

**Memorandum**

Date MAR 29 2002

From Janet Rehnquist *Janet Rehnquist*
Inspector General

Subject Review of Medicare Payments Made on Behalf of Deported Beneficiaries (A-04-01-05004)

To Thomas A. Scully
Administrator
Centers for Medicare & Medicaid Services

At the request of the Senate Finance Committee, we undertook a review of Medicare payments for services provided to deported beneficiaries. Attached is a copy of our final report that provides you with the results of our review. This review is one in a series of reviews we are undertaking dealing with the prevention of Medicare overpayments by more efficient use of existing data to process current Medicare claims.

The objective of this review was to determine if the Centers for Medicare & Medicaid Services (CMS) has adequate procedures to detect and prevent payments made on behalf of Medicare beneficiaries who have been deported.

We determined that the Medicare program is vulnerable to improper payments for services rendered to beneficiaries after they were deported. Using CMS's records, we identified 1,072 Medicare beneficiaries who had been deported. Of those, we determined that 43 deported beneficiaries had fee-for-service payments totaling \$688,933 made on their behalf during Calendar Years 1998 and 1999. These payments were made for services that were provided after the beneficiary was deported. In addition, we identified six deported Medicare beneficiaries who had payments made on their behalf to Medicare managed care organizations totaling \$147,778 after the date of deportation through December 1999. It should be noted that substantial amounts of these overpayments were made for deported beneficiaries with criminal backgrounds and convictions. In addition, these convictions included possession of a controlled substance, extortion, defrauding the Social Security Administration, and attempted murder.

Payments made on behalf of deported beneficiaries occurred because although CMS has deportation information in its main database of Medicare enrollment data, this information is not used in its fee-for-service claims processing or managed care systems.

In addition, during a meeting with CMS officials in the course of the audit, we were advised that CMS did not routinely terminate Medicare Part B enrollment when certain categories of beneficiaries, including deported beneficiaries, failed to pay the Part B premium. Per section 1838(b)(2) of the Social Security Act, nonpayment of premiums is an event that terminates a beneficiary's enrollment in Medicare Part B. The CMS officials acknowledged

that this was a problem and assured us corrective action in accordance with existing criteria would be taken to terminate Part B coverage for beneficiaries with unpaid premiums.

Therefore, we recommend that CMS: (1) use deportation information already contained in its main database in its fee-for-service claims processing systems and managed care payment systems; (2) automatically deny all Medicare fee-for-service claims and stop payments to managed care organizations for deported beneficiaries once deportation information is included in these systems; (3) return the fee-for-service claims paid on behalf of the 43 deported beneficiaries to the appropriate contractors for adjudication and collection of overpayments; and (4) investigate the managed care payments for the six deported beneficiaries and collect any overpayments.

In response to our draft report, CMS officials generally concurred with our recommendations. The comments from CMS are included as the Appendix to the report.

We would appreciate your views and information on the status of any action taken or contemplated on the recommendations within the next 60 days. If you have any questions, please contact me or have your staff contact George M. Reeb, Assistant Inspector General for Health Care Financing Audits, at (410) 786-7104.

To facilitate identification, please refer to Common Identification Number A-04-01-05004 in all correspondence relating to this report.

Attachment

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF MEDICARE
PAYMENTS MADE ON BEHALF OF
DEPORTED BENEFICIARIES**



**JANET REHNQUIST
Inspector General**

**MARCH 2002
A-04-01-05004**

**Memorandum**

Date ·MAR 29 2002

From Janet Rehnquist
Inspector General *Janet Rehnquist*

Subject Review of Medicare Payments Made on Behalf of Deported Beneficiaries (A-04-01-05004)

To Thomas A. Scully
Administrator
Centers for Medicare & Medicaid Services

At the request of the Senate Finance Committee, we undertook a review of Medicare payments for services provided to beneficiaries who have been deported from the United States (U.S.). This final report provides you with the results of our review. This review is one in a series of reviews we are undertaking dealing with the prevention of Medicare overpayments by more efficient use of existing data to process current Medicare claims.

Medicare payments on behalf of beneficiaries who have been deported are unallowable. However, our work has shown that Medicare has made some payments on behalf of beneficiaries after their deportation. Although the Centers for Medicare & Medicaid Services (CMS) already has deportation information in its main database of Medicare enrollment records, this information is not used in its fee-for-service claims processing or managed care systems. So far, this has not been an extensive problem, but we have identified 43 deported beneficiaries who had fee-for-service claims paid on their behalf totaling \$688,933 during Calendar Years (CY) 1998 and 1999. These payments were made for services that were provided after the beneficiary was deported. In addition, we also identified six deported beneficiaries who had payments made on their behalf to Medicare managed care organizations totaling \$147,778 after the date of deportation through December 1999.¹ The CMS already has the deportation information and, therefore, needs to use this data to prevent future overpayments.

Not using readily available deportation information in the claims processing and managed care systems puts the Medicare program at risk for making future improper payments on behalf of deported individuals. Consequently, we recommend CMS:

- use deportation information already contained in the Enrollment Data Base (EDB) to process: (1) fee-for-service claims through the Common Working File (CWF) and claims processing systems; and (2) managed care payments through the Group Health Plan (GHP) system;

¹One beneficiary had both fee-for-service and managed care payments made during different time periods.

- automatically deny all Medicare fee-for-service claims and stop payments to managed care organizations for deported beneficiaries once deportation information is included in these systems;
- return the fee-for-service claims paid on behalf of the 43 deported beneficiaries to the appropriate contractors for adjudication and collection of overpayments; and
- investigate the managed care payments for the six deported beneficiaries and collect any overpayments.

During our fieldwork, CMS officials advised us that certain categories of beneficiaries, including deported beneficiaries, were not routinely billed for Medicare Part B. Unpaid premiums simply accrued in CMS's records, so Part B coverage was not terminated for non-payment of premiums. Some of the deported beneficiaries identified in our review remained enrolled in Part B even though they had accrued premiums totaling several thousand dollars. The CMS officials acknowledged that this was a problem and assured us corrective action in accordance with existing criteria would be taken to terminate Part B coverage for beneficiaries with unpaid premiums.

The CMS generally concurred with our recommendations. The comments from CMS are in the Appendix to this report.

BACKGROUND

Section 202(n) of the Social Security Act (the Act) mandates that no monthly Social Security benefit be paid when an individual receiving monthly benefits based on his or her own work has been deported. Section 202(n)(2) of the Act further requires the Attorney General to notify the Commissioner of Social Security as soon as practicable after the deportation.

The Act does not directly state that a deported individual loses his or her Medicare entitlement, but section 1862(a)(4) of the Act excludes from Medicare coverage all items and services provided outside the U.S.² Since a deported beneficiary is not allowed to enter the U.S., he or she cannot be lawfully present in the U.S. to receive Medicare services. If the deportee reenters the U.S. unlawfully, the Personal Responsibility and Work Opportunity Act of 1996, 8 U.S.C. 1161(a) prohibits Medicare payments on his or her behalf.³

²Although section 1814(f) provides for certain exceptions related to inpatient hospital services, these are limited and not applicable to persons who have been deported.

³Notwithstanding any provision of law, an alien who is not a qualified alien as defined in section 1641 of Title 8 is not eligible for any Federal public benefits. Deported aliens generally are not considered "qualified aliens" under the law.

When the Social Security Administration (SSA) receives deportation information from the Attorney General, it annotates the Master Beneficiary Record (MBR) for the individual who has been deported. The MBR is one of the primary sources of data for CMS's central repository of Medicare beneficiary enrollment records, the EDB. As part of the daily exchange of data with SSA, the EDB is annotated with deportation information when SSA's MBR shows the beneficiary has been deported.

SCOPE & METHODOLOGY

Our objective was to determine whether CMS has adequate procedures to detect and prevent improper Medicare payments made on behalf of deported beneficiaries.

To achieve our objective, we reviewed applicable laws and regulations, Medicare reimbursement policies and procedures, and held discussions with officials in CMS's central office, a Medicare contractor in Florida, and a CWF host in Alabama. To verify the fact of and reason for deportation, we obtained information from the Immigration and Naturalization Service (INS).

Our audit period for Medicare fee-for-service payments was from January 1, 1998 to December 31, 1999.⁴ We obtained fee-for-service payments from CMS's Standard Analytical File. For deported beneficiaries enrolled in managed care organizations, we examined payment histories in CMS's McCoy system after date of deportation through December 1999. We also determined from CMS's Beneficiary Enrollment Retrieval system the amount of unpaid Part B premiums for the beneficiaries who had fee-for-service payments or managed care enrollment.

Our work was completed in June 2001 and was performed at: CMS headquarters in Baltimore, Maryland; the INS office in Jacksonville, Florida; and our offices in Baltimore, Maryland, Jacksonville, Florida, and Atlanta, Georgia.

Our work was conducted in accordance with generally accepted government auditing standards.

RESULTS OF REVIEW

The Medicare program has made improper payments for services rendered to beneficiaries after they had been deported and is at risk for making future improper payments. This has

⁴This data was the latest available when it was requested from CMS.

occurred because deportation information in the EDB is not used in processing fee-for-service claims or payments to managed care organizations. To eliminate this risk, we recommend that CMS use the deportation information present in the EDB for processing: (1) fee-for-service claims through CWF and claims processing systems; and (2) managed care payments through the GHP. Once deportation information is reflected in these systems, the systems should deny all Medicare fee-for-service claims and managed care payments on behalf of a deported beneficiary.

Using the EDB, we identified 1,072 beneficiaries as of January 4, 2000 with a ledger account code of SK, which indicates the beneficiary was deported. After their deportation, 43 of these beneficiaries had \$688,933 in fee-for-service payments made on their behalf during CYs 1998 and 1999. In addition, Medicare paid managed care organizations \$147,778 on behalf of six beneficiaries after they were deported through December 1999. One beneficiary had both fee-for-service and managed care payments made on his behalf during different time periods after he had been deported.

The INS records showed that many deported beneficiaries had illegally returned to the U.S. These beneficiaries may have received Medicare services while they were here illegally. In addition, we believe that Medicare payments on a deported beneficiary's Medicare record may also be an indication that: (1) another person could mistakenly or fraudulently be using the Medicare card of the deported beneficiary to obtain Medicare services or to enroll in a managed care plan; or (2) the provider is mistakenly or fraudulently billing Medicare. In any of these scenarios, Medicare payments are incorrect.

During our fieldwork, we determined CMS allowed Part B premiums for deported beneficiaries to accrue on its records rather than billing and terminating coverage if no payment was received. Some of the deported beneficiaries identified in our review continued to have Part B enrollment even though they had accrued premiums totaling several thousand dollars.

Fee-for-Service Payments

Using data obtained from CMS, we identified \$688,933 in Medicare fee-for-service payments on behalf of 43 deported beneficiaries made after the dates of their deportations. Medicare contractors made these unallowable payments from January 1998 to December 1999. About half these payments were for inpatient services. Officials in CMS's central office, a Medicare contractor, and a CWF host site confirmed that deportation information was not available on CWF, causing these payments to be made without knowledge that the beneficiary had been deported.

The INS was able to locate case folders for some of these beneficiaries. For each beneficiary that the INS was able to locate a file, we verified that the deportation data obtained from SSA supported that the beneficiary was still in deportation status, although perhaps illegally

present in the U.S. The INS files also showed the reason for deportation. Some examples of unallowable fee-for-service payments made after deportation include:

- *\$16,921* paid on behalf of an individual deported after committing an aggravated felony and found in possession of a controlled substance.
- *\$7,734* paid on behalf of an individual deported three different times (the last for extortion). The first deportation was in 1967, the latest in June 1982.
- *\$8,843* paid on behalf of an individual deported three times with the last deportation for defrauding SSA out of \$60,000.

Managed Care Payments

We also obtained managed care payment information from CMS's systems for six deported beneficiaries enrolled in Medicare managed care organizations. We identified \$147,778 in Medicare managed care payments to these plans after the date the beneficiary was deported through December 1999. Officials in CMS's central office confirmed that deportation information was not available on the GHP system.

We also noted that four of these six beneficiaries either initially enrolled in the managed care organization or changed enrollment to a different managed care organization *after their deportation date*. Since the deported beneficiary cannot be legally present in the U.S., we question the circumstances of these enrollments and recommend that CMS further review these cases.

We also discussed the cases of these managed care beneficiaries with INS. For the case folders that the INS was able to locate, we verified that the deportation data obtained from SSA supported that the beneficiary was still in deportation status. The INS folders also gave the reason for deportation. Some examples of unallowable payments include:

- *\$29,261* in managed care payments for an individual deported after serving a sentence in New York for attempted murder.
- *\$15,520* in managed care payments for an individual deported after being twice convicted and serving a prison sentence in Texas for indecent contact with a child.

Unpaid Part B Premiums

During our fieldwork, CMS officials advised us that certain categories of beneficiaries, including deported beneficiaries, were not routinely billed for Medicare Part B. Unpaid premiums simply accrued in CMS's records, so Part B coverage was not terminated for non-payment of premiums. Some of the deported beneficiaries identified in our review remained

enrolled even though they had accrued Part B premiums totaling several thousand dollars. According to section 1838(b)(2) of the Act, nonpayment of premiums is an event that terminates a beneficiary's enrollment in Medicare Part B. The CMS officials acknowledged that this was a problem and assured us appropriate steps would be taken in accordance with existing criteria to terminate Part B coverage for beneficiaries with unpaid premiums.

As of December 1999, four of the six managed care beneficiaries identified in our review continued to be enrolled in managed care organizations even though they have Part B premiums due totaling several thousands of dollars each. Since beneficiaries must be entitled to Part B to be enrolled in a managed care organization, the failure to terminate the Part B enrollment results in inappropriate managed care enrollments and, therefore, inappropriate payments to managed care organizations.

RECOMMENDATIONS

We are concerned that unless CMS strengthens its internal control structure, future payments made on behalf of deported individuals will not only happen, but may increase. To prevent future overpayments, we recommend that CMS design and implement systems controls using the EDB deportation information to (1) deny fee-for-service claims that are submitted on behalf of a deported beneficiary; and (2) deny payments to managed care organizations for a deported beneficiary. We also recommend that CMS take appropriate actions in accordance with existing criteria to terminate Part B enrollment for beneficiaries, including those that have been deported, who fail to pay the Part B premium.

In addition, we recommend that CMS return fee-for-service claims paid on behalf of the 43 deported beneficiaries to the appropriate contractors for adjudication and collection of overpayments. Also, CMS should investigate the managed care payments for the six deported beneficiaries and collect any overpayments. Particular attention should be given to instances where the information on CMS's system shows the beneficiary either initially enrolled in the managed care organization or enrolled in a different managed care organization after deportation.

We will forward the deported beneficiary data for the fee-for-service claims and managed care enrollments under separate cover.

CMS'S COMMENTS AND OIG'S RESPONSE

Generally, CMS officials agreed with our recommendations. Below are the specific responses CMS made to our recommendations and our resultant comments. Included as an Appendix are CMS's comments.

OIG Recommendation

The CMS should design and implement systems controls using the EDB deportation information to (1) deny fee-for-service claims that are submitted on behalf of a deported beneficiary; and (2) deny payments to managed care organizations for a deported beneficiary.

CMS Comment

The CMS agreed with this recommendation. However, CMS officials believed that the date of suspension or termination obtained in its daily exchange with SSA represents only the date that monthly Social Security benefits were stopped. To make an accurate determination, claims processing contractors would be required to develop the actual date of deportation.

OIG Response

Section 202(n)(2) of the Act requires the Attorney General to notify the Commissioner of Social Security as soon as practical **after the deportation** (emphasis added). This is the suspension date that is reflected on SSA's records. During our review, we contacted INS and verified that the date shown on SSA's records supported deportation status. We believe the Medicare payments for services provided after SSA's date of suspension are improper.

OIG Recommendation

The CMS should terminate Part B enrollment for beneficiaries, including those that have been deported, who fail to pay the Part B premium.

CMS Comment

The CMS agreed and has implemented program changes to start billing deported beneficiaries. The CMS has also started terminating Part B enrollment consistent with current CMS regulations.

OIG Response

We agree that termination of Part B enrollment should be consistent with current CMS regulations.

OIG Recommendation

The CMS should return fee-for-service claims paid on behalf of the 43 deported beneficiaries to the appropriate contractors for adjudication and collection of overpayments.

CMS Comment

The CMS agreed with this recommendation. However, CMS noted that contractors must review these claims to determine whether the beneficiaries were eligible to receive Part B benefits at the time of service to verify that an overpayment exists.

OIG Response

All services were provided after date of deportation; therefore, we believe they were improper. Under the Personal Responsibility and Work Opportunity Act, aliens who have been deported are not considered “qualified aliens” and, therefore, are not eligible for Federal public benefits.

OIG Recommendation

The CMS should investigate the managed care payments for the six deported beneficiaries and collect any overpayments.

CMS Comment

The CMS agreed.

CMS Technical Comments

The CMS also offered technical comments, which we incorporated into the report where appropriate.



Administrator
Washington, DC 20201

DATE: FEB - 5 2002

TO: Janet Rehnquist
Inspector General

FROM: Thomas A. Scully *Tom Scully*
Administrator

SUBJECT: Office of Inspector General (OIG) Draft Report: *Review of Medicare Payments Made on Behalf of Deported Beneficiaries* (A-04-01-05004)

Thank you for the opportunity to respond to the above-referenced draft report on payments made on behalf of deported Medicare beneficiaries. The Centers for Medicare & Medicaid Services (CMS) agrees with OIG's recommendations and feels that the most efficient fix would be to use the Enrollment Database (EDB) to link the information housed there to the claims in the processing system. Other systems changes that are being anticipated in the next several quarters that would need to be completed before using the EDB include the installation of the Health Care Integrated General Ledger Accounting System (HIGLAS) and changes required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

OIG Recommendation

The CMS should design and implement systems controls using the Enrollment Database (EDB) deportation information to: (1) deny fee-for-service claims that are submitted on behalf of a deported beneficiary; and (2) deny payments to managed care organizations for a deported beneficiary.

CMS Response

The CMS agrees with this recommendation. Currently, the EDB houses the Ledger Account File suspension code of SK which indicates that a beneficiary has been deported, and the Date of Suspension or Termination which is the date the monthly Title II benefits were suspended. The Common Working File and Group Health Plan systems can use these data elements. However, these data elements alone do not provide all of the information required to make an accurate determination on each individual fee-for-service claim. To institute such a determination, the claims processing contractors would be required to develop additional information, i.e., the date of deportation. In addition, the Social Security Administration (SSA) is planning to add new data elements pertaining to deported beneficiaries to its Master Beneficiary Record. The CMS will work with the claims processing contractors to determine if these new data elements can be used by CMS to prevent Medicare payments on behalf of deported individuals and to reduce and/or eliminate the need for additional development.

OIG Recommendation

The CMS should terminate Part B enrollment for beneficiaries, including those that have been deported, who fail to pay the Part B premium.

CMS Response

The CMS agrees with this recommendation and has implemented program changes to start billing deported beneficiaries. Moreover, CMS has started terminating Part B enrollment, consistent with current CMS regulations, of some deported beneficiaries who have not provided payment of their Part B premiums. These terminations were to be effective January 31, 2002.

OIG Recommendation

The CMS should return fee-for-service claims paid on behalf of the 43 deported beneficiaries to the appropriate contractors for adjudication and collection of overpayments.

CMS Response

The CMS agrees with this recommendation and will take the necessary steps to return the claims identified for these 43 deported beneficiaries to the appropriate contractors. However, CMS notes that the contractors must review these claims to determine whether the beneficiaries were eligible to receive Part B benefits at the time of physician's service before determining whether an overpayment exists.

OIG Recommendation

The CMS should investigate the managed care payments for the six deported beneficiaries and collect any overpayments.

CMS Response

The CMS agrees with this recommendation and will review these managed care payments and collect any overpayments to or on behalf of the six deported beneficiaries or on behalf of beneficiaries.

Technical Comments

The CMS also offered technical comments, which we incorporated into the report where appropriate.