

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**SOME HOSPITALS IN  
MEDICARE JURISDICTION  
CLAIMED RESIDENTS AS MORE  
THAN ONE FULL-TIME  
EQUIVALENT**

*Inquiries about this report may be addressed to the Office of Public Affairs at  
[Public.Affairs@oig.hhs.gov](mailto:Public.Affairs@oig.hhs.gov).*



**Gloria L. Jarmon  
Deputy Inspector General  
for Audit Services**

**July 2017  
A-02-15-01027**

# *Office of Inspector General*

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## Report in Brief

Date: July 2017

Report No. A-02-15-01027

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



### Why OIG Did This Review

Since its inception, the Medicare program has shared in the costs of educational activities incurred by participating hospitals and makes two types of payments to teaching hospitals to support graduate medical education (GME) programs for physicians and other practitioners. Further, prior OIG reports have identified hospitals in four Medicare Administrative Contractor (MAC) jurisdictions that counted residents and interns as more than one full-time equivalent (FTE) and, as a result, received excess Medicare GME reimbursement.

Our objective was to determine whether hospitals in MAC Jurisdiction E claimed Medicare GME reimbursement for residents in accordance with Federal requirements.

### How OIG Did This Review

Our review covered Intern and Resident Information System (IRIS) data submitted by hospitals in MAC Jurisdiction E for fiscal years (FYs) 2012 and 2013. We obtained and analyzed the IRIS data to identify residents claimed by more than one hospital for the same period and whose total FTE count exceeded one.

## Some Hospitals in Medicare Jurisdiction E Claimed Residents as More Than One Full-Time Equivalent

### What OIG Found

For Medicare cost reports covering FYs 2012 and 2013, 65 hospitals in California and Hawaii claimed GME reimbursement for residents who were claimed by more than 1 hospital within MAC Jurisdiction E for the same period and whose total FTE count exceeded 1.

The overstated FTE counts and excess reimbursement occurred because there was no Federal requirement for Noridian Healthcare Solutions (Noridian), which administers the Medicare program for MAC Jurisdiction E, to review IRIS data that hospitals submitted to detect whether a resident had overlapping rotational assignments at more than one hospital. As a result, Noridian did not have procedures to adequately ensure that no resident was counted as more than one FTE in the calculation of Medicare GME payments.

Thirty-six of the sixty-five hospitals with overstated FTEs in MAC Jurisdiction E received excess Medicare GME reimbursement totaling \$434,531. Additionally, one hospital disclosed that it improperly claimed GME reimbursement totaling \$152,419 for FTEs associated with resident rotation time spent at another facility.

### What OIG Recommends and Noridian Comments

We recommend that Noridian (1) recover \$434,531 in excess Medicare GME reimbursement paid to 36 hospitals in MAC Jurisdiction E; (2) inform us of the status of the \$152,419 in improperly claimed GME reimbursement self-disclosed as a result of our audit; (3) adjust the direct and indirect FTE counts claimed on the Medicare cost reports covering FYs 2012 and 2013 for each of the hospitals that did not always claim Medicare GME reimbursement in accordance with Federal requirements; (4) develop procedures to ensure that no resident is counted as more than 1 FTE in the calculation of Medicare GME payments; and (5) identify and recover any additional overpayments made to hospitals in MAC Jurisdiction E for residents whose FTE count exceeded 1 on Medicare cost reports submitted after FY 2013.

Noridian did not concur with four of our five recommendations and confirmed receipt of the \$152,419 in improper GME reimbursement. Noridian indicated that it will use our findings to adjust some of the hospitals' cost reports in accordance with CMS instructions and its MAC Jurisdiction E contract statement. After reviewing Noridian's comments, we maintain that it should adjust the direct and indirect FTE counts claimed on all cost reports that included residents whose total FTE count exceeded 1 and recover any excess Medicare reimbursement.

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## INTRODUCTION

### WHY WE DID THIS REVIEW

Prior Office of Inspector General (OIG) reviews found that hospitals in four Medicare Administrative Contractor (MAC) jurisdictions counted residents and interns<sup>1</sup> as more than one full-time equivalent (FTE) and, as a result, received excess Medicare graduate medical education (GME) reimbursement. Based on our findings, we initiated a nationwide series of reviews of hospitals' resident counts. Appendix A contains a list of related OIG reports.

### OBJECTIVE

Our objective was to determine whether hospitals in MAC Jurisdiction E claimed Medicare GME reimbursement for residents in accordance with Federal requirements.

### BACKGROUND

#### Medicare Payments for Graduate Medical Education

Since its inception in 1965, the Medicare program has shared in the costs of educational activities incurred by participating hospitals. The Centers for Medicare & Medicaid Services (CMS), which administers the Medicare program, makes two types of payments to teaching hospitals to support GME programs for physicians and other practitioners. Direct GME payments are Medicare's share of the direct costs of training residents, such as salaries and fringe benefits of residents and faculty and hospital overhead expenses. Indirect GME payments cover the additional operating costs that teaching hospitals incur in treating inpatients, such as the costs associated with using more intensive treatments, treating sicker patients, using a costlier staff mix, and ordering more tests.

A hospital claims reimbursement for both direct and indirect GME, in part, based on the number of FTE residents that the hospital trains and the portion of time those residents spend working at the hospital. FTE status is based on the total time necessary to fill a residency slot (42 CFR § 412.105(f)(1)(iii)(A)). If a resident is assigned to more than one hospital, the resident counts as a partial FTE based on the proportion of time worked in qualifying hospital areas<sup>2</sup> to the total time worked by the resident. A hospital cannot claim the time spent by residents training at another hospital.<sup>3</sup>

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<sup>1</sup> In this report, "resident" includes hospital interns.

<sup>2</sup> These areas are listed in 42 CFR § 412.105(f)(1)(ii).

<sup>3</sup> When referring to the time a resident spends at a hospital, the terms "working" and "training" are interchangeable.

For payment purposes, the total number of FTE residents is the 3-year “rolling average” of the hospital’s actual FTE count for the current year and the preceding two cost-reporting periods (42 CFR §§ 412.105(f) and 413.79(d)(3)). No individual may be counted as more than one FTE.<sup>4</sup> Each time a hospital claims GME reimbursement for a resident it must provide CMS with information on the resident’s program, year of residency, dates and locations of training (including training at other hospitals), and percentage of time working at those locations (42 CFR §§ 412.105(f) and 413.75(d)).

### **Intern and Resident Information System**

CMS makes available the Intern and Resident Information System (IRIS), a software application that hospitals use to collect and report information on residents working in approved residency programs at teaching hospitals. Hospitals receiving direct and/or indirect GME payments must submit, with each annual Medicare cost report, IRIS data files that contain information on their residents, including, but not limited to, the dates of each resident’s rotational assignment. The primary purpose of the IRIS is to ensure that no resident is counted by the Medicare program as more than one FTE employee in the calculation of payments for the costs of direct and indirect GME.<sup>5</sup>

### **Noridian Healthcare Solutions**

Noridian Healthcare Solutions, LLC (Noridian), is a MAC under contract with CMS to administer the Medicare Part A (hospital insurance) program for MAC Jurisdiction E, which consists of three States—California, Nevada, and Hawaii—and the territories of American Samoa, Guam, and the Northern Mariana Islands. For fiscal years (FYs) 2012 and 2013, 122 hospitals in MAC Jurisdiction E collected and reported information to the IRIS on residents.

For FYs 2012 and 2013, hospitals in MAC Jurisdiction E claimed GME reimbursement totaling approximately \$334 million for direct GME and \$1.01 billion for indirect GME.

### **HOW WE CONDUCTED THIS REVIEW**

We obtained and analyzed the IRIS data submitted by teaching hospitals in MAC Jurisdiction E to identify residents who were claimed by more than one hospital for the same period and whose total FTE count exceeded one. The FTE count for a resident exceeded 1 FTE when the total direct GME percentage and/or the total indirect GME percentage for overlapping rotational assignments, as reported in the IRIS, was greater than 100 percent. For each resident who was counted as more than one FTE during an overlapping period, we obtained and reviewed documentation from the hospitals to determine which hospital should have counted the resident.

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<sup>4</sup> 42 CFR §§ 412.105(f)(1)(iii)(A) and 413.78(b).

<sup>5</sup> 67 Fed. Reg. 48189 (July 23, 2002).

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 the details of our audit scope and methodology.

## FINDING

### RESIDENT FULL-TIME EQUIVALENT COUNT EXCEEDED ONE

If a resident is assigned to more than one hospital, the resident counts as a partial FTE based on the proportion of time worked in the hospital to the total time worked by the resident. A hospital cannot claim the time spent by a resident training at another hospital.<sup>6</sup> In addition, no individual may be counted as more than one FTE in the calculation of Medicare GME payments.<sup>7</sup>

For Medicare cost reports covering FYs 2012 and 2013, 65 hospitals in California and Hawaii within MAC Jurisdiction E claimed GME reimbursement for a resident who was claimed by more than 1 hospital for the same period and whose total FTE count exceeded 1.<sup>8,9</sup> Specifically, these 65 hospitals overstated FTE counts for direct GME reimbursement by a total of 42.66 FTEs for FY 2012 and 18.24 FTEs for FY 2013. In addition, the 65 hospitals overstated FTE counts for indirect GME reimbursement by a total of 30.98 FTEs for FY 2012 and 14.95 FTEs for FY 2013.

The overstated FTE counts and excess reimbursement occurred because there was no Federal requirement for Noridian to review IRIS data that hospitals in MAC Jurisdiction E submitted to detect whether a resident had overlapping rotational assignments at more than one hospital. As a result, Noridian did not have procedures to adequately ensure that no resident was counted as more than one FTE in the calculation of Medicare GME payments.

## CONCLUSION

Thirty-six of the sixty-five hospitals with overstated FTEs in MAC Jurisdiction E received excess Medicare GME reimbursement totaling \$434,531. Specifically, we determined that these

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<sup>6</sup> 42 CFR § 412.105(f)(1)(iii)(A).

<sup>7</sup> 42 CFR §§ 412.105(f)(1)(iii)(A) and 413.78(b).

<sup>8</sup> For FYs 2012 and 2013, the 65 hospitals claimed GME reimbursement totaling approximately \$299 million for direct GME and \$922 million for indirect GME.

<sup>9</sup> None of the 65 hospitals were located in Nevada, American Samoa, Guam, or the Northern Mariana Islands.



hospitals overstated, on Medicare cost reports for 2012 through 2015,<sup>10</sup> FTE counts for FYs 2012 and 2013. We determined this by using CMS's 3-year rolling average formula. The 36 hospitals overstated:

- direct GME reimbursement by \$179,393 and
- indirect GME reimbursement by \$255,138.

For the remaining 29 hospitals, the overstated FTEs did not impact Medicare GME reimbursement. Specifically, 27 hospitals were still over their FTE caps<sup>11</sup> after adjusting the claimable direct and/or indirect FTE counts, and two hospital's FTE adjustment had an immaterial effect.

In addition, as a result of our audit, one hospital in MAC Jurisdiction E disclosed that, for FYs 2011 through 2013, it improperly claimed GME reimbursement for FTEs associated with resident rotation time spent at another facility.<sup>12</sup> The hospital stated that it disclosed the error to Noridian for the 3-year period and calculated a total refund amount of \$152,419 for the excess Medicare GME reimbursement.

## RECOMMENDATIONS

We recommend that Noridian:

- recover \$434,531 in excess Medicare GME reimbursement paid to 36 hospitals in MAC Jurisdiction E;
- inform us of the status of the \$152,419 in improperly claimed GME reimbursement self-disclosed as a result of our audit;
- adjust the direct and indirect FTE counts claimed on the Medicare cost reports covering FYs 2012 and 2013 for each of the hospitals that did not always claim Medicare GME reimbursement in accordance with Federal requirements;
- develop procedures to ensure that no resident is counted as more than one FTE in the calculation of Medicare GME payments; and

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<sup>10</sup> The 2012 FTE overstatements affected GME costs claimed on FYs 2013 and 2014 Medicare cost reports. The FY 2013 FTE overstatements affected GME costs claimed on FYs 2014 and 2015 Medicare cost reports.

<sup>11</sup> Section 1886 of the Social Security Act established caps on the number of residents that a hospital may claim for Medicare direct and indirect GME reimbursement.

<sup>12</sup> Specifically, the hospital stated that it claimed GME reimbursement for resident time spent at a health center. The hospital explained that it did not have an "affiliation agreement" with the health center; therefore, it should not have claimed GME reimbursement for resident time spent at the health center.

- identify and recover any additional overpayments made to hospitals in MAC Jurisdiction E for residents whose FTE count exceeded one on Medicare cost reports submitted after FY 2013.

## **NORIDIAN HEALTHCARE SOLUTIONS COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE**

### **Noridian Healthcare Solutions Comments**

In written comments on our draft report, Noridian did not concur with four of our five recommendations and confirmed receipt of the \$152,419 in improper GME reimbursement related to our second recommendation. Regarding our first recommendation, Noridian stated that, of the 83 cost reports that were identified as having an overpayment, it will make applicable adjustments to 48 of these cost reports that have not been finalized and to 4 finalized cost reports that are above the CMS dollar threshold for reopening. Noridian stated that it will make what it described as “applicable adjustments” in accordance with CMS established thresholds to determine the actual overpayment amounts. Noridian stated that it will not reopen the remaining 31 cost reports, which have been finalized, because the amount of overpayment does not meet the threshold amount for reopening settled cost reports or the cost reports are outside the 3-year reopening time limit.

Regarding our last three recommendations, Noridian indicated that it will continue to follow CMS instructions, as contained in the Uniform Desk Review Program, and that additional review of overlapping residents will only be conducted when hospitals are scoped above thresholds established by CMS. Further, Noridian stated that CMS does not provide funding to identify potential overpayments on all teaching hospitals and that additional procedures would be outside its MAC Jurisdiction E contract statement.

Noridian’s comments are included in their entirety as Appendix C.

### **Office of Inspector General Response**

After reviewing Noridian’s comments, we maintain that our findings and recommendations are valid. The excess Medicare GME reimbursement amounts that we identified, including the cost reports that Noridian stated that it will not reopen, are based on FTE overstatements that are inconsistent with Federal regulations. Therefore, we maintain that Noridian should adjust the direct and indirect FTE counts claimed on all 83 cost reports and recover any excess Medicare reimbursement. CMS’s Provider Reimbursement Manual – Part 1 (CMS Publication 15-1) Section 2931.2 states:

Reopening Final Determination.—Whether or not the intermediary will reopen a determination, otherwise final, will depend upon whether new and material evidence has been submitted, or a clear and obvious error

was made, or the determination is found to be inconsistent with the law, regulations and rulings, or CMS instructions.

Contrary to 42 CFR §§ 412.105(f)(1)(iii)(A) and 413.78(b), which state that no individual may be counted as more than 1 FTE in the calculation of Medicare GME payments, the 31 finalized cost reports included residents whose total FTE count exceeded 1. Because the excess Medicare GME reimbursement amounts for these cost reports that Noridian stated that it will not reopen are based upon FTE overstatements that are inconsistent with Federal regulations, we recommend that Noridian reopen the cost reports and recover any excess Medicare GME reimbursement. Further, we noted that Noridian's materiality thresholds for reopening settled cost reports are CMS guidelines—not Federal regulations.

**APPENDIX A: RELATED OFFICE OF INSPECTOR GENERAL REPORTS**

<b>Report Title</b>	<b>Report Number</b>	<b>Date Issued</b>
<i>Some Hospitals in Medicare Jurisdiction F Claimed Residents as More Than One Full-Time Equivalent</i>	<a href="#"><u>A-02-15-01028</u></a>	07/17/2017
<i>Some Hospitals in Florida and Puerto Rico Claimed Residents as More Than One Full-Time Equivalent</i>	<a href="#"><u>A-02-13-01014</u></a>	08/08/2014
<i>Some Hospitals in Alabama, Georgia, and Tennessee Claimed Residents as More Than One Full-Time Equivalent</i>	<a href="#"><u>A-02-13-01012</u></a>	07/09/2014
<i>Review of Resident Data Reported in the Intern and Resident Information System for Medicare Cost Reports Submitted to Highmark Medicare Services, Inc., and National Government Services, Inc.</i>	<a href="#"><u>A-02-10-01006</u></a>	04/02/2012
<i>Review of Resident Data Reported in the Intern and Resident Information System for Medicare Cost Reports Submitted to National Government Services, Inc., and Highmark Medicare Services, Inc.</i>	<a href="#"><u>A-02-10-01007</u></a>	04/02/2012
<i>Review of Resident Data Reported in the Intern and Resident Information System for Medicare Cost Reports Submitted to Highmark Medicare Services, Inc.</i>	<a href="#"><u>A-02-09-01019</u></a>	01/03/2012
<i>Review of Resident Data Reported in the Intern and Resident Information System for Medicare Cost Reports Submitted to National Government Services, Inc.</i>	<a href="#"><u>A-02-09-01021</u></a>	10/13/2010

## APPENDIX B: AUDIT SCOPE AND METHODOLOGY

### SCOPE

We reviewed IRIS data that hospitals in MAC Jurisdiction E submitted to support resident training costs claimed on annual Medicare cost reports covering FYs 2012 and 2013. We did not assess Noridian's overall internal control structure. Rather, we limited our review of internal controls to those applicable to our audit, which did not require an understanding of all internal controls over the Medicare program.

### METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and guidance;
- held discussions with Noridian officials to gain an understanding of Noridian's procedures for reviewing IRIS data submitted by hospitals in MAC Jurisdiction E;
- obtained FYs 2012 and 2013 IRIS data from Noridian for all hospitals in MAC Jurisdiction E;
- analyzed the IRIS data to identify residents claimed by more than one hospital for the same rotational assignment (e.g., weekly rotation schedule) and for whom the total FTE count exceeded one;
- obtained and reviewed rotation schedules and other documentation from each hospital in MAC Jurisdiction E for each resident for whom the total FTE count exceeded one to determine which hospital should have claimed Medicare GME reimbursement for the resident during an overlapping period;
- adjusted the claimable direct and/or indirect FTE counts for hospitals that should not have claimed GME reimbursement for residents during an overlapping period or provided conflicting documentation that did not resolve the overlapping rotation dates;<sup>13</sup>

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<sup>13</sup> We contacted hospitals to determine which hospital was responsible for a resident's overlapping rotation date that exceeded one FTE. If the hospitals could not agree on which hospital should have claimed the resident, we questioned the overlapping FTE count for each hospital using procedures that other MAC contractors have in place.

- determined the net dollar effect of the adjustments to the direct and indirect FTE counts by recalculating each hospital's Medicare cost report(s);<sup>14</sup> and
- discussed the results of our review with Noridian officials.

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 finding and conclusions based on our audit objectives.

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<sup>14</sup> We used Worksheet E-4 to recalculate direct GME reimbursement and Worksheet E, Part A, for indirect GME reimbursement.

## APPENDIX C: NORIDIAN HEALTHCARE SOLUTIONS COMMENTS



900 42nd Street South  
Fargo, ND 58103

May 19, 2017

James P Edert, Regional Inspector General  
Office of Inspector General  
Office of Audit Services, Region II  
26 Federal Plaza, Room 3900  
New York, NY 10278

Dear Mr. Edert:

Noridian Healthcare Solutions, LLC (Noridian) appreciates the opportunity to comment on the Office of Inspector General's (OIG) draft report entitled *Some Hospitals in Medicare Jurisdiction E Claimed Residents as More Than One Full-Time Equivalent*. (A-02-15-01027). Below are Noridian's comments and responses to the OIG's recommendations.

**OIG Recommendation:** Recover \$434,531 in excess Medicare GME reimbursement paid to 36 hospitals in MAC Jurisdiction E.

**Noridian Response:** Noridian does not concur with this recommendation.

The OIG tested 65 hospitals and found that 29 hospitals tested were not overpaid and found 36 hospitals had overpayments noted. Of the 36 hospitals with overpayments, 83 cost reports were identified by the OIG with having an overpayment.

Of the 83 cost reports that were found to have overpayments, 48 have not been finalized. As a true determination of overpayment would be based on a finalized cost report, there is no conclusive evidence that the providers were overpaid. Noridian follows the thresholds established by CMS to review Medicare GME reimbursement paid to hospitals and the thresholds will be used with the 48 open cost reports. Applicable adjustments will be made during the desk review as required by CMS thresholds.

The remaining 35 cost reports have been final settled. Based on our analysis, only four cost reports meet our dollar threshold for completing a reopening and have been final settled within three years. These four cost reports will be reopened and adjustments will be made to the FTE counts. The remaining 31 cost reports will not be reopened as the amount of the overpayment does not meet our reopening threshold or is outside the three-year reopening time limit from the date of the NPR per IOM 100-06 Chapter 8, Section 100.

A CMS Medicare Administrative Contractor

Noridian Healthcare Solutions, LLC



**OIG Recommendation:** Inform us of the status of the \$152,419 in improperly claimed GME reimbursement self-disclosed as a result of our audit.

**Noridian Response:** Noridian is in receipt of the voluntary refund totaling \$152,419.

**OIG Recommendation:** Adjust the direct and indirect FTE counts claimed on the Medicare cost reports covering FYs 2012 and 2013 for each of the hospitals that did not always claim Medicare GME reimbursement in accordance with Federal requirements.

**Noridian Response:** Noridian does not concur with this recommendation.

Noridian follows the thresholds established by CMS to review Medicare GME reimbursement paid to hospitals. Adjustments will be made on the direct and indirect FTE counts on the cost reports that meet the CMS guidelines for review that are not finalized and the cost reports meeting the reopening threshold.

**OIG Recommendation:** Develop procedures to ensure that no resident is counted as more than one FTE in the calculation of Medicare GME payments.

**Noridian Response:** Noridian does not concur with this recommendation.

Noridian follows CMS instructions as contained in the Uniform Desk Review Program. There is no requirement in the desk review program that dictates contractors must review overlapping residents for all teaching hospitals. However, when the areas of IME or GME are scoped above the CMS mandated thresholds, additional review is completed. The additional review includes, but is not limited to, program accreditations, rotation schedules, resident overlaps, weighting of resident FTEs beyond their initial residency period, and any non-provider setting agreements.

To ensure residents are not being counted as more than one FTE, CMS has developed an IRIS Redesign Workgroup in order to create a national database to house all IRIS information for all contractors. Noridian continues to be actively involved in the workgroup; however, until CMS finalizes the workgroup and changes the current procedures for contractors to complete the reviews for teaching hospitals, we believe that additional procedures would be outside the Statement of Work.

**OIG Recommendation:** Identify and recover any additional overpayments made to hospitals in MAC Jurisdiction E for residents whose FTE count exceeded one on Medicare cost reports submitted after FY 2013.

**Noridian Response:** Noridian does not concur with this final recommendation.

Noridian has not been funded to identify potential overpayments on all teaching hospital cost reports submitted after FY 2013. Noridian follows CMS' thresholds as contained in the Uniform Desk Review Program to determine if further review of IME or GME is required. Utilizing the CMS



thresholds ensures that material errors will be identified for resident FTE counts that exceed one on Medicare cost reports.

Noridian appreciates the opportunity to comment on this report and the recommendations. Should you have any additional questions on this response and Noridian's actions, please contact Paul O'Donnell at [REDACTED].

Sincerely,



Paul O'Donnell  
Senior Vice President and JE Project Manager

cc: Pamela Bragg, JE COR, CMS  
Amber Hedrick, JF COR, CMS  
Tom McGraw, CEO and President of Noridian Healthcare Solutions, LLC