension assets associated with the termination of the DMERC Medicare contracts as of January 1, 2007. HealthNow calculated \$203,556 as Medicare's share of the DMERC Medicare segment excess pension liabilities as of January 1, 2007; however, we identified excess DMERC Medicare segment pension assets totaling \$122,627 as of that date. We determined that Medicare's share of the DMERC Medicare segment excess pension assets was \$122,467 as of January 1, 2007. The understatement occurred primarily because HealthNow (1) understated the DMERC Medicare segment's excess pension assets (as discussed above), and (2) did not compute the aggregate Medicare percentage in accordance with the CAS. As a result, HealthNow understated Medicare's share of the DMERC Medicare segment excess pension assets by \$326,023.

In accordance with CAS 413.50(c)(12)(vi), we calculated the aggregate Medicare percentage using the Medicare segment pension costs developed during the current pension costs claimed audit (A-07-11-00367). Appendix B shows our calculation of the DMERC Medicare segment's aggregate Medicare percentage for the Medicare pension costs that relate to the DMERC contract. Appendix C shows our calculation of the DMERC Medicare segment's aggregate percentage for the Medicare pension costs that relate to the Medicare Part B contract. Table 2 on the following page shows our calculations of Medicare's share of the DMERC Medicare segment excess pension assets.

<b>Table 2: Medicare's Share of DMERC Medicare Segment Excess Pension Assets</b>			
	<b>Excess Medicare Segment Assets/(Liabilities) (A)</b>	<b>Aggregate Medicare Percentage (B)</b>	<b>Excess Assets/(Liabilities) Attributable to Medicare (A x B)</b>
<b>Per Audit</b>			
DMERC	\$122,627	98.64%	\$120,959
Part B	\$122,627	1.23%	\$1,508
<b>Total Per Audit</b>			<b>\$122,467</b>
<b>Per HealthNow</b>	(203,556)	100.00%	(203,556)
<b>Understatement of Medicare's Share of Excess DMERC Assets</b>			<b>\$326,023</b>

## RECOMMENDATIONS

We recommend that HealthNow:

- increase DMERC Medicare segment pension assets as of January 1, 2007, by \$497,575, and recognize \$422,674 as the DMERC Medicare segment's pension assets,
- increase Medicare's share of the DMERC Medicare segment excess pension assets by \$326,023, and
- refund to the Federal Government \$122,467, which we calculated to be Medicare's share of the DMERC Medicare segment's excess pension assets as of the termination of the DMERC Medicare contracts.

## AUDITEE COMMENTS

In written comments on our draft report, HealthNow agreed with our first recommendation but disagreed with our second and third recommendations. HealthNow disagreed with our calculations of the DMERC Medicare segment excess pension assets and of Medicare's share of the DMERC Medicare segment excess pension assets because, according to HealthNow, those calculations did not include former DMERC employees. HealthNow further stated that this group of former DMERC employees still had vested benefits payable from the plan as of January 1, 2007, but that our calculations did not include any liability for this group.

HealthNow also proposed that, as a result of the inclusion of this group of former DMERC employees, we recognize \$43,333 as the DMERC Medicare segment pension assets as of January 1, 2007, and that HealthNow would thereby owe \$43,277 (99.87 percent of the excess pension assets) to the Federal Government as HealthNow's share of the DMERC Medicare segment excess pension assets as of the termination of the DMERC contract. HealthNow added that if we agreed with these adjustments, HealthNow would net the \$43,277 with other amounts due to/from the Federal Government during global settlement of all outstanding audits.

HealthNow provided a listing of 19 former DMERC employees as part of its comments. Because this listing contained personally identifiable information, we have redacted it from HealthNow's comments, which are otherwise included as Appendix D.

## **OFFICE OF INSPECTOR GENERAL RESPONSE**

After reviewing HealthNow's comments, we maintain that our findings and recommendations remain valid. Regarding the DMERC employee listing provided by HealthNow, we determined that 18 of the 19 former employees received a lump sum benefit payment from the plan during 2006 and as a result no longer had a vested benefit payable from the plan as of January 1, 2007. As for the other former DMERC employee, our calculations of the DMERC Medicare segment excess pension assets, and of Medicare's share of the DMERC Medicare segment excess pension assets, already included and thus correctly reflected this employee's liability as of January 1, 2007.

Accordingly, we maintain that HealthNow should increase Medicare's share of the DMERC Medicare segment excess pension assets by \$326,023, and refund to the Federal Government \$122,467, which we calculated to be Medicare's share of the DMERC Medicare segment's excess pension assets as of the termination of the DMERC Medicare contracts.

# **APPENDIXES**

**APPENDIX A: STATEMENT OF MARKET VALUE OF PENSION ASSETS FOR  
THE DURABLE MEDICAL EQUIPMENT REGIONAL CARRIER MEDICARE SEGMENT  
AT HEALTHNOW NEW YORK, INC., FOR THE PERIOD JANUARY 1, 2002, TO JANUARY 1, 2007**

Description		Total Company	“Other” Segment	Part B Medicare Segment	DMERC Medicare Segment
					<u>1/</u>
Assets January 1, 2002	<u>2/</u>	\$60,056,771	\$52,158,608	\$7,895,515	\$2,648
Transferred Prepayment Credits	<u>3/</u>	0	(732,344)	489,141	243,203
Contributions	<u>4/</u>	7,930,000	7,930,000	0	0
Earnings, Net Expenses	<u>5/</u>	(6,179,908)	(5,286,432)	(867,604)	(25,872)
Benefit Payments	<u>6/</u>	(2,663,303)	(2,382,950)	(280,353)	0
Transfers	<u>7/</u>	0	541	(541)	0
Assets January 1, 2003		59,143,560	51,687,423	7,236,158	219,979
Transferred Prepayment Credits		0	(675,188)	458,820	216,368
Contributions		6,850,000	6,850,000	0	0
Earnings, Net Expenses		14,513,020	12,544,601	1,858,704	109,715
Benefit Payments		(2,847,892)	(2,242,407)	(605,485)	0
Transfers		0	0	0	0
Assets January 1, 2004		77,658,688	68,164,429	8,948,197	546,062
Transferred Prepayment Credits		0	(814,039)	596,090	217,949
Contributions		6,750,000	6,750,000	0	0
Earnings, Net Expenses		8,787,207	7,616,997	1,082,285	87,925
Benefit Payments		(2,606,684)	(2,326,873)	(279,811)	0
Transfers		0	0	0	0
Assets January 1, 2005		90,589,211	79,390,514	10,346,761	851,936
Transferred Prepayment Credits		0	(727,833)	520,848	206,985
Contributions		6,600,000	6,600,000	0	0
Earnings, Net Expenses		7,383,951	6,410,744	885,236	87,971
Benefit Payments		(3,415,381)	(2,991,545)	(423,836)	0
Transfers		0	(17,556)	(143)	17,699
Assets January 1, 2006		101,157,781	88,664,324	11,328,866	1,164,591
Transferred Prepayment Credits		0	(579,773)	471,123	108,650
Contributions		0	0	0	0
Earnings, Net Expenses		13,099,673	11,395,306	1,590,140	114,227
Benefit Payments		(18,896,767)	(16,614,494)	(1,335,178)	(947,095)
Transfers		0	17,699	0	(17,699)
Assets January 1, 2007		\$95,360,687	\$82,883,062	\$12,054,951	\$422,674
Per HealthNow	<u>8/</u>	\$95,360,687	\$84,184,414	\$11,251,174	(\$74,901)
Asset Variance	<u>9/</u>	\$0	(\$1,301,352)	\$803,777	\$497,575

**ENDNOTES**

- 1/ Durable Medical Equipment Regional Carrier
- 2/ We agreed with HealthNow New York, Inc.'s (HealthNow) determination of the DMERC Medicare segment's initial assets. The amounts shown for the "Other" segment represent the difference between the Total Company, the Part B Medicare segment, and the DMERC Medicare segment. All pension assets are shown at market value.
- 3/ Prepayment credits represent funds available to satisfy future funding requirements, and are applied to future funding requirements before current year contributions in order to avoid incurring unallowable interest costs. Prepayment credits are transferred to the Medicare segment(s) as needed to cover funding requirements.
- 4/ We obtained Total Company contribution amounts from the Department of Labor/Internal Revenue Service Forms 5500. We allocated Total Company contributions to the Medicare segment(s) based on the ratio of the Medicare segment(s) funding target divided by the Total Company funding target. Contributions in excess of the funding targets were treated as prepayment credits and accounted for in the "Other" segment until needed to fund pension costs in the future.
- 5/ We obtained net investment earnings from documents prepared by HealthNow's actuarial consulting firm. We allocated net investment earnings based on the ratio of the segment's weighted average value (WAV) of assets to Total Company WAV of assets as required by the Cost Accounting Standards (CAS).
- 6/ We based the DMERC Medicare segment's benefit payments on actual payments to DMERC Medicare segment participants. We obtained the benefit payments from documents provided by HealthNow.
- 7/ We identified participant transfers between segments by comparing valuation data files provided by HealthNow. Asset transfers were equal to the actuarial liability determined under the accrued benefit cost method in accordance with the CAS.
- 8/ We obtained total asset amounts as of January 1, 2007, from documents prepared by HealthNow's actuarial consulting firm.
- 9/ The asset variance represents the difference between our calculation of Medicare segment(s) pension assets and HealthNow's calculation of the Medicare segment(s) pension assets.

**APPENDIX B: CALCULATION OF DURABLE MEDICAL EQUIPMENT REGIONAL CARRIER MEDICARE SEGMENT AGGREGATE PERCENTAGE FOR THE DURABLE MEDICAL EQUIPMENT REGIONAL CARRIER MEDICARE CONTRACT**

<b>Fiscal Year</b>	<b>Medicare Segment Pension Costs Charged to Medicare</b>	<b>Total Medicare Segment Pension Costs</b>	<b>Medicare Aggregate Percentage</b>
<u>1/</u>	(A) <u>2/</u>	(B)	(A/B) <u>3/</u>
2002	237,974	243,203	
2003	213,425	216,368	
2004	214,985	217,949	
2005	204,625	206,985	
2006	108,650	108,650	
<b>Total</b>	<u>\$979,659</u>	<u>\$993,155</u>	<u>98.64%</u>

**FOOTNOTES**

1/ The aggregate percentage was based on the audited pension costs determined during our current review of HealthNow New York, Inc.'s Durable Medical Equipment Regional Carrier (DMERC) Medicare segment (A-07-11-00367).

2/ This column identifies the allowable DMERC Medicare segment pension costs that relate to the DMERC contract.

3/ We calculated the aggregate Medicare percentage by dividing the DMERC Medicare segment pension costs charged to Medicare by the total DMERC Medicare segment pension costs pursuant to Cost Accounting Standard 413.

**APPENDIX C: CALCULATION OF DURABLE MEDICAL EQUIPMENT REGIONAL  
CARRIER MEDICARE SEGMENT AGGREGATE PERCENTAGE FOR THE MEDICARE  
PART B CONTRACT**

<b>Fiscal Year</b>	<b>Medicare Segment Pension Costs Charged to Medicare</b>	<b>Total Medicare Segment Pension Costs</b>	<b>Medicare Aggregate Percentage</b>
<u>1/</u>	(A) <u>2/</u>	(B)	(A/B) <u>3/</u>
2002	3,989	243,203	
2003	2,943	216,368	
2004	2,964	217,949	
2005	2,298	206,985	
2006	-	108,650	
<b>Total</b>	<u>\$12,194</u>	<u>\$993,155</u>	<u>1.23%</u>

**FOOTNOTES**

1/ The aggregate percentage was based on the audited pension costs determined during our current review of HealthNow New York, Inc.'s Durable Medical Equipment Regional Carrier (DMERC) Medicare segment (A-07-11-00367).

2/ This column identifies the allowable DMERC Medicare segment pension costs that relate to the Part B contract.

3/ We calculated the aggregate Medicare percentage by dividing the DMERC Medicare segment pension costs charged to Medicare by the total DMERC Medicare segment pension costs pursuant to Cost Accounting Standard 413.

APPENDIX D: 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-07-11-00366

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 "REVIEW OF MEDICARE CONTRACTOR'S PENSION SEGMENT AT HEALTHNOW NEW YORK INC FOR THE DURABLE MEDICAL EQUIPMENT REGIONAL CARRIER SEGMENT AT HEALTHNOW NEW YORK INC, A TERMINATED MEDICARE CONTRACT, FOR THE PERIOD JANUARY 1, 2002, TO JANUARY 1, 2007." 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.

- Increase DMERC Medicare segment pension assets as of January 1, 2007 by \$497,575. This brings the DMERC Medicare segment's pension asset value to \$422,674. We agree with this amount and will make the corresponding adjustments.

We do not agree with the other two recommendations in this report:

- That HealthNow should increase the DMERC Medicare segment excess pension assets by \$326,023, or
- That HealthNow should refund to the Federal Government \$122,467, which the report indicates is Medicare's share of the DMERC Medicare segment's excess pension assets as of the termination of the DMERC contract.

Our disagreement is with the liabilities used in the above two calculations. The auditors had provided per person liabilities used in its development, and we do not disagree with those calculations. However, there is a group of former DMERC employees who, as of January 1, 2007 still had vested benefits payable from the plan but for whom no liability was included in the reconciliation. The liability for this group totals \$79,294 as of January 1, 2007.

A listing of the terminated vested employees, with each person's liability, is attached.

As a result of the inclusion of this group of former employees, we propose the following:

- That HealthNow should increase the DMERC Medicare segment excess pension assets by \$246,729. This brings the DMERC Segment's excess assets upon termination to \$43,333, and

- That HealthNow owes \$43,277 (99.87% of the excess pension assets) to the Federal Government as its share of the DMERC Medicare segment's excess pension assets as of the termination of the DMERC contract.

If you agree with these adjustments, we will net the \$43,277 with other amounts due to/from the Federal Government. We understand there will be a global settlement of all outstanding audits.

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

**HealthNow NY, Inc.**  
**Cost Accounting Standards**  
**Attachment to Draft Report A-07-11-0096**

The following are on H&H's 1/1/07 data as DMERC TV's. They are not included in OIG's liability.

Name	Status	Date of Birth	Date of Hire	Location	Liability
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<b>Office of Inspector General Note - The deleted text has been redacted because it is personally identifiable information.</b>					
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