

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**CMS'S POLICIES AND PROCEDURES
WERE GENERALLY EFFECTIVE IN
ENSURING THAT PRESCRIPTION DRUG
COVERAGE CAPITATION PAYMENTS
WERE NOT MADE AFTER THE
BENEFICIARIES' DATES OF DEATH**

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for Audit Services

April 2018
A-07-16-05088

Office of Inspector General

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

Report in Brief

Date: April 2018

Report No. A-07-16-05088

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



Why OIG Did This Review

The Medicare Access and Children's Health Insurance Program Reauthorization Act of 2015 requires the Centers for Medicare & Medicaid Services (CMS) to establish policies and implement claim edits to ensure that payments are not made for Medicare services ostensibly rendered to deceased individuals. Previous OIG reviews have identified these sorts of Medicare payments.

Our objective was to determine whether CMS's policies and procedures ensured that capitation payments were not made to Medicare Advantage organizations' prescription drug plans and stand-alone prescription drug plans (collectively referred to as "sponsors") for Medicare Part D coverage on behalf of deceased beneficiaries after the individuals' dates of death.

How OIG Did This Review

We evaluated CMS's policies and procedures in place as of November 2015 to determine whether they were effective in ensuring that capitation payments for Medicare Part D coverage were not made on behalf of deceased beneficiaries after the individuals' dates of death. We also evaluated the policies and procedures to determine whether they were effective in ensuring that improper payments were identified and recouped. We reviewed Part D payments for calendar years 2012 through 2015. Total Part D capitation payments made in this period exceeded \$253.7 billion.

CMS's Policies and Procedures Were Generally Effective in Ensuring That Prescription Drug Coverage Capitation Payments Were Not Made After the Beneficiaries' Dates of Death

What OIG Found

CMS had policies and procedures in place that were generally effective in ensuring that capitation payments to sponsors for Medicare Part D coverage were not made on behalf of deceased beneficiaries after the individuals' dates of death. These policies and procedures generally ensured that CMS did not make improper capitation payments on behalf of deceased beneficiaries when its data systems indicated at the time of a monthly capitation payment that the beneficiaries in question had died.

CMS did not, however, identify and recoup all improper capitation payments. Specifically, as of March 7, 2017, CMS had not recouped \$1.1 million associated with 65,398 separate capitation payments. For our audit period, these improper payments represented .0004 percent of the total capitation payments made to sponsors and .097 percent of the total adjustments that CMS made after receiving information on beneficiaries' dates of death.

What OIG Recommends and CMS Comments

We recommend that CMS use the information in this report to recoup the \$1.1 million in capitation payments to sponsors for Medicare Part D coverage on behalf of deceased beneficiaries. We also recommend that CMS continue to implement system enhancements to identify, adjust, and recoup improper capitation payments in the future.

CMS concurred with both of our recommendations and described corrective actions that it had implemented, to include a system correction to recoup the improper capitation payments we identified.

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INTRODUCTION

WHY WE DID THIS REVIEW

The Medicare Access and CHIP [Children’s Health Insurance Program] Reauthorization Act of 2015 (MACRA), signed into law in April 2015, requires the Centers for Medicare & Medicaid Services (CMS) to establish policies and implement claim edits to ensure that payments are not made for Medicare services ostensibly rendered to deceased individuals.¹ These policies and procedures should include steps to prevent such improper payments from occurring, as well as steps to detect and recoup payments that have been made (including prior-year payments) for Medicare services rendered after the individuals’ dates of death. Although the MACRA does not mandate a review of capitation payments made to entities that provide Medicare Part D coverage, we evaluated CMS’s policies and procedures and reviewed capitation payments made to Medicare Advantage (MA) organizations’ prescription drug plans and stand-alone prescription drug plans (collectively referred to as “sponsors” for this report) for coverage periods after individuals’ dates of death. Previous reviews (Appendix B) have identified Medicare payments for services ostensibly rendered to deceased beneficiaries.

OBJECTIVE

Our objective was to determine whether CMS’s policies and procedures ensured that capitation payments were not made to sponsors for Medicare Part D coverage on behalf of deceased beneficiaries after the individuals’ dates of death.

BACKGROUND

Medicare Advantage and Medicare Voluntary Prescription Drug Benefit Programs

Medicare provides health insurance for people aged 65 and over, people with disabilities, and people with permanent kidney disease (Title XVIII of the Social Security Act (the Act)).

Medicare Advantage Program

The Balanced Budget Act of 1997, P.L. No. 105-33, established Medicare Part C to offer beneficiaries managed care options through the Medicare+Choice program. Many of these managed care options include a prescription drug benefit. Section 201 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, P.L. No. 108-173 (MMA), revised Medicare Part C and renamed the program the MA program. The law permits beneficiaries to receive health care coverage from MA plans (such as, for example, health maintenance organizations, preferred provider organizations, and provider-sponsored organizations) offered by MA organizations. CMS, which administers the Medicare program,

¹ MACRA, P.L. No. 114-10 § 502, the Act § 1874(f).

makes monthly capitation payments to MA organizations for beneficiaries enrolled in the MA organizations' health care plans (beneficiaries).

Medicare Voluntary Prescription Drug Benefit Program

Section 101 of the MMA established the Voluntary Prescription Drug Benefit Program,² known as Medicare Part D. Under Part D, which began on January 1, 2006, individuals entitled to Medicare benefits under Part A or enrolled in Part B and who live in the service area of a Part D plan may obtain prescription drug coverage. CMS contracts with sponsors to offer prescription drug benefits to eligible individuals.

At the beginning of each month, CMS makes capitation payments to sponsors on behalf of beneficiaries. To calculate payment amounts, CMS considers each Medicare beneficiary's most currently available demographic and health status information. If CMS receives demographic or health status information that would increase or decrease previous monthly payments, it makes retroactive adjustments to correct the payment amount. For a deceased beneficiary, CMS corrects the payment amount for the month in which the individual had, before his or her death, been enrolled in the MA plan or Part D plan. CMS makes only one capitation payment per month for each Medicare beneficiary.

Medicare Coverage Gap Discount Program

An attribute of the Part D program as initially established was the Medicare Part D coverage gap (sometimes referred to as the "doughnut hole"), which represents the difference between the initial coverage limit and the catastrophic coverage threshold. That is, once a Part D beneficiary had reached and surpassed the out-of-pocket threshold, he or she was in the coverage gap and was financially responsible for the entire cost of prescription drugs until the beneficiary's expenses had reached the catastrophic coverage threshold. The Medicare Coverage Gap Discount Program (CGDP), enacted as part of the Patient Protection and Affordable Care Act,³ makes manufacturer discounts available to reduce the out-of-pocket expenses that eligible Part D beneficiaries must pay once they enter the coverage gap.

CMS makes a monthly prospective CGDP payment to sponsors; CMS calculates this payment based on a projection that uses the relevant Part D plan's bid submission and current enrollment. After the end of the contract year, CMS conducts a reconciliation of the monthly CGDP payments when the prospective payments received are greater than or less than the actual coverage gap discount amounts documented in the Prescription Drug Event data. Prospective payments are estimates; actual CGDP costs may be greater than or less than the prospective payments.

² The MMA, P.L. No. 108-173 § 101, amending the Act § 1860D-1(a), 42 U.S.C. § 1395w-101(a).

³ The Patient Protection and Affordable Care Act, P.L. No. 111-148 (Mar. 23, 2010), as amended by the Health Care and Education Reconciliation Act of 2010, P.L. No. 111-152 (Mar. 30, 2010), collectively referred to as "ACA."

For our audit period (calendar years (CYs) 2012 through 2015), total Medicare Part D capitation payments, including CGDP payments, exceeded \$253.7 billion.

Medicare Payments on Behalf of Deceased Beneficiaries Under Medicare Part D

Federal regulations state that a sponsor must disenroll an individual from the plan if the individual dies (42 CFR § 423.44 (b)(2)(i)). Disenrollment is effective the first day of the calendar month following the month of death (42 CFR § 423.44 (d)(4)). Therefore, Medicare payments (to include the capitation payments that are the focus of this report) made on behalf of deceased beneficiaries are not allowable in the month(s) following the month of death.

Obtaining and Processing Information for Individuals' Dates of Death

In general, CMS's data systems obtain Medicare beneficiary date-of-death information from the Social Security Administration (SSA), from the Railroad Retirement Board (RRB),⁴ or from institutional claims, which is the term used to denote Medicare claims submitted by inpatient hospitals, skilled nursing facilities, hospices, and home health agencies.

When information on a beneficiary's date of death is received, CMS's Medicare Enrollment Database (EDB) and Medicare Beneficiary Database (MBD)⁵ are updated through the interfaces discussed below. At that time, the deceased beneficiary is disenrolled from Medicare, and payments are automatically stopped or recouped, depending on when the beneficiary died. When a beneficiary is disenrolled during the course of a month, the effective date of the disenrollment is the first day of the next month. Adjustments to the EDB or MBD are reflected in the appropriate Medicare Part D prescription drug plan's monthly capitation payment.

Beneficiary Date-of-Death Information in the Enrollment Database

The EDB is CMS's authoritative source of Medicare entitlement information for all beneficiaries ever entitled to Medicare. The EDB receives daily data updates from SSA. These updates notify CMS when information in a beneficiary's record at SSA changes for certain specified reasons, such as when benefits payments are suspended. When CMS receives data from SSA related to the death of a beneficiary, the appropriate EDB data fields are populated with the pertinent data. When the MBD recognizes (via an automated interface) that a date of death has been updated in the EDB, it updates itself accordingly and creates a date-of-death notification.

⁴ The RRB administers the health and welfare provisions of the Railroad Retirement Act, which provides retirement and survivor benefits for eligible railroad employees, their spouses, widows, and other survivors.

⁵ The MBD's main purpose is to provide CMS with a primary, authoritative database of comprehensive data on individuals in Medicare to support ongoing and expanded program administration, service delivery modalities, and payment coverage options.

Medicare Advantage and Prescription Drug System

The Medicare Advantage and Prescription Drug System (MARx) interfaces with the EDB and maintains information as to when Medicare beneficiaries enroll in or disenroll from MA plans and Part D plans. Beneficiaries are disenrolled from MA plans and Part D plans on the basis of the date-of-death notifications created by the MBD. The MARx also contains the related payment history, including adjustments, which shows the specific months for which CMS made payments to sponsors for prescription drugs dispensed to beneficiaries. The MARx calculates payments and adjustments and adds or subtracts the net dollar amount to the sponsor's contract total for each month. These totals are dynamic and may change each time a transaction is processed for a contract, until the last capitation payment amount for the month is finalized.

Processing Date-of-Death Information Obtained From Institutional Claims

Although most institutional claims submitted for beneficiaries who are enrolled with a sponsor are processed by the sponsor, it is possible for a beneficiary's institutional claims to be processed by Medicare Part A or Part B as fee-for-service claims if specific criteria are met.

Once the beneficiary's valid date of death is entered in CMS's Common Working File (CWF) from an institutional claim, the EDB is updated to reflect the new information.⁶ If information on beneficiary date of death from an institutional claim is available and it differs from the information that CMS has obtained from SSA, CMS uses the date of death from the institutional claim in the EDB.⁷

HOW WE CONDUCTED THIS REVIEW

We evaluated the policies and procedures that CMS had in place as of November 2015 to determine whether they were effective in ensuring that capitation payments for Medicare Part D coverage were not made on behalf of deceased beneficiaries after the individuals' dates of death. We also evaluated the policies and procedures to determine whether they were effective in ensuring that improper payments were identified and recouped. Because recoupment could involve payments made in prior years, we reviewed Part D payments for CYs 2012 through 2015. Total Part D capitation payments made in this period exceeded \$253.7 billion.

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

⁶ The CWF processes all of CMS's fee-for-service claims and, like the EDB, is updated daily.

⁷ Every institutional claim submitted to the CWF contains a discharge status code, which indicates the beneficiary's status as of the claim's last date of service. If an institutional claim's discharge status code shows that the beneficiary has died, an edit in the CWF enters the claim's last date of Medicare service as the date of death.

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 A contains details of our audit scope and methodology.

FINDINGS

CMS had policies and procedures in place that were generally effective in ensuring that capitation payments to sponsors for Medicare Part D coverage were not made on behalf of deceased beneficiaries after the individuals' dates of death. These policies and procedures generally ensured that CMS did not make improper capitation payments on behalf of deceased beneficiaries when its data systems (including the EDB and the MARx) indicated at the time of a monthly capitation payment that the beneficiaries in question had died. In addition, during CYs 2012 through 2015, CMS received updated beneficiary date-of-death information (from the EDB, the MARx, or both) and then made 5,165,293 adjustments to capitation payments to sponsors for Part D coverage. Through these adjustments, CMS recouped approximately \$1.13 billion based on updated information that beneficiaries, on whose behalf capitation payments had been made, had died.

CMS did not, however, identify and recoup all improper capitation payments. Specifically, as of March 7, 2017, CMS had not recouped \$1,099,603 associated with 65,398 separate capitation payments. For our audit period, these improper payments represented .0004 percent of the total capitation payments made to sponsors and .097 percent of the total adjustments that CMS made after receiving information on beneficiaries' dates of death.

FEDERAL REQUIREMENTS

Federal regulations state: "If the individual dies, disenrollment is effective the first day of the calendar month following the month of death" (42 CFR § 423.44(d)(4)). Therefore, the last allowable payment on behalf of an enrollee who has died is for the month in which that individual died.

CMS'S POLICIES AND PROCEDURES WERE GENERALLY EFFECTIVE IN ENSURING THAT CAPITATION PAYMENTS WERE NOT MADE AFTER THE BENEFICIARIES' DATES OF DEATH

Improper Payments Were Generally Not Made When CMS's Data Systems Had Beneficiary Date-of-Death Information at the Time of Capitation Payments

CMS had policies and procedures in place that were generally effective in ensuring that capitation payments to sponsors for Medicare Part D coverage were not made on behalf of deceased beneficiaries after the individuals' dates of death. These policies and procedures generally ensured that CMS did not make improper capitation payments on behalf of deceased beneficiaries when its data systems (including the EDB and the MARx) indicated at the time of a monthly capitation payment that the beneficiaries in question had died.

Almost All Improper Capitation Payments Were Adjusted and Recouped After CMS Received Updated Beneficiary Date-of-Death Information

CMS also had policies and procedures in place to correctly identify, adjust, and recoup improper capitation payments for almost all of the cases in which CMS received updated beneficiary date-of-death information from the EDB, the MARx, or both.

As of March 16, 2017, CMS had received updated beneficiary date-of-death information and then made 5,165,293 adjustments to CYs 2012 through 2015 capitation payments made to sponsors for Part D coverage. Through these adjustments, CMS recouped approximately \$1.13 billion in capitation payments made during this timeframe based on updated information that beneficiaries, on whose behalf the payments had been made, had died.

Not All Improper Capitation Payments Were Identified and Recouped

Although CMS's policies and procedures were generally effective in ensuring that improper capitation payments were not made on behalf of deceased beneficiaries, CMS did not identify and recoup all improper capitation payments. As of March 7, 2017, CMS had not recouped \$1,099,603 associated with 65,398 separate capitation payments that we had identified as improper.

Specifically, while performing our audit we initially identified \$1,320,270 associated with 77,712 separate capitation payments; these capitation payments were made after the beneficiaries' dates of death. We used data available in the EDB and the MARx to identify potentially improper payments (Appendix A). On October 28, 2016, we provided detailed payment data on the 77,712 Part D payments, totaling \$1,320,270, to CMS for its review.

Based on comments received from CMS and updated data in the EDB and the MARx, we determined that for those initially identified capitation payments as of March 7, 2017:

- CMS recouped \$3,067 in improper payments (associated with 28 capitation payments) after obtaining updated date-of-death information for the 8 deceased beneficiaries on whose behalf these payments had been made.
- Updated date-of-death information revealed that an additional \$107,020, associated with 1,873 capitation payments, was no longer improper. This amount consisted of:
 - 334 capitation payments made on behalf of 54 beneficiaries, totaling \$29,735, that were not in error because the beneficiaries in question were in fact not deceased and

- another 1,539 capitation payments made on behalf of 180 beneficiaries, totaling \$77,285, that were not in error because although the beneficiaries in question had died, their dates of death were incorrect as initially reported and were subsequently updated.
- CMS had a separate reconciliation process in place to review CGDP payments totaling \$110,580; therefore, we did not include these CGDP payments in the capitation payments that we reviewed for this audit.

After taking these adjustments into account, the remaining 65,398 capitation payments, totaling \$1,099,603, had, as of March 7, 2017, not been the subject of updated date-of-death information, had not been adjusted, and had not been recouped by CMS. For our audit period, these improper payments represented .0004 percent of the total capitation payments made to sponsors and .097 percent of the total adjustments that CMS made after receiving information on beneficiaries' dates of death.

CONCLUSION

During CYs 2012 through 2015, CMS had policies and procedures in place that were generally effective in ensuring that capitation payments to sponsors for Medicare Part D coverage were not made on behalf of deceased beneficiaries with dates of service after the individuals' dates of death. On the basis of our review, we identified 65,398 capitation payments for this period in which, according to CMS's data systems, the dates of death preceded the payment dates. Thus, more than 99.99 percent of Part D payments during this period were correctly processed insofar as the requirements pertaining to Medicare payments on behalf of deceased individuals are concerned. Moreover, CMS effectively used its adjustment, recoupment, and reconciliation processes to identify and adjust approximately \$1.13 billion for payments in which individuals' dates of death preceded the first day of the calendar month following the months of their deaths.

RECOMMENDATIONS

We recommend that CMS:

- use the information in this report and the detailed data previously provided to recoup the \$1,099,603 in capitation payments made to sponsors for Medicare Part D coverage on behalf of deceased beneficiaries and
- continue to implement system enhancements to identify, adjust, and recoup improper capitation payments in the future.

CMS COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, CMS concurred with both of our recommendations and described corrective actions that it had taken, to include a system correction to recoup the improper capitation payments we identified. CMS's comments are included in their entirety as Appendix C.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

We evaluated the policies and procedures that CMS had in place as of November 2015 to determine whether they were effective in ensuring that capitation payments for Medicare Part D coverage were not made on behalf of deceased beneficiaries after the individuals' dates of death. We also evaluated the policies and procedures to determine whether they were effective in ensuring that improper payments were identified and recouped. Because recoupment could involve payments made in prior years, we reviewed Part D payments for CYs 2012 through 2015. Part D capitation payments made in this period totaled \$253,792,581,262.

We limited our review of internal controls to obtaining an understanding of CMS's process for identifying and recouping improper payments for monthly capitation payments for Part D coverage on behalf of deceased beneficiaries after the individuals' dates of death.

We performed our audit work from March 2016 to March 2017.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws and regulations;
- held discussions with CMS officials to gain an understanding of CMS's policies, procedures, and guidance regarding capitation payments, specifically internal controls used to identify payments that involve deceased individuals;
- used computer matching, data mining, and other data analysis techniques to identify payments in which individuals' dates of death preceded the capitation payment dates;
- used beneficiary date-of-death information available in the EDB and the MARx to identify potentially improper capitation payments;
- provided detailed data on 77,712 capitation payments with potentially improper Medicare payments to CMS officials on October 28, 2016; and
- discussed our findings with CMS officials on July 26, 2017.

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: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>CMS's Policies and Procedures Were Generally Effective in Ensuring That Capitation Payments Were Not Made After Beneficiaries' Dates of Death</i>	<u>A-07-16-05087</u>	10/05/17
<i>Medicare's Policies and Procedures Identified Almost All Improper Claims Submitted for Deceased Individuals and Recouped Almost All Improper Payments Made for These Claims for January 2013 Through October 2015</i>	<u>A-07-16-05089</u>	10/06/16
<i>Review of Medicare Payments to Prescription Drug Plans on Behalf of Deceased Enrollees</i>	<u>A-07-07-01046</u>	5/17/11



APPENDIX C: CMS COMMENTS


DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

200 Independence Avenue SW
Washington, DC 20201

DATE: FEB 12 2018

TO: Daniel R. Levinson
Inspector General

FROM: Seema Verma 
Administrator

SUBJECT: Office of Inspector General (OIG) Draft Report: CMS's Policies and Procedures Were Generally Effective in Ensuring That Prescription Drug Coverage Capitation Payments Were Not Made After Beneficiaries' Dates of Death, A-07-16-05088

The Centers for Medicare & Medicaid Services (CMS) appreciates the opportunity to review and comment on the draft report from the Office of Inspector General's (OIG). CMS is strongly committed to robust program integrity efforts in Medicare and appreciates OIG's recognition of the success of CMS' efforts to ensure that Medicare Part D capitation payments are not made for deceased beneficiaries. As OIG notes in its report, more than 99.99 percent of Part D capitation payments made for calendar years (CY) 2012-2015 were correct. CMS has already recouped the payments OIG found to be improper and implemented system enhancements to further reduce the risk of CMS making improper capitation payments for deceased beneficiaries.

Part D sponsors receive monthly capitation payments from CMS to cover prescription drug coverage for enrolled beneficiaries. When CMS receives information about a beneficiary's death, CMS enters the date of death into its data systems and disenrolls the beneficiary. The effective date of disenrollment is the first day of the next month after the beneficiary has died. CMS either stops or recoups capitation payments, depending on when it received notice of date of death.

As OIG states in its report, CMS has extensive policies and procedures in place to ensure that capitation payments are not made to Part D sponsors after a beneficiary's date of death. These procedures include regularly refreshing its data systems to collect updated date of death information and promptly initiating recoupment when these dates are received. Based on updated date of death information, CMS made more than 5 million adjustments and recouped more than one billion dollars in capitation payments for CY 2012-2015.

OIG's recommendations and CMS' responses are below.

OIG Recommendation

CMS should use the information in this report and the detailed data previously provided to recoup the \$1,099,603 in capitation payments made to sponsors for Medicare Part D coverage on behalf of deceased beneficiaries.

CMS Response

CMS concurs with this recommendation and has already implemented a system correction that will recoup these payments.

OIG Recommendation

CMS should continue to implement system enhancements to identify, adjust, and recoup improper capitation payments in the future.

CMS Response

CMS concurs with this recommendation and has already implemented system enhancements that will further reduce the risk of CMS making improper capitation payments for deceased beneficiaries.