

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**MEDICAL AMBULANCE
SERVICES, INC., CLAIMED
UNALLOWABLE REIMBURSEMENT
FOR MEDICARE PART B
AMBULANCE SERVICES**

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EXECUTIVE SUMMARY

Medical Ambulance Services, Inc., claimed at least \$892,000 over 2 years in Medicare Part B reimbursement for ambulance services that did not comply with Federal and Commonwealth requirements.

WHY WE DID THIS REVIEW

Previous Office of Inspector General reviews and investigations have identified Medicare ambulance services as vulnerable to waste, fraud, and abuse. Because of the significant increase in the number of these services over the past decade, we selected for review an ambulance services provider that was among the providers that received the highest amount in Medicare reimbursements in the Commonwealth of Puerto Rico (Commonwealth) during calendar years (CYs) 2013 and 2014.

Our objective was to determine whether Medical Ambulance Services, Inc., (MAS) claimed Federal reimbursement for Medicare Part B ambulance services in accordance with Federal and Commonwealth requirements.

BACKGROUND

The Centers for Medicare & Medicaid Services (CMS) contracts with Medicare Administrative Contractors to process and pay Part A and Part B claims. Part B generally covers all medically necessary ambulance services, except for patient transportation between hospitals.

To ensure service delivery, Medicare requires ambulance providers to document the signature of the beneficiary or their representative. In Puerto Rico, these providers must also have their ambulances pass Commonwealth vehicle inspection and certification requirements, and be covered under a liability insurance plan.

HOW WE CONDUCTED THIS REVIEW

MAS received Medicare Part B reimbursement totaling \$1,184,398 for 2,561 ambulance services during CYs 2013 through 2014. We reviewed a random sample of 100 of these claims.

WHAT WE FOUND

MAS claimed Medicare Part B reimbursement for ambulance services that did not comply with Federal and Commonwealth requirements. Of the 100 claims in our sample, 5 complied with Federal and Commonwealth requirements, but 95 did not. Of these, 40 contained more than 1 deficiency. Specifically:

- For 72 claims, the signature of the beneficiary or their representative (acknowledging that the service was received) was not provided.

- For 51 claims, the ambulance used in the service did not have a valid inspection or certification from the Commonwealth of Puerto Rico Public Service Commission or Department of Health.
- For 18 claims, the service was provided during a period in which the ambulance used in the service was not covered under a liability insurance plan.

These deficiencies occurred because MAS's policies and procedures did not adequately ensure that ambulance service claims met Medicare Part B requirements for reimbursement. On the basis of our sample results, we estimated that MAS claimed at least \$892,448 in Medicare Part B ambulance services that did not comply with Federal and Commonwealth requirements.

We also identified a potential health and safety risk associated with the staff assigned to these ambulances. Specifically, for 60 of the 100 claims, services were provided by an emergency medical technician (EMT) with provisional licenses without the company of a permanently licensed paramedic. Transporting Medicare beneficiaries in ambulances without fully licensed EMTs places the health and safety of those beneficiaries at risk. This occurred because MAS's policies and procedures did not adequately ensure that risks to the health and safety of beneficiaries were mitigated.

During our exit conference, MAS's owner informed us that, after filing for bankruptcy protection in September 2014, the ambulance services provider discontinued operations in April 2016. Therefore, we are not making procedural recommendations to MAS.

WHAT WE RECOMMEND

We recommend that MAS refund \$892,448 to the Federal Government.

MEDICAL AMBULANCE SERVICES, INC., COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, MAS did not indicate concurrence or nonconcurrence with our recommendation to refund \$892,448 to the Federal Government. MAS disagreed with our finding regarding its obtaining beneficiary signatures to acknowledge that ambulance services were received, partially agreed with our finding regarding vehicle inspections and certifications, and agreed with our finding regarding ambulances that lacked liability insurance coverage. MAS also disagreed with our finding regarding the staff it assigned to its ambulances. Specifically, MAS stated that no Puerto Rico law nor regulation prohibits EMTs with provisional licenses from performing their duties on Medicare beneficiaries. Although it indicated that it could support its argument for not agreeing with our findings and recommended disallowance, MAS did not provide additional documentation related to our sampled claims.

In addition, MAS disagreed with a finding regarding the useful life of its vehicles and stated that the vehicles were authorized for use beyond their 10-year useful life. After reviewing MAS's comments, we contacted the Commonwealth of Puerto Rico Public Service Commission, which provided documentation that it certified MAS ambulances beyond their useful life. Therefore,

we eliminated this finding from our final report. We maintain that the remaining findings and recommendation are valid.

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INTRODUCTION

WHY WE DID THIS REVIEW

Previous Office of Inspector General reviews and investigations have identified Medicare ambulance services as vulnerable to waste, fraud, and abuse.¹ Because of the significant increase in the number of these services over the past decade, we selected for review an ambulance services provider that was among the providers that received the highest amount in Medicare reimbursement in the Commonwealth of Puerto Rico (Commonwealth) during calendar years (CYs) 2013 and 2014.

OBJECTIVE

The objective of this review was to determine whether Medical Ambulance Services, Inc., (MAS) claimed Federal reimbursement for Medicare Part B ambulance services in accordance with Federal and Commonwealth requirements.

BACKGROUND

The Medicare Program

Title XVIII of the Social Security Act (the Act) established the Medicare program, which provides health insurance coverage to people aged 65 and over, people with disabilities, and people with end-stage renal disease. The Centers for Medicare & Medicaid Services (CMS) administers the Medicare program, and contracts with Medicare Administrative Contractors (MACs) to process and pay Part A and Part B claims. Part B generally covers all medically necessary ambulance services, except for patient transportation between hospitals.

CMS contracted with First Coast Service Options, Inc. (First Coast) to serve as the Part A/B MAC for Jurisdiction N, which includes Florida, Puerto Rico, and the U.S. Virgin Islands. The contracted services included claims processing, customer service, provider audit and reimbursement, provider enrollment, and various education and outreach activities.

Medicare Part B Ambulance Services

Medicare Part B generally covers all medically necessary ambulance services, except for patient transportation between hospitals (§ 1861(s)(7) of the Act). To qualify for reimbursement, ambulance services must meet the following conditions: (1) the provider meets applicable vehicle, staff, and billing and reporting requirements; and (2) the service meets medical necessity

¹ *The Department of Health and Human Services and the Department of Justice Health Care Fraud and Abuse Control Program Annual Report for Fiscal Year 2015* (February 2016), available online at <http://oig.hhs.gov/publications/docs/hcfac/fy2015-hcfac.pdf>; *Inappropriate Payments and Questionable Billing for Medicare Part B Ambulance Transports* (OEI-09-12-00351, September 2015), available online at <http://oig.hhs.gov/oei/reports/oei-09-12-00351.pdf>.

and origin and destination requirements. In addition, vehicles used as ambulances must comply with all State and local laws governing emergency transportation vehicles.²

Puerto Rico Ambulance Service Requirements

In Puerto Rico, ambulance staff³ and the vehicles used to perform ambulance services must comply with Commonwealth licensing and safety requirements. Ambulances are required to be inspected annually for compliance with equipment, ambulance provider, and staffing requirements contained in the Commonwealth's Regulation for Ambulances Services. Specifically, the vehicles must be approved by the Commonwealth of Puerto Rico Public Service Commission (PSC) after they have been inspected by the Puerto Rico Department of Health (health department).⁴

For details on Federal and Commonwealth requirements related to the ambulance services in Puerto Rico, see Appendix A.

Medical Ambulance Services, Inc.

MAS, an ambulance services provider in San Juan, Puerto Rico, was among the ambulance providers that received the highest amount in Medicare reimbursements in the Commonwealth during CYs 2013 and 2014.

HOW WE CONDUCTED THIS REVIEW

MAS received Medicare Part B reimbursement totaling \$1,184,398 for 2,561 ambulance service claims⁵ during CYs 2013 through 2014. We reviewed a random sample of 100 of these claims.

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

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

² Ambulances must also be equipped with emergency warning lights and sirens, telecommunications equipment, and emergency medical supplies and other lifesaving emergency medical equipment, as required by State or local laws.

³ Ambulances must be staffed by an ambulance operator and an emergency medical technician-basic and or a paramedic (Puerto Rico Regulation #6737 for Ambulance Services Article 13.05(C)(1) and (2)).

⁴ The health department provides the ambulance owner an approval that must be submitted to PSC in order to obtain PSC's approved inspection.

⁵ A single claim for ambulance services might contain more than one line of service (e.g., various dates from a beneficiary's home to a provider's office or vice versa).

FINDINGS

MAS claimed Medicare Part B reimbursement for ambulance services that did not comply with Federal and Commonwealth requirements. Of the 100 claims in our sample, 5 complied with Federal and Commonwealth requirements, but 95 did not. Of these, 40 contained more than 1 deficiency. (See Appendix E for a summary of deficiencies.) Specifically:

- For 72 claims, the signature of the beneficiary or their representative (acknowledging that the service was received) was not provided.
- For 51 claims, the ambulance used in the service did not have a valid inspection or certification from the Commonwealth Puerto Rico Public Service Commission or Department of Health.
- For 18 claims, the service was provided during a period in which the ambulance used in the service was not covered under a liability insurance plan.

These deficiencies occurred because MAS's policies and procedures did not adequately ensure that ambulance service claims met Medicare Part B requirements for reimbursement. On the basis of our sample results, we estimated that MAS claimed at least \$892,448 in Medicare Part B ambulance services that did not comply with Federal and Commonwealth requirements.⁶

We also identified a potential health and safety risk associated with the staff assigned to these ambulances. Specifically, for 60 of the 100 claims, services were provided by an emergency medical technician (EMT) with provisional licenses without the company of a permanently licensed paramedic. Transporting Medicare beneficiaries in ambulances without fully licensed EMTs places the health and safety of those beneficiaries at risk. This occurred because MAS's policies and procedures did not adequately ensure that risks to the health and safety of beneficiaries were mitigated.

During our exit conference, MAS's owner informed us that, after filing for bankruptcy protection in September 2014, the ambulance services provider discontinued operations in April 2016. Therefore, we are not making procedural recommendations to MAS.

BENEFICIARY SIGNATURE NOT OBTAINED

For ambulance services to be eligible for Medicare reimbursement, the signature of the beneficiary or their representative is required (CMS *Benefits Policy Manual*, chapter 10, § 20.1.2). For 72 of the 100 claims in our sample, MAS did not obtain the signature of the beneficiary or their representative. For these claims, MAS's files included only the signature of ambulance staff members, or contained no signatures at all prior to submitting the claim for reimbursement.⁷

⁶ To be conservative, we recommend recovery of overpayments at the lower limit of a two-sided 90-percent confidence interval. Lower limits calculated in this manner will be less than the actual overpayment total at least 95 percent of the time.

⁷ When a provider is unable to obtain the signature of the beneficiary or their representative at the time of transport, it may obtain this signature any time prior to submitting the claim to Medicare for payment. If the individual refuses

VEHICLE STANDARDS NOT MET

Federal regulations require ambulances to comply with applicable State and local laws (42 CFR § 410.41(a)(1)).

Commonwealth regulations require ambulance providers to have their vehicles inspected on an annual basis (Puerto Rico Regulation No. 6737, § 14.04). In addition, Commonwealth law states that ambulance providers must be licensed by the PSC and have liability insurance coverage (P.R. Laws Ann. Title 27 § 2103). Further, PSC requires ambulance providers to have evidence of insurance or bond for their vehicles (Puerto Rico Regulation No. 6737, § 9.03).

For 51 of the 100 claims in our sample, the ambulance used by MAS to transport the Medicare beneficiary did not have a valid inspection.⁸

For 18 of the 100 claims in our sample, the ambulance used by MAS to transport the Medicare beneficiary did not have liability insurance coverage.

POTENTIAL HEALTH AND SAFETY RISK

Ambulance Staff Lacked Required Supervision

Puerto Rico issues provisional licenses to emergency medical technicians (EMTs) through its Board of Examiners of the Emergency Medical Technicians of Puerto Rico. The board requires EMTs with provisional licenses to perform their duties accompanied by permanently licensed paramedics.

Of the 100 claims in our sample, 60 were provided by an EMT with provisional licenses without the company of a permanently licensed paramedic. Transporting Medicare beneficiaries in ambulances without fully licensed EMTs places the health and safety of those beneficiaries at risk.

RECOMMENDATION

We recommend that MAS refund \$892,448 to the Federal Government.

MEDICAL AMBULANCES SERVICES, INC., COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, MAS did not indicate concurrence or nonconcurrence with our recommendation to refund \$892,448 to the Federal Government. MAS disagreed with our finding regarding its obtaining beneficiary signatures to acknowledge that ambulance

to authorize the submission of a claim, including a refusal to furnish a signature, then the provider may not bill Medicare; however, it may bill the beneficiary for the full charge of the ambulance items and services furnished.

⁸ Specifically, for 51 claims, the PSC did not approve the ambulance (i.e., the ambulance had not undergone an annual inspection). Further, for 13 of these 51 claims, the ambulance also did not have a valid inspection certification from the health department certifying it met the all the medical equipment and personnel requirements.

services were received, partially agreed with our finding regarding vehicle inspections and certifications, and agreed with our finding regarding ambulances that lacked liability insurance coverage. MAS also disagreed with our finding regarding the staff it assigned to its ambulances. Specifically, MAS stated that no Puerto Rico law or regulation prohibited EMTs with provisional licenses from performing their duties on Medicare beneficiaries.

In addition, MAS disagreed with a finding regarding the useful life of its vehicles and stated that the vehicles were authorized for use beyond their 10-year useful life. After reviewing MAS's comments, we contacted the PSC, which provided documentation that it certified MAS ambulances beyond their useful life. Therefore, we eliminated this finding from our final report. We maintain that the remaining findings and recommendation are valid. MAS's comments are included in their entirety as Appendix F.

BENEFICIARY SIGNATURE NOT OBTAINED

Medical Ambulance Services, Inc., Comments

MAS stated that it disagreed with our finding regarding its obtaining beneficiary signatures to acknowledge that ambulance services were rendered because a representative of the ambulance provider was present during the emergency or non-emergency transport and signed the claim form. MAS stated that its incident reports related to our sample claims provided for an evaluation of the associated beneficiary's medical condition at the time of transport, and that the claims were already reviewed by First Coast.

Office of Inspector General Response

For the signature of an ambulance provider representative to be allowable, the Medicare Benefit Policy Manual requires documentation that the beneficiary is unable to sign a claim form and that there is no other person available who could sign the form. If the beneficiary and/or representative cannot sign, this must be "fully documented" as a requirement for payment. Further, Federal regulations state that if the beneficiary is physically or mentally incapable of signing the claim, the ambulance provider or supplier may sign on the beneficiary's behalf if: (1) there is no other representative of the beneficiary who could sign; and (2) the ambulance provider maintains, for a period of at least 4 years, a secondary form of verification which indicates the beneficiary's inability to sign. MAS did not provide any documentation that there was no other representative of the beneficiary who could sign on the beneficiary's behalf. In addition, MAS has 12-months from the date of service to submit a claim. There was no documentation that the beneficiary was not able to sign during a subsequent service.⁹

Regarding MAS's assertion that the sample claims were already reviewed and adjudicated, we note that this does not affect our authority to independently review the claims.

⁹ Sixty of the 72 sample claims lacking a signature from the beneficiary and/or representative were for non-emergency ambulance services to dialysis facilities on a frequency of twice or three times per week and for extended periods. Therefore, MAS could have obtained a signature from the beneficiary and/or representative during a subsequent ambulance service.

VEHICLE STANDARDS NOT MET

Medical Ambulance Services, Inc., Comments

MAS stated that its vehicles did not meet certain standards because the health department did not comply with ambulance laws and regulations. Specifically, MAS stated that the health department did not perform vehicle inspections in a timely manner. MAS concurred with OIG finding that it did not have liability insurance coverage for some periods during our audit period.

Office of Inspector General Response

For all 51 claims in our finding for which vehicle standards were not met, the associated ambulance did not have a valid inspection from the PSC; therefore, the associated service was unallowable. We also noted that ambulances associated with 13 of these claims also lacked a certification by the health department.

POTENTIAL HEALTH AND SAFETY RISK

Medical Ambulance Services, Inc., Comments

MAS stated that no Puerto Rico law or regulation prohibits EMTs with provisional licenses from performing their duties on Medicare beneficiaries.

Office of Inspector General Response

We acknowledge that Puerto Rico regulations do not prohibit EMTs with provisional licenses from providing services to beneficiaries. However, we maintain the validity of our finding related to these EMT services because the board that issues these licenses requires the license-holders to perform their duties accompanied by permanently licensed paramedics.

APPENDIX A: FEDERAL AND COMMONWEALTH CRITERIA RELATED TO AMBULANCE SERVICES

FEDERAL REQUIREMENTS

Section 1861(s)(7) of the Act (42 U.S.C. 1395x) establishes that ambulance services are covered by Medicare where the use of other methods of transportation is contraindicated by the individual's condition, but only to the extent provided in regulations.

Federal regulation (42 CFR § 410.40(a)(1)) establishes that Medicare Part B covers ambulance services if the supplier meets the applicable vehicle, staff, and billing and reporting requirements of § 410.41.

Federal regulation (42 CFR § 410.41(c)(1) through (3)) establishes the billing and reporting requirements for non-emergency (basic life support) vehicles. Specifically, an ambulance supplier must comply with the following requirements: (1) Bill for ambulance services using CMS-designated procedure codes to describe origin and destination and indicate on claims form that the physician certification is on file, (2) Upon a carrier's request, complete and return the ambulance supplier form designated by CMS and provide the Medicare carrier with documentation of compliance with emergency vehicle and staff licensure and certification requirements in accordance with State and local laws, and (3) Upon a carrier's request, provide additional information and documentation as required.

Federal requirements in Medicare Benefit Policy Manual Chapter 10 § 20.1.2 establishes that Medicare requires the signature of the beneficiary, or that of his or her representative, for both the purpose of accepting assignment and submitting a claim to Medicare. If the beneficiary is unable to sign because of a mental or physical condition, the following individuals may sign the claim form on behalf of the beneficiary:

- (1) The beneficiary's legal guardian.
- (2) A relative or other person who receives social security or other governmental benefits on behalf of the beneficiary.
- (3) A relative or other person who arranges for the beneficiary's treatment or exercises other responsibility for his or her affairs.
- (4) A representative of an agency or institution that did not furnish the services for which payment is claimed, but furnished other care, services, or assistance to the beneficiary.
- (5) A representative of the provider or of the nonparticipating hospital claiming payment for services it has furnished, if the provider or nonparticipating hospital is unable to have the claim signed in accordance with 42 CFR § 424.36(b)(1 – 4).
- (6) A representative of the ambulance provider or supplier who is present during an emergency and/or nonemergency transport, provided that the ambulance provider

or supplier maintains certain documentation in its records for at least 4 years from the date of service. A provider/supplier (or his/her employee) cannot request payment for services furnished except under circumstances fully documented to show that the beneficiary is unable to sign and that there is no other person who could sign.

Medicare does not require that the signature to authorize claim submission be obtained at the time of transport for the purpose of accepting assignment of Medicare payment for ambulance benefits. When a provider/supplier is unable to obtain the signature of the beneficiary, or that of his or her representative, at the time of transport, it may obtain this signature any time prior to submitting the claim to Medicare for payment. The requirement establishes a 12-month period for filing a Medicare claim, depending upon the date of service.

COMMONWEALTH REQUIREMENTS

Commonwealth of Puerto Rico Law (P.R. Laws Ann. Title 27 § 2103) establishes that operation or service of an ambulance without liability insurance or license is prohibited. Specifically, no natural or juridical person may establish and operate in Puerto Rico ambulance services as defined by this chapter, without having a liability insurance and an authorization or a license issued by the PSC, upon previous endorsement by the Secretary of Health, pursuant to the provisions of this chapter and of the regulations prescribed hereunder.

Puerto Rico Regulation No. 6737 for Ambulance Services establishes in its Article 9.03 that the Commission will require to every person natural or juridical evidence of an insurance or bond for each vehicle dedicated to this service to compensate for the damages that causes to third persons or the property as a consequence of the performance of activities during the operation of the vehicle used for the service. That evidence should be submitted to the Commission during the term of thirty (30) days after notifying the preliminary approval and under any circumstance before rendering services, until the bond or insurance is approved by the Commission.

Article 13.05(C)(1) and (2) of Puerto Rico Regulation No. 6737 states that ambulances must be staffed by an ambulance operator and an emergency medical technician-basic and or a paramedic.

Article 14.02 of Puerto Rico Regulation No. 6737 states that the useful life of Category II ambulances (the category of ambulances used by MAS) should not exceed 10 years from the date the unit was manufactured.

Article 14.04 of Puerto Rico Regulation No. 6737 established that authorized ambulance providers are obligated to inspect their vehicles in an annual basis to their corresponding Commission Regional Office and to the health department.

APPENDIX B: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our review covered 2,561 Medicare Part B ambulance service claims reimbursed to MAS during CYs 2013 and 2014 and totaling \$1,184,398.

We limited our review to MAS internal controls applicable to our objective. Specifically, we obtained an understanding of MAS procedures for documenting and billing ambulance services, the licensing of ambulance staff and the certification of units used to provide the ambulance services. Our review enabled us to establish reasonable assurance of the authenticity and accuracy of data obtained from CMS's National Claims History file, but we did not assess the completeness of the file.

We performed our fieldwork in San Juan, Puerto Rico from July 2015 through April 2016.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and requirements for the Medicare part B program;
- reviewed applicable Commonwealth of Puerto Rico laws and the regulation for ambulance services in Puerto Rico;
- interviewed First Coast officials to gain an understanding of the Federal and Commonwealth ambulance service requirements reviewed by CMS contractors;
- interviewed Commonwealth officials from the health department and the PSC responsible for the licensing and certification of ambulance services in Puerto Rico to obtain an understanding of the policies, procedures, and guidance used to determine compliance of ambulance services with Commonwealth law and the regulation;
- obtained the liability insurance policies, certifications, permits, employees' licenses and credentials for ambulance units and crew for the for the period from January 1, 2013, through December 31, 2014;
- extracted from the CMS's National Claims History file a sampling frame of 2,561 paid services claims totaling \$1,184,398 for CYs 2013 and 2014;
- selected a stratified sample of 100 paid ambulance services claims in two strata (Stratum 1 – 70 claims with payments of less than \$1,000 and Stratum 2 – 30 claims with payments greater than or equal to \$1,000);

- obtained incident reports and ambulance service invoices from MAS for our stratified sample;
- reconciled incident reports, invoices, insurance liability policies, certifications, permits, employees' licenses and credentials, to identify that ambulance services were rendered in accordance with Medicare requirements, ambulance units were properly licensed and inspected, and ambulance staff was adequately credentialed;
- estimated the dollar amount of the payments not made in accordance with Federal and Commonwealth requirements;
- identified potential health and safety risk instances in which ambulance services were provided with vehicles older than 10 years from the manufacturing date and services provided by emergency medical technicians not having adequate supervision;
- matched the dates of the 72 claims without a signature from the beneficiary or an authorized representative to CMS's National Claims History file to determine if an inpatient or outpatient service was also billed; and
- discussed the results of our review with a MAS official on May 26, 2016.

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 C: STATISTICAL SAMPLING METHODOLOGY

POPULATION

The population consisted of all Medicare Part B ambulance service claims provided by MAS during the period January 1, 2012, through December 31, 2014, and paid during CYs 2013 and 2014. An ambulance services claim included transportation and mileage.

SAMPLING FRAME

The sampling frame was an Access database containing 2,561 Medicare Part B ambulance service claims, totaling \$1,184,398, provided by MAS in Puerto Rico during the period January 1, 2012, through December 31, 2014, and paid during CYs 2013 and 2014. A claim consisted of all payments made for a beneficiary and may include services rendered on more than one day. The claims data was extracted from the CMS National Claims History file.

SAMPLE UNIT

The sample unit was an ambulance service claim.

SAMPLE DESIGN

We used a stratified random sample to review Medicare Part B payments made to MAS for ambulance services provided during the period January 1, 2012, through December 31, 2014, and paid during CYs 2013 and 2014. To accomplish this, we separated the ambulance service claims into two strata, as follows:

- Stratum 1 consisted of 2,473 claims with a paid amount of less than \$1,000 per claim and total payment amount of \$1,084,259.
- Stratum 2 consisted of 88 claims with a paid amount greater than or equal to \$1,000 and total payment amount of \$100,139.

SAMPLE SIZE

We selected 100 paid ambulance service claims:

- 70 claims from stratum 1, and
- 30 claims from stratum 2.

SOURCE OF RANDOM NUMBERS

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

METHOD FOR SELECTING SAMPLE ITEMS

We consecutively numbered the ambulance service claims in both stratum 1 and stratum 2. After generating the random numbers for these strata, we selected their corresponding claims in the sampling frame.

ESTIMATION METHODOLOGY

We used OAS statistical software to calculate our estimate. We estimated the total amount of improper Medicare payments made to MAS during CYs 2013 and 2014 at the lower limit of the 90-percent two-sided confidence interval.

APPENDIX D: SAMPLE RESULTS AND ESTIMATES

Sample Details and Results

Stratum	Frame Size	Value of Frame	Sample Size	Value of Sample	Number of Unallowable Claims	Value of Unallowable Claims
1	2,473	\$1,084,259	70	\$28,091	66	\$25,502
2	88	100,139	30	35,567	29	32,921
Total	2,561	\$1,184,398	100	\$63,658	95	\$58,423

Estimated Value of Unallowable Claims
(Limits Calculated for a 90-Percent Confidence Interval)

Point estimate	\$997,522
Lower limit	\$892,448
Upper limit	\$1,102,597

APPENDIX E: SUMMARY OF DEFICIENCIES

Sample Claim Information			Questioned Costs			Health and Safety Risk
Sample Order	Paid Claim Amount	Questioned Cost	Lack of Signature of Beneficiary	Lack of Liability Insurance Coverage	No Annual Inspection	Provisional Licensed Paramedics
S1-1	\$431.61	\$140.53	X			X
S1-2	\$423.99	\$423.99	X			X
S1-3	\$524.79	\$524.79	X		X	
S1-4	\$209.15	\$209.15		X	X	
S1-5	\$286.94	\$286.94	X		X	
S1-6	\$286.94	\$286.94			X	X
S1-7	\$150.60	\$150.60	X			X
S1-8	\$582.16	\$145.54	X			X
S1-9	\$312.32	\$312.32	X			X
S1-10	\$451.26	\$451.26	X			X
S1-11	\$440.51	\$440.51		X	X	
S1-12	\$158.06	\$158.06	X		X	
S1-13	\$145.03	\$145.03	X			
S1-14	\$174.93	\$174.93	X	X	X	X
S1-15	\$591.69	\$0.00				X
S1-16	\$174.93	\$174.93		X	X	
S1-17	\$466.68	\$466.68	X			
S1-18	\$540.41	\$540.41	X		X	
S1-19	\$206.19	\$206.19	X			X
S1-20	\$395.03	\$395.03		X	X	
S1-21	\$479.58	\$479.58	X			X
S1-22	\$485.13	\$485.13	X			X
S1-23	\$586.71	\$586.71	X			X
S1-24	\$145.03	\$145.03	X			
S1-25	\$612.27	\$612.27	X		X	
S1-26	\$496.62	\$0.00				X
S1-27	\$161.71	\$161.71	X			
S1-28	\$423.99	\$423.99	X			X
S1-29	\$631.17	\$631.17	X			
S1-30	\$381.10	\$190.55	X			X
S1-31	\$984.39	\$984.39	X			

Sample Claim Information			Questioned Costs			Health and Safety Risk
Sample Order	Paid Claim Amount	Questioned Cost	Lack of Signature of Beneficiary	Lack of Liability Insurance Coverage	No Annual Inspection	Provisional Licensed Paramedics
S1-32	\$507.90	\$507.90	X		X	
S1-33	\$670.86	\$670.86	X			X
S1-34	\$440.51	\$440.51		X	X	
S1-35	\$150.54	\$0.00				X
S1-36	\$757.27	\$757.27	X			X
S1-37	\$172.83	\$172.83	X			X
S1-38	\$276.82	\$276.82			X	X
S1-39	\$233.77	\$233.77	X	X	X	
S1-40	\$411.08	\$411.08	X			
S1-41	\$352.70	\$352.70	X		X	
S1-42	\$472.35	\$472.35	X			
S1-43	\$400.08	\$400.08			X	
S1-44	\$348.26	\$348.26			X	
S1-45	\$199.04	\$199.04			X	
S1-46	\$150.60	\$150.60	X			
S1-47	\$167.27	\$167.27	X			X
S1-48	\$290.06	\$290.06	X			X
S1-49	\$440.51	\$440.51		X	X	
S1-50	\$762.15	\$762.15	X		X	X
S1-51	\$408.19	\$408.19		X	X	X
S1-52	\$440.51	\$440.51			X	X
S1-53	\$291.08	\$291.08	X			X
S1-54	\$816.39	\$816.39		X	X	
S1-55	\$625.49	\$625.49	X			
S1-56	\$176.35	\$176.35	X			
S1-57	\$668.56	\$668.56	X		X	X
S1-58	\$670.86	\$670.86	X			
S1-59	\$668.55	\$668.55	X			X
S1-60	\$302.09	\$302.09			X	
S1-61	\$395.03	\$395.03		X	X	
S1-62	\$241.60	\$241.60		X	X	
S1-63	\$138.41	\$138.41		X	X	X

Sample Claim Information			Questioned Costs			Health and Safety Risk
Sample Order	Paid Claim Amount	Questioned Cost	Lack of Signature of Beneficiary	Lack of Liability Insurance Coverage	No Annual Inspection	Provisional Licensed Paramedics
S1-64	\$138.41	\$138.41			X	X
S1-65	\$540.73	\$540.73	X			X
S1-66	\$651.90	\$651.90	X			X
S1-67	\$431.61	\$0.00				X
S1-68	\$133.36	\$133.36			X	X
S1-69	\$601.86	\$601.86	X			
S1-70	\$204.33	\$204.33		X	X	
S2-1	\$1,027.07	\$1,027.07	X	X	X	X
S2-2	\$1,108.36	\$1,108.36			X	X
S2-3	\$1,032.70	\$1,032.70	X		X	X
S2-4	\$1,038.32	\$1,038.32	X		X	
S2-5	\$1,105.81	\$1,105.81	X		X	X
S2-6	\$1,072.66	\$1,072.66	X		X	
S2-7	\$1,257.65	\$626.01	X		X	
S2-8	\$1,325.14	\$1,325.14	X		X	X
S2-9	\$1,311.15	\$1,311.15	X			X
S2-10	\$1,134.50	\$1,134.50	X		X	X
S2-11	\$1,108.35	\$1,108.35	X		X	X
S2-12	\$1,049.58	\$1,049.58	X		X	X
S2-13	\$1,092.05	\$1,092.05	X			X
S2-14	\$1,021.44	\$1,021.44	X	X	X	X
S2-15	\$1,331.55	\$1,331.55	X			X
S2-16	\$1,287.12	\$1,287.12	X			X
S2-17	\$1,343.48	\$0.00				X
S2-18	\$1,337.10	\$891.40	X			X
S2-19	\$1,088.93	\$1,088.93	X	X	X	
S2-20	\$1,043.95	\$1,043.95	X		X	X
S2-21	\$1,358.55	\$1,132.97	X			X
S2-22	\$1,303.79	\$1,303.79	X			X
S2-23	\$1,098.26	\$1,098.26			X	X
S2-24	\$1,337.10	\$1,337.10	X			X
S2-25	\$1,282.80	\$1,282.80	X			X

Sample Claim Information			Questioned Costs			Health and Safety Risk
Sample Order	Paid Claim Amount	Questioned Cost	Lack of Signature of Beneficiary	Lack of Liability Insurance Coverage	No Annual Inspection	Provisional Licensed Paramedics
S2-26	\$1,313.90	\$1,313.90	X		X	
S2-27	\$1,298.24	\$1,298.24	X			X
S2-28	\$1,100.19	\$1,100.19	X		X	X
S2-29	\$1,257.65	\$1,257.65	X		X	X
S2-30	\$1,100.18	\$1,100.18	X	X	X	X
Totals	\$63,658.40	\$58,423.29	72	18	51	60

APPENDIX F: MEDICAL AMBULANCE SERVICES, INC., COMMENTS

December 11th, 2016

James P. Edert
Regional Inspector General for
Audit Services
Office of Audit Services, Region II
Department of Health and Human Services
Office of Inspector General
Jacob K. Javits Federal Building
26 Federal Plaza, Room 3900
New York, NY 10278

Re: Report Number: A-02-15-01016

Dear Regional Inspector General Edert:

I. Introduction:

On September 26, 2016, the Office of Inspector General issued a draft of report number A-02-15-01016 titled Medical Ambulance Services, Inc., Claimed Unallowable Reimbursement for Medicare Part B Ambulance Services. As part of the audit process, you requested that Medical Ambulance Services, Inc., MAS, submit its comments to the findings and recommendations. As part of MAS's comments, you have requested that MAS state if it concurs, or if it does not concur, with the findings and recommendations. MAS has evaluated the report and proceeds to submit its comments and statements as requested.

II. Beneficiary Signature not Obtained

In their review of MAS's billing practices, OIG used CMS *Benefits Policy Manual*, chapter 10, § 20.1.2 to evaluate MAS compliance with signature requirements. As part of report number A-02-15-01016, OIG reports the following finding:

"For ambulance services to be eligible for Medicare reimbursement, the signature of the beneficiary is required (CMS *Benefits Policy Manual*, chapter 10, § 20.1.2). For 72 of the 100 claims in our sample, MAS did not obtain the signature of the beneficiary or their representative. For these claims, MAS's files included only the signature of ambulance staff members, or contained no signatures at all prior to submitting the claim for reimbursement."

MAS does not concur with OIG's findings since "a representative of the ambulance provider or supplier who is present during an emergency and/or non-emergency transport, provided that the ambulance provider or supplier

maintains certain documentation in its records for at least 4 years from the date of service (CMS *Benefits Policy Manual*, chapter 10, § 20.1.2).⁸ Therefore, the signature of the beneficiary is not the only signature acceptable for billing purposes since regulations provide for the signature of a representative of the ambulance provider as an acceptable signature for billing purposes. MAS records show that not one, but two ambulance provider representatives present at the time the service was rendered signed the claim.

Further, MAS's Incident Reports and documentation provides for an evaluation of the beneficiary's medical condition at the time of transport. The beneficiary is evaluated at the time of transport not only to determine the medical necessity of the nonemergency transportation, but also to determine the patient awareness, if he or she understands the services provided, and if he or she is capable of signing MAS forms. In its review, OIG did not perform any medical reviews of the beneficiary's ability to sign the MAS's form. MAS maintained all documentation for the required four (4) years as it was inspected by OIG.

Furthermore, in the year 2009, the Centers for Medicare and Medicaid Services (CMS) and First Coast Service Options, Inc. (FCSO) established the Local Coverage Determination, LCD ID L29916, superseded by LCD ID L33383 that requires certain documentation to be submitted with all claims. LCD ID L29916 requires that all the time of submitting a claim, the ambulance provider must submit the patient's medical record with the following documents:

- a) the dispatch instructions,
- b) patient's condition,
- c) other on-scene information,
- d) details of the transport,
- e) physician's certification statement ,
- f) a detailed description of the patient's condition at the time of transport for Medicare to reasonably determine that other means of transportation are contraindicated.

In compliance with the new claims and reimbursements requirements, MAS submitted with all its claims since 2009, a copy of the medical record as defined as LCD L29916 as proof that the service was medically necessary and was provided. This information complies with 42 CFR §424.36(b)(6)(ii)(c)(2), which describes who is eligible to sign when the beneficiary is incapable, and a representative of the ambulance provider signs the claim. MAS complied with Medicare regulations therefore it cannot concur with OIG's findings.

All of this information and applicable regulations were communicated to OIG during MAS interview, but OIG dismissed these without any further review. Now OIG is recommending that MAS reimburses Medicare a substantial amount, when MAS communicated to OIG that Medicare has reviewed all claims prior paying them. MAS explained also to OIG that since the years 2009 to 2015, FCSO automatically denied all nonemergency transportation services, forcing the ambulance provider to request a redetermination and appeal to an administrative law judge of their claims. This situation was communicated to Mr. Raymond Hurd

on July 9th, 2014, and on April 7th, 2015. Therefore, all of MAS claims were subjected to previous review by CMS and approved for payment. Likewise, as part of CMS and FCSO review of ambulance services in Puerto Rico, Medicare's zone integrity contractor Safe Guard Services, LLC conducted a parallel review to MAS's billing practices without any findings. All MAS claims were subjected to a complete review, including a medical review based on the incident report and the medical record that were provided to OIG. Now the OIG is recommending that MAS reimburses a substantial amount of its claims that were already reviewed, re-determined, reconsidered and appealed before an administrative law judge, whose determination are final and un-appealable, because the provider signed the claims instead of the beneficiary, where CMS's regulations and Benefit Policy Manual recognize the provider representative's signature acceptable for billing purposes. For the reasons stated above, MAS cannot concur with OIG's finding.

III. Vehicle Standards Not Met

In their review of MAS's billing practices, OIG evaluated MAS's compliance with ambulance State and Local laws. As part of report number A-02-15-01016, OIG reports the following finding:

Commonwealth regulations require ambulance providers to have their vehicles inspected on an annual basis (Puerto Rico Regulation No. 6737, § 14.04). In addition, Commonwealth law states that ambulance providers must be licensed by the PSC and have liability insurance coverage (P.R. Laws Ann. Title 27 § 2103). Further, PSC requires ambulance providers to have evidence of insurance or bond for their vehicles (Puerto Rico Regulation No. 6737, § 9.03).

For 51 of the 100 claims in our sample, the ambulance used by MAS to transport the Medicare beneficiary did not have a valid inspection.

For 18 of the 100 claims in our sample, the ambulance used by MAS to transport the Medicare beneficiary did not meet Commonwealth requirements.

MAS partially concurs with OIG's findings, but OIG's findings is the result of the Department of Health of Puerto Rico's non-compliance with ambulance laws and regulations.

Article 4 of Puerto Rico Act Number 225 of July 23, 1974, as amended, provides that an ambulance provider must file an authorization application to operate an ambulance service in Puerto Rico. The CSP remits the application to the Department of Health for their evaluation and inspection, a process that cannot exceed 30 days. The process provided in the law resulted cumbersome and sometimes inadequate for many ambulance providers since the CSP did not always remitted the application to the Department of Health, thus delaying its approval.

As a result, the CSP and the Department of Health through Puerto Rico Regulation Number 6737 for Ambulance Services established a dual application process, which required that the ambulance provider files an inspection request in each agency. Sections 7.04 and 11.06 of Puerto Rico Regulation Number 6737 for Ambulance Services, establishes that once the Department of Health receives an inspection request, it has 30 days to issue its determination. After, the Department of Health remits its endorsement and inspection certification to the CSP after the ambulance is inspected, and the CSP issues its approval. Once the ambulance is authorized, the provider would have to request the ambulance's annual inspection and recertification. These are two different procedures, and OIG only reviewed the inspection process not the recertification process.

The only agency that has jurisdiction to issue ambulance licenses is the CSP, but the Department of Health has created an additional process not found in any law or regulation. The Department of Health requires that the ambulance operator submits the CSP's approval and inspection, and pay the Department an additional \$50.00 per ambulance to issue a second certification that does not exist under the law. Under the law and the regulations, the CSP's approval and inspection approval is the final step, but the Department has abrogated additional powers not found in any law or regulation to also license ambulances. This second certification is not an inspection approval, since the inspection approval, and it is misleading, since the only certification and license recognized under the law and the regulations is the one issue by the CSP not the Department of Health. Therefore, we cannot assume that an ambulance that has not been certified, it has not been inspected, because an ambulance that has not been certified could have passed it inspection and the Department of Health could have issued a certificate of the ambulance inspection approval.

All MAS's ambulances have a valid CSP license that expired on April 6, 2016, and the CSP inspected and approved all of MAS ambulances in service. MAS timely filed for the ambulances' inspection with the CSP and the Department of Health, accompanying its request with all required documentation. The CSP timely inspected the vehicles, but the Department of Health did not, even though, MAS timely filed its inspection request. The Department did not inspect the ambulances and did not issued its determination within the 30-day period. In fact, MAS had to send various communications to the Department of Health requesting the timely inspection of the ambulances, but the Department would not comply with the statutory thirty-day period.

In fact, for the year 2014, MAS filed its request on January 23rd, 2014, and it was on March 5th, 2014, that the Department inspected the ambulances, reducing MAS's ambulances from seven to five. The fact that the Department of Health has not issued a certification, it does not mean that the ambulance has not been, or has not passed, inspection. In fact, in many occasions, the Department of Health inspected and approved MAS's ambulances, but they would not issue a certificate because the ambulance age was passed its useful life, when the Department of Health does not have any jurisdiction on matters concerning the

vehicle's useful life as it is stated in its own certificate. The Department of Health is acting without any jurisdiction on the matter, and their certificates corroborates the errors in their position.

Furthermore, the Department of Health's delays caused MAS to loose most of its business, and certified ambulances. In fact, in the year 2013, MAS had 7 ambulances in operation, and had requested to substitute three of them with new ones. By the year 2014, MAS had only 5 ambulances. Thus, it would be incorrect to assume that the same seven ambulances in service during the year 2013 were in service in the year 2014, when in fact MAS had only 5 ambulances in operation for the year. Therefore, MAS cannot concur with OIG's findings since MAS did timely requested ambulances' inspection to CSP and the Department of Health, inspected its ambulances, and they passed their inspection for the years 2013 and 2014, and when the Department of Health did not certified two ambulances of the seven that were in service in 2013, MAS discontinued their use.

We concur with OIG's findings that MAS did not have liability insurance coverage for some periods of time during the years 2013 and 2014, due to MAS financial condition.

IV. Potential Health and Safety Risks

In their review of MAS's billing practices, OIG used Puerto Rico Regulation No. 6737, to make the following finding:

Puerto Rico Regulation No. 6737 states that the useful life of Category II ambulances (the category used by MAS) should not exceed 10 years from the date the unit was manufactured.

We identified seven ambulances that were more than 10 years old on the date of service. The 7 ambulances were associated with 92 of the 100 claims in our sample. Transporting beneficiaries in ambulances more that 10 years old potentially places beneficiaries at risk, as the vehicles may be unsafe because they are beyond their useful life.

MAS does not concur with OIG's findings since is not correct and its risk assessment is nonexistent.

Puerto Rico Regulation No. 6737, § 14.02, establishes that the useful life of new units authorized for Category II ambulances should be within 10 years of the vehicle's manufactured date. MAS was not seeking authorizations for new vehicles, MAS requested inspections for the vehicles it already had authorized. Furthermore, Puerto Rico Act Number 225 of July 23, 1974, as amended, and Puerto Regulation No. 6737, § 9.01, allows the CSP to authorize ambulances beyond their useful life. The CSP is the only agency that has jurisdiction over the mechanical aspects of an ambulance and its useful life.

Accordingly, the CSP has established a process through which the ambulance provider can request an extension of the ambulance's useful life. For this purpose, providers file CSP's Form CSP-OS-2 requesting an extension of the

vehicles' useful life, accompanied by the vehicle's CSP license, Insurance Policy, Inspection, and form CSP-OS-CERT-M1 of March 2009. In form CSP-OS-CERT-M1, a mechanic will certified that the ambulance is in good condition, does not represent a risk for the patients, all necessary equipment work, and still can be used as an ambulance. Therefore, the CSP has a process to verify and certified that ambulances used beyond their useful life are not a risk for patients. Once the all forms and documentation are filed, the CSP will consider the provider's application and CSP will issue a resolution and order with its determination.

For the years 2013 and 2014, MAS submitted Forms CSP-OS-2 and CSP-OS-CERT-M1, and required documentation for all ambulances near their 10-year useful life, requesting an extension of their useful life. A mechanic certified that MAS ambulances did not represent any risk for any patient since all their systems worked properly. For both years, the CSP approved MAS' requests by authorizing MAS to use the ambulances for additional years beyond their regulatory useful life. Contrary to OIG's assessment and finding, MAS's ambulances did not represent any potential health and safety risks since the complied with all licensing agency's regulations and procedures. Furthermore, OIG did not consider CSP's established process to request an extension of an ambulance's useful life, based on the CSP vehicle's inspection and an additional evaluation from a mechanic. Therefore, MAS does not concur with OIG's determination.

V. Ambulance Staff Lacked Proper Supervision

OIG's last finding states the following:

Puerto Rico issues provisional licenses to emergency medical technicians (EMTs) through its Board of Examiners of the Emergency Medical Technicians of Puerto Rico. The board requires EMTs with provisional licenses to perform their duties accompanied by permanently licensed paramedics.

Of the 100 claims in our sample, 60 were provided by an EMT with provisional licenses without the company of a permanently licensed paramedic. Transporting Medicare beneficiaries in ambulances without fully licensed EMTs places the health and safety of those beneficiaries at risk.

In its assessment and finding, OIG does not cite or refer to any Federal or State laws or regulations to support their findings or risk assessment. The fact is that there is no law or regulation that prohibits EMTs with provisional licenses to attend to Medicare patients, or any patient.

Puerto Rico Regulation Number 5422 of May 6th, 1996, Article 19, allows the Secretary of Health to issue EMT provisional licenses to candidates who have not taken their licensing board. Puerto Rico Act Number 310 of December 25, 2002, as amended, allows EMTs who have graduated from an accredited institution and have applied for their board exam to obtain a provisional license to practice in Puerto Rico. The law treats EMTs with provisional licenses and EMTs

with permanent license equally capable of attending patients, since the law does not restrict their practice of EMTs with provisional licenses in any manner. The Board of Examiners of the Emergency Medical Technicians of Puerto Rico has not issue any regulations, circular letter or directive documents pursuant to Puerto Rico's Uniform Administrative Procedures Act of August 12, 1988, as amended, that imposes any restrictions on an EMT's with provisional license practice. In fact, Puerto Rico's Uniform Administrative Act, § 2.20, requires that an agency's interpretation and guidance documents that implements public policy and/or could affect the rights of any party, the agency must publish the guidance document. The Board of Examiner has not complied with said § 2.20 that restricts the practice of EMT's with provisional licenses. The opinion or unpublished resolutions of the Board that intends to establish such restrictions without the proper compliance with the law, not only is contrary to § 2.20, but also to what was established by the Puerto Rico Supreme Court in Roberto Hernández Rodríguez v. Colegio de Optómetras de Puerto Rico, 157 DPR 332 (2002), which requires that the Board follows the rulemaking provisions of Puerto Rico's Uniform Administrative Procedures Act to implement any restrictions on an EMT's practice.

Further, MAS cannot concur with OIG's risk assessment, because their assessment is not based on any study, the Board or OIG's, that supports that EMTs with provisional licenses represent a risk to patients. There is no basis whatsoever that support OIG's conclusions, and including this risk assessment in the report not only is inflammatory, but also would legitimized the Board's apparent intentions without any due process of law, scientific study, public participation, or economic impact study as required by the Puerto Rico's Uniform Administrative Procedures Act.

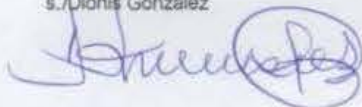
VI. Summary

MAS does not concur with OIG's findings for the reasons stated above, and the report has errors in OIG's assumptions such as MAS operated 7 ambulances for the years 2013 and 2014, when in fact it operated 7 for the year 2013 and 5 for 2014. Furthermore, OIG did not considered the fact that the CSP and the Department of Health has never revoked MAS licenses, or issued any order to prohibit MAS from operating in Puerto Rico.

In April 2016, MAS closed is doors as a result of a number of reasons, but mainly due to the Department of Health's actions. MAS is not longer in operation, they have retired their National Provider Identifier number and is longer billing Medicare for any services. Even though, MAS does not concur with the findings, MAS would like to thank you for allowing MAS present its comments to OIG's findings.

Sincerely,

s./Dionis Gonzalez



MAS's Comments on OIG's Review of MAS (A-02-15-01016)

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