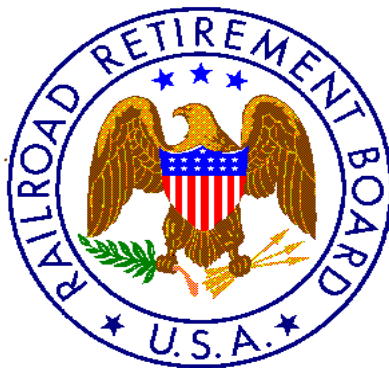


OFFICE OF INSPECTOR GENERAL
Audit Report

**Railroad Medicare Services Billed with Dates of Service
after the Beneficiaries' Dates of Death**

Report No. 10-13
September 30, 2010



RAILROAD RETIREMENT BOARD

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INTRODUCTION

This report presents the results of the Railroad Retirement Board (RRB) Office of Inspector General's (RRB-OIG) audit of Palmetto's responsibilities for the review of Railroad Medicare services billed with dates of service after the beneficiaries' dates of death.

Background

The RRB is an independent agency in the executive branch of the Federal government. The RRB administers the retirement/survivor and unemployment/sickness insurance benefit programs for railroad workers and their families under the Railroad Retirement Act and the Railroad Unemployment Insurance Act. These programs provide income protection during old age and in the event of disability, death, temporary unemployment, or sickness. The RRB paid approximately \$10.7 billion in retirement/survivor and unemployment/sickness benefits to approximately 631,000 beneficiaries during fiscal year (FY) 2009.

Railroad Medicare

In May 1966, the Social Security Administration (SSA) delegated authority to the RRB for administering certain provisions of the Medicare program for Qualified Railroad Retirement Beneficiaries (QRRB's). These provisions included enrollment, premium collection and selection of a carrier to process Medicare Part B claims. The enactment of Public Law (P.L.) 92-603 in October 1972 amended the Social Security Act and granted the RRB jurisdiction over all QRRB's who were receiving both Railroad Retirement and Social Security benefits.

As part of its oversight responsibilities under the Inspector General Act of 1978, as amended, the RRB-OIG conducts audits and investigations of alleged fraud, waste, and abuse within the Railroad Medicare program. For approximately ten years, beginning in fiscal year 1997, an appropriations law restriction prohibited the RRB-OIG from conducting Railroad Medicare oversight activities. In December 2007, P.L. 110-161 restored the RRB-OIG's oversight authority for Railroad Medicare.

Medicare Integrity Program

Section 1862(a)(1)(A) of the Social Security Act requires that expenses be paid only for reasonable and necessary Medicare services. The Health Insurance Portability and Accountability Act of 1996 created the Medicare Integrity Program (MIP), which includes the functions of medical review; data analysis; provider education; and fraud detection and prevention. The MIP was established, in part, to strengthen CMS's ability to deter fraud and abuse in the Medicare program.

Palmetto Government Benefits Administrator, LLC

Since April 2000, the RRB has contracted with its nationwide contractor Palmetto Government Benefits Administrator, LLC (Palmetto) to process the Medicare Part B claims for QRRB's. The contractor is responsible for performing program management and MIP functions for individuals enrolled in the Railroad Medicare program. The RRB is responsible for monitoring the actions of its contract carrier and has one Medicare Contract Operations Specialist working onsite at Palmetto's Augusta, Georgia office. During FY 2009, Palmetto processed more than 11.6 million Railroad Medicare claims, which represented approximately \$908 million in payments for Part B medical services.

The RRB's contract with Palmetto states that, "[t]he contractor shall perform all carrier functions for individuals enrolled in Part B of the Railroad Medicare program throughout the United States." Railroad Medicare claims are submitted by providers who are located in multiple regions. The RRB does not contract with a regional Program Safeguard Contractor¹ (PSC) and Palmetto retains all responsibility for MIP activities.

The RRB's contract with Palmetto will be subject to competitive rebid during 2011. A new contract, which reassigns the responsibility for Railroad Medicare and establishes new requirements under the classification of Specialty Medicare Administrative Contractor, is currently being negotiated with CMS officials.

Benefit Integrity Unit

Implementation of a benefit integrity program is one of Palmetto's MIP responsibilities under its cost reimbursement contract with the RRB. Palmetto has established the Benefit Integrity Unit (BIU) to identify and thoroughly develop cases of suspected fraud in a timely manner, ensure that Medicare Trust Fund monies are not inappropriately paid out, and take immediate action to recoup any mistaken payments. All cases of potential fraud are to be referred to the RRB-OIG's Office of Investigations for consideration and initiation of criminal or civil prosecution, civil monetary penalty, or administrative sanction actions.

¹ Program Safeguard Contractors perform specific MIP functions under contract with CMS.

Annual Deceased Beneficiary Post-Payment Review Process

CMS requires Medicare contractors to identify and initiate action to recover payments with a billed date of service that is after the beneficiary's date of death. The identification of improperly paid claims shall be performed at a minimum on an annual fiscal year basis for beneficiaries who died during the previous fiscal year. Palmetto's procedures require that the BIU conduct an annual review in February to determine if payments were made during the previous fiscal year to providers for services rendered to beneficiaries after their date of death. Palmetto's Accounting Manager is responsible for recovering any funds paid to providers for claims with service dates occurring after the date of death. In the event that the Accounting Manager identifies a pattern that indicates fraud, they are to notify Palmetto's BIU Investigator. The BIU Investigator will document the actions taken by all parties involved in the review.

This audit was initiated in response to concerns identified by the RRB-OIG's Office of Investigations that Railroad Medicare claims were being paid with service dates after the beneficiary's date of death. The audit also supports the RRB's underlying objectives to pay benefits to the right people, in the right amounts, in a timely manner, and to take appropriate action to safeguard the customers' trust funds.

Audit Objective

The objective of our audit was to determine if Palmetto's post-payment review process effectively identified Railroad Medicare provider claims with service dates occurring after the beneficiary's death.

Scope

Audit procedures focused on Palmetto's annual deceased beneficiary post-payment review process from January 1, 2005 through December 31, 2009. The unavailability of records resulted in our adjustment of the scope to calendar year (CY) 2008 and CY 2009.

The scope of this audit specifically excluded testing of the reliability of beneficiary dates of death.

Methodology

To accomplish our objective, we:

- identified and reviewed pertinent laws and regulations applicable to Railroad Medicare and the annual deceased beneficiary post-payment review;

- reviewed Palmetto and CMS' procedures and analyzed supporting documentation;
- assessed the adequacy of controls applicable to the post-payment process;
- inspected beneficiary date of death computer input files for the post-payment review; and
- interviewed Palmetto and RRB officials responsible for Railroad Medicare.

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.

We conducted our audit fieldwork at Palmetto's Medicare offices located in Augusta, Georgia and at the RRB's Headquarters in Chicago, Illinois from March through July 2010.

RESULTS OF AUDIT

Our audit found that Palmetto's post-payment review of Railroad Medicare Part B claims with service dates occurring after the beneficiary's death is inadequate to identify fraud and potential overpayments. Our audit also disclosed the following:

- the external source data used for identifying deceased Railroad Medicare beneficiaries was substantially incomplete;
- the post-payment review process as implemented and procedurally designed is not fully effective;
- controls need improvement to ensure that the post-payment review process is adequately coordinated, timely performed, sufficiently documented, and readily maintained;
- the incorrect computer files were used for the (CY) 2008 and CY 2009 post-payment review; and
- the results of the post-payment review are not being reported to RRB or CMS.

Overall, the post-payment review process is not functioning in accordance with RRB managements' intent or CMS' objectives for the MIP. The details of our findings and recommendations follow.

Data Integrity Concerns with the CMS Deceased Medicare Beneficiaries File

The source data used during Palmetto's annual deceased beneficiary post-payment review process did not include the majority of deceased Railroad Medicare beneficiary records as reported by the RRB. The computer files that contain the records of deceased Medicare beneficiaries for the post-payment review included less than 1% of the population of deceased Railroad Medicare beneficiaries for CY 2008 and CY 2009. The computer files are created by CMS each year, processed by the enterprise data center, and used as data input for the post-payment review. Utilizing the incomplete data source which represented less than 1% of the total deceased beneficiary records, Palmetto's post-payment computer match identified only nine potential overpayments for CY 2008 and four potential overpayments for CY 2009, totaling \$879.84 and \$593.69, respectively.

The following tables summarize the number of deceased Railroad Medicare beneficiaries reported by source for CY 2008 and CY 2009 and the projected potential claims overpayments for each year.

Annual Deceased RRB Medicare Part B Beneficiaries

Calendar Year	Enrolled QRRBs	Palmetto's Source Record Count	RRB Reported Record Count	Approximate Number of Records <u>Not</u> Available for Review by Palmetto
2008	476,705	218	30,450	99.3%
2009	467,943	186	27,928	99.3%

Extrapolated Projection of Potential Overpayments for Claims Paid to Deceased Beneficiaries

Calendar Year	Approximate Number of Records <u>Not</u> Available For Review by Palmetto	Potential Overpayments Identified During Post-Payment Computer Match (A)	Approximate Number of Records Available For Review by Palmetto (B)	Total Potential Overpayments ² (A)/(B)
2008	99.3%	\$ 879.84	0.7%	\$ 122,895.08
2009	99.3%	\$ 593.69	0.7%	\$ 89,142.87

Section 4.27 of the CMS Program Integrity Manual (PIM) requires that Palmetto perform an annual post-payment review to identify claims paid with dates of service after a beneficiary's date of death. In mid-February of each year, CMS creates the deceased beneficiary file to be used during the post-payment review. Palmetto's procedure requires that the post-payment review be completed during February of each year. To be fully effective, the annual review should include all deceased Medicare beneficiaries who died in the previous fiscal year.

To perform the annual review, Palmetto's Business Analyst submits a job request to the Enterprise Data Center (EDC). The EDC is responsible for generating the annual post-payment report for Palmetto's review. As part of this process, the EDC retrieves the CMS computer file of deceased Railroad Medicare beneficiaries and performs a computer match against three years of Palmetto's Medicare claims history to identify claims paid for Medicare services after the beneficiary's date of death.

² The potential overpayments can vary considerably by year and could be significantly higher than reported during these years. For example, while the CY 2007 CMS deceased beneficiary file was not available for review, the results of Palmetto's computer match totaled \$3,889.34. By extrapolating these results, we can project potential overpayments at \$562,886.86 for the year. Prior contract years may also have yielded similar results.

In response to the RRB-OIG's request to review the CMS computer files, Palmetto obtained read access from the EDC. During its subsequent review of the files, the RRB-OIG identified variances between the CMS and RRB record counts of the deceased Railroad Medicare beneficiaries. As a result of RRB-OIG's review of the files, Palmetto and RRB officials learned that the deceased Railroad Medicare beneficiary totals were understated. Palmetto and RRB officials stated that they had no way of knowing that the CMS source file was incomplete and that they had no point of reference from prior years. The RRB-OIG found that the report generated by the post-payment review also does not include the total number of deceased Railroad Medicare beneficiaries, and unless a special request is made to the EDC they do not have access to the source file data.

The post-payment review is the only control that Palmetto has for detecting Railroad Medicare Part B overpayments to providers for unallowable claims on behalf of deceased beneficiaries. As a considerable number of deaths are not reported to CMS until more than two months after the date of death, there is a substantial risk of claims overpayments to deceased beneficiaries. If the computer file used in the annual post-payment review does not include all reported deceased beneficiaries, Palmetto will not identify all claims paid with dates of service after the beneficiary's date of death. This results in potential overpayments and fraudulent Medicare claims that will not be identified or recovered. More than 99% of the total population of deceased Railroad Medicare beneficiaries for CY 2008 and CY 2009 bypassed the control and were not subject to post-payment review. We found no evidence that the overpayment control was effective in prior years. However, the ability to recoup these prior year overpayments is diminished by statute.³

The RRB-OIG contacted the responsible CMS contractor to obtain further information concerning the missing deceased Railroad Medicare beneficiary data. However, the CMS contractor could not provide an explanation for the data omissions.

Recommendations

We recommend that Palmetto and RRB officials:

1. work with CMS to resolve the data integrity weaknesses within the CMS deceased Medicare beneficiary file or develop an alternative

³According to the CMS Medicare Carriers Manual, Part 3 § 7100.1, Medicare Contractors cannot recover an overpayment discovered more than three full calendar years after the year of payment unless there is evidence that the physician or beneficiary was at fault with respect to the overpayment.

- source data file utilizing the most accurate deceased Railroad Medicare beneficiary records available;
2. expedite re-performance of the annual post-payment review for the prior three calendar years utilizing the corrected or best available deceased Railroad Medicare beneficiary data, beginning with the earliest of the three years;
 3. establish procedures to validate the record counts on the CMS deceased Medicare beneficiary file with the RRB's Office of Programs prior to performing each annual review; and
 4. request additional funding from CMS to support resolution of the data integrity issues and the necessary corrective actions.

Management's Response to Recommendation No. 1

The Office of Programs and Office of Administration have agreed to investigate the CMS deceased Medicare beneficiary file count discrepancy. A course of action will be determined in coordination with CMS' planned implementation of a real-time review process that is expected to be more effective and efficient. A target date of six months from the date of the final audit report has been established for corrective action.

Palmetto management stated that data integrity weaknesses within the CMS deceased Medicare beneficiary file and development of an alternative data source are outside of the scope of its contract. However, Palmetto will follow the instructions outlined in the CMS PIM until further direction is received from RRB officials or a change is made to the PIM requirements.

The full text of management's response is provided within Appendix II and III of this report.

RRB OIG's Comments on Management's Response

The Office of Programs and the Office of Administration state that the audit report did not identify any cases, where there was service after the beneficiary's death, that were not caught during Palmetto's review. However, this was not the purpose of the audit. The purpose of the audit was to determine if Palmetto's post payment review process effectively identified Railroad Medicare provider claims with dates of service occurring after the beneficiary's death. The audit report clearly communicates that more than 99% of the deceased Railroad Medicare beneficiaries were never subjected to the post-payment review process. Palmetto officials point to RRB officials' direction, CMS' ownership of the deceased beneficiary file, current PIM requirements, and the Enterprise Data Center's (EDC) protocol as justification for the deficiency.

The resolution of the deficiencies reported for the Palmetto post-payment review process requires increased RRB contract oversight and improved cross-communication. The RRB has an obligation to its constituents to ensure that Railroad Medicare program integrity activities are carried out in a responsible manner.

It is imperative that the lack of data integrity inherent within the Medicare deceased beneficiary file utilized by Palmetto be resolved prior to its February 2011 post-payment review. The Office of Programs and Office of Administration have not established a workable target date for timely resolution of the problem, and the actions proposed do not adequately address the weakness identified during the audit. The limited corrective action proposed does not provide assurance that the forthcoming post-payment review will be effective in recovering potential overpayments or that the RRB's Medicare systems, which feed deceased beneficiary data to CMS, will be compatible with CMS' planned real-time system prior to its April 1, 2011, release.

Proactive discussions with CMS should begin immediately to ensure that corrective action addressing the data integrity concerns with the deceased beneficiary file is completed prior to the February 2011 post-payment review. The RRB's system feeds of deceased Railroad Medicare beneficiaries, that provide input to CMS Medicare systems, should also be tested prior to implementation of the CMS real-time post-payment review.

Management's Response to Recommendation No. 2

The Office of Programs and Office of Administration have deferred their response to the recommendation. Their responsive action is contingent on the results of the investigation that will be conducted in response to Recommendation No. 1.

Palmetto management stated that it will continue to adhere to the current requirements of the PIM until other direction is received from RRB officials. If such direction is received from RRB officials, Palmetto will expedite re-performance of the annual post-payment review with a different data source.

The full text of management's response is provided within Appendix II and III of this report.

RRB OIG's Comments on Management's Response

The Office of Programs and Office of Administration should request immediate assistance from CMS to resolve the data integrity issues which hinder the reliability of the deceased Medicare beneficiary file. After the reliability of a corrected deceased beneficiary file or an alternate source file has been validated, all Railroad Medicare claims that were paid but never subjected to post-payment review during the prior three calendar years should be examined expeditiously.

Palmetto's ability to recover overpayments is diminished over time and limited by CMS statute. A period of delay in reconciling these historical claims will result in a corresponding period of non-recoverable claims.

Management's Response to Recommendation No. 3

The Office of Programs and Office of Administration have deferred their response to the recommendation. Their responsive action is contingent on the results of the investigation that will be conducted in response to Recommendation No. 1 and the implementation of a real-time review process by CMS.

Palmetto management stated that it will continue to adhere to the current requirements of the PIM until other direction is received from RRB officials. If directed by RRB officials to perform a validation between the CMS and RRB data sources, Palmetto will work with the contracting officer to ensure compliance with any new requirements that are currently outside the scope of its statement of work.

The full text of management's response is provided within Appendix II and III of this report.

RRB OIG's Comments on Management's Response

Annual validation of the CMS Medicare deceased beneficiary file records with the RRB's records is necessary to ensure that the data integrity problem does not recur. Resolution of the data integrity weakness and implementation of CMS' real-time system would not eliminate the need for the annual validation. Recurring validation is necessary to ensure the long-term completeness and reliability of the deceased Railroad Medicare beneficiary data.

Management's Response to Recommendation No. 4

The Office of Programs and Office of Administration have deferred their response to the recommendation. The need for additional funding will be assessed if additional overpayment cases are discovered prior to implementation of the CMS real-time review process.

Palmetto management stated that it will defer to the position of RRB officials and follow their instruction in response to the recommendation.

The full text of management's response is provided within Appendix II and III of this report.

Annual Deceased Beneficiary Post-Payment Procedure Is Not Fully Effective

Palmetto's annual deceased beneficiary post-payment review is not fully effective. The review procedure both as implemented and designed omits a segment of the population of deceased Railroad Medicare beneficiaries that are at risk for overpayment.

Palmetto's Annual Post-Payment Review

Palmetto is not performing its annual deceased beneficiary post-payment review in accordance with CMS procedure. Section 4.27 of the CMS PIM stipulates the use of the prior fiscal year's deceased Medicare Part B beneficiary records for the annual review. Palmetto's documented procedure also specifies the review of the prior fiscal year's records. However, Palmetto is utilizing only the prior calendar year of deceased Medicare Part B records. When using the prior calendar year, deaths reported during any subsequent calendar year of when the death occurred and after performance of the annual review would circumvent the post-payment review. [See Appendix I, Example 1] The current EDC job request currently references only a single calendar year and Palmetto officials have not requested that it be changed to fiscal year.

CMS' Annual Post-Payment Review Procedure

When following the CMS procedure, Medicare beneficiary deaths reported during a fiscal year subsequent to when the death occurred and after performance of the review will circumvent the post-payment control. [See Appendix I, Example 2] In addition, as the CMS post-payment procedure references only a single fiscal year, the nine months of data prior to the fiscal year and three months of available deceased Medicare beneficiary data subsequent to the fiscal year are omitted from the current year's review. Deaths occurring during the prior nine month period, but reported in any subsequent fiscal year after the death occurred and after performance of the annual review would bypass the post-payment control. Deaths occurring during the three calendar months subsequent to the fiscal year are not reconciled until the following year. This one year delay increases the risk of unrecoverable Medicare overpayments.

Without a fully effective post-payment procedure, Palmetto will not identify a portion of claims paid with dates of service after the beneficiary's date of death. Palmetto's calendar year based post-payment review process and its CMS based fiscal year procedure both include deficiencies. Failure to resolve these deficiencies could result in overpayments and fraudulent claims that will not be identified or recovered.

Prior to the release of our draft report, CMS informed an RRB official that a new real-time deceased beneficiary review would be implemented nationwide early in 2011. The review would be limited to two years of claims history but would include all reported deceased beneficiaries. However, due to date field limitations, the RRB's Medicare systems are not compatible with the new system.

Recommendations

We recommend that Palmetto and RRB officials work with CMS to:

5. determine the optimal computer file parameters to be used for the annual deceased beneficiary post-payment review procedure that will ensure the comprehensive identification of Railroad Medicare Part B claims paid with dates of service after the beneficiary's date of death.

We recommend that RRB officials work with CMS to:

6. upgrade the RRB's Medicare systems to ensure compatibility with the new CMS real-time system.

Management's Response to Recommendation No. 5

The Office of Programs and Office of Administration stated that they will contact CMS within six months to determine the appropriate course of action.

Palmetto management stated that it will defer to RRB officials on the determination of the optimal computer file parameters. Once the parameters have been determined, as directed by RRB officials, Palmetto will implement the appropriate procedural changes to the annual deceased beneficiary post-payment review.

The full text of management's response is provided within Appendix II and III of this report.

RRB OIG's Comments on Management's Response

Proactive discussions with CMS should begin immediately to ensure that corrective action has been completed prior to the February 2011 post-payment review. The proposed action should specifically address the omission of claims from the post-payment review which result from the procedural deficiencies. The timeframe for the proposed action is inadequate to ensure resolution of the deficiency prior to Palmetto's February 2011 post-payment review. Implementation of CMS' planned real-time system will not address the prior year deceased beneficiaries that are to be included in the scope of Palmetto's annual post-payment review.

Management's Response to Recommendation No. 6

The Office of Programs and Office of Administration suggested that the recommendation be withdrawn. Changes to the RRB Medicare system will be responsive to system requirements identified by CMS as needed to implement the planned real-time review process. The full text of management's response is provided within Appendix II of this report.

RRB OIG's Comments on Management's Response

The OIG will not withdraw this recommendation. The RRB's Medicare systems are known to have date of death field inconsistencies and the data integrity of the deceased Railroad Medicare beneficiary data files that Palmetto is using for their post-payment review are unreliable. Proactive discussions with CMS should begin immediately which promote testing of the data feeds of deceased Railroad Medicare beneficiary data from the RRB's Medicare systems, which provide input to CMS Medicare systems and support the CMS real-time post-payment review.

Annual Post-Payment Review Is Not Completed in Accordance with Procedures

Palmetto's CY 2008 and CY 2009 deceased beneficiary post-payment reviews were completed untimely. These reviews were not completed until March 2010, after the RRB-OIG requested the results.

The results of the post-payment review for CY 2007 that was completed in February 2008 were not forwarded to Palmetto's Accounting Manager for recoupment until March 2010, more than two years after the review had been completed. In addition, documentation supporting the results of the CY 2005 and CY 2006 post-payment reviews was not readily available at the time of our review.

Section 4.27 of the CMS PIM requires that the identification of improperly paid claims be performed at a minimum on an annual fiscal year basis for beneficiaries who died during the previous fiscal year. Furthermore, Palmetto's procedures require that the annual reviews be completed by mid-February of each year. CMS further requires that the associated overpayment recoupment effort be initiated as soon as administratively possible. CMS' record retention policy currently requires computer printouts supporting the control of Medicare claims to be maintained indefinitely.⁴

Palmetto did not have effective controls in place to ensure that the post-payment reviews were adequately coordinated, timely completed, sufficiently documented, and readily maintained.

⁴ CMS' General Information, Eligibility, and Entitlement Manual, Chapter 7 - Contract Administrative Requirements, Section 30.30.2 - Description of Records

Without fully effective controls, Palmetto officials cannot ensure that its post-payment review will be performed in a timely manner to identify and recoup overpayments. Further, overpayment collections are impacted by the statute of limitations on recoveries and other factors that hinder collectability (i.e., bankruptcy, death of provider, foreign relocation).

Recommendation

We recommend that Palmetto officials:

7. improve the controls over the annual deceased beneficiary post-payment review process to ensure the review is adequately coordinated, timely completed, sufficiently documented, and readily maintained.

Management's Response to Recommendation No. 7

Palmetto management stated that in accordance with IOM⁵ Publication 100-08, Section 4.27, the Benefit Integrity Unit (BIU) Investigator in coordination with its Technical Support staff will initiate a request for the annual deceased beneficiary file during February of each year. Palmetto has revised its internal work instructions to include procedures for coordination of the activity and the requirement has been added to its internal metrics report. The BIU investigator will compare the CMS report to the previous year's report and the Palmetto report to identify any billing discrepancies or fraudulent activities. Any discrepancies or other findings will be reported to the Accounting Supervisor for payment recovery. The BIU will investigate any reported findings involving fraudulent activity. The Accounting Supervisor will recover and report the overpayments identified during review to BIU within 7 business days. Patterns of fraud will be immediately referred to the investigator. Palmetto will document and forward all overpayments and referrals to the investigator and management.

Effective April 1, 2011, Palmetto will also be implementing CMS Change Request (CR) 7123. CR 7123 requires Medicare contractors to utilize current available automated processes to recoup claims that have line item dates of service occurring after the beneficiary's date of death. The full text of management's response is provided within Appendix III of this report.

⁵ CMS Internet Only Manual (IOM) Publication 100-08 is commonly referred to as the Medicare Program Integrity Manual (PIM)

RRB OIG's Comments on Management's Response

We will evaluate Palmetto's proposed corrective actions after receiving their revised work instructions and the related impact of the CMS real-time system after it has been formally implemented.

Incorrect Data Files Were Used to Identify Deceased RRB Medicare Beneficiaries

The post-payment review process for CY 2008 and CY 2009 specified the incorrect data input files to use when running the annual deceased beneficiary post-payment review computer match report.

In response to a system job request from Palmetto's Business Analyst, the EDC retrieves the current CMS date of death file and initiates the annual post-payment review process. The EDC Medicare Systems Specification manual identifies the data inputs needed to support Palmetto's request. The EDC requires Palmetto to use these specifications when making their post-payment system job request.

The published specification for the Railroad Medicare data input file in the EDC Medicare systems specification manual had not been updated and was incorrect.

If the correct data input file is not used, the job will run improperly and fail to identify claims paid with dates of service after the beneficiary's date of death, negating the effectiveness of the post-payment control.

In response to OIG's request to review the CY 2008 and CY 2009 CMS deceased beneficiary source files, the EDC identified and notified Palmetto officials that the published data input file specification was incorrect. In April 2010 the EDC resubmitted the CY 2008 and CY 2009 jobs using the correct data input files. In response to our concerns, the published EDC Medicare job specifications were updated during May 2010.

Recommendation

We recommend that Palmetto officials:

8. work with the EDC to establish a procedure for validating future Railroad Medicare system specifications.

Management's Response to Recommendation No. 8

Palmetto management stated that it is outside of its scope to establish or validate procedures for the EDC. CMS provides oversight and the EDC contractor is responsible for validating the accuracy of their contractor report specifications. The EDC confirmed the documentation defect that resulted in the production of

incorrect data files. Palmetto provided documentation of the defect to the RRB-OIG. The EDC released updated specifications during April 2010. The full text of management's response is provided within Appendix III of this report.

RRB OIG's Comments on Management's Response

Communication with the EDC is vital to the effectiveness of contractor operations. Procedures should be established to ensure that data files exchanged during the course of normal operations can be relied upon. We believe that Palmetto should request the assistance of RRB and CMS officials in the establishment of the annual validation procedure. The EDC specification update addressed the input files utilized by Palmetto during the CY 2008 and CY 2009 post-payment reviews but did not resolve our overall concern with the data integrity of the deceased beneficiary input files that was identified during our audit and reported under Recommendation No. 1.

The RRB has a responsibility to its constituents to ensure that Railroad Medicare Program integrity activities are carried out in a responsible manner.

Accounting of Improper Payments Was Not Communicated to RRB or CMS Officials

Palmetto officials did not report, to RRB or CMS, the improper Medicare payments identified and the overpayments recouped for CY 2008 and CY 2009.

Section 4.27 of the PIM requires that the accounting of the improper Medicare payments identified by the responsible benefit integrity unit and the respective overpayments recouped by the contractor be sent to the Primary Government Task Leader on December 5th of each year. This report should also be sent to the CMS Director of the Division of Benefit Integrity Management Operations. Palmetto officials stated they are not required to report this information to CMS.

Section 4.1 of the PIM requires the contractor to follow the entire PIM for benefit integrity functions as they relate to their respective roles and areas of responsibility.

Palmetto officials stated that the Government Task Leader would reside at the RRB rather than CMS but have not established a procedure for reporting the results of the annual post-payment review to either RRB or CMS. If RRB and CMS officials do not receive yearly information detailing the volume and total amount of overpayments and the results of Palmetto's recoupment efforts they cannot assess whether the post-payment review was accurately performed. A review of the improper payments report by RRB or CMS officials would likely

have generated concern that the Palmetto post-payment review was not identifying all payments to deceased beneficiaries. Therefore, this reporting deficiency weakens the oversight over Railroad Medicare benefit integrity.

Recommendation

We recommend that Palmetto and RRB officials:

9. work with CMS to clarify the reporting requirements for the deceased beneficiary post-payment review and establish a procedure that will ensure effective monitoring and reporting of the results of Palmetto's overpayment identification and recoupment efforts. These reporting requirements should be reinforced within the forthcoming Specialty Medicare Administrative Contractor agreement.

Management's Response to Recommendation No. 9

The Office of Programs and Office of Administration stated that Palmetto had revised its procedures to conform to CMS' reporting requirements. RRB officials also stated that the Specialty Medicare Administrative Contractor solicitation will ensure contractor compliance with the provisions of IOM Publication 100-08.

Palmetto management stated that revised work instructions for the deceased beneficiary post-payment review process were implemented as of June 10, 2010.

The full text of management's response is provided within Appendix II and III of this report.

RRB OIG's Comments on Management's Response

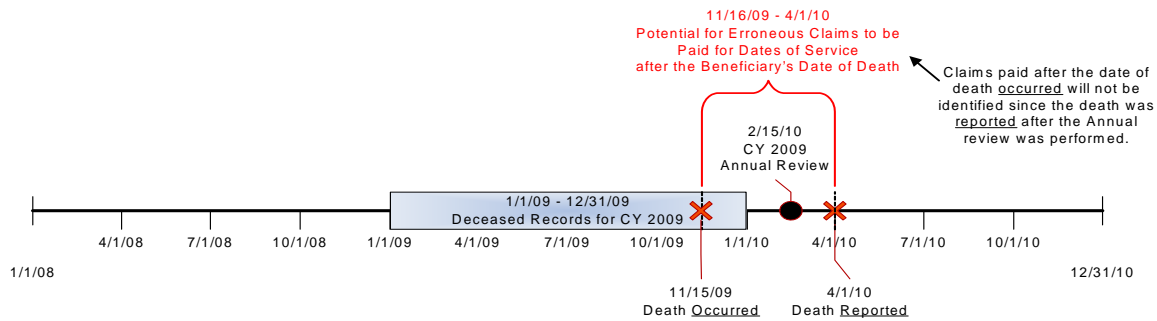
We have requested a copy of the revised work instruction from Palmetto management and upon receipt will review the provided documentation to determine if closure of the recommendation is warranted. The revised work instructions were not received prior to the release of our report.

The need for reporting of the results of the deceased beneficiary post-payment review to CMS as recommended in our report will require compliance with the requirements of Section 4.27 of the PIM, entitled Annual Deceased-Beneficiary Post-Payment Review. While the response by the Office of Programs and Office of Administration addresses other important requirements of the PIM, it does not specifically address the reporting of the results to CMS of the deceased beneficiary post-payment review.

APPENDIX I

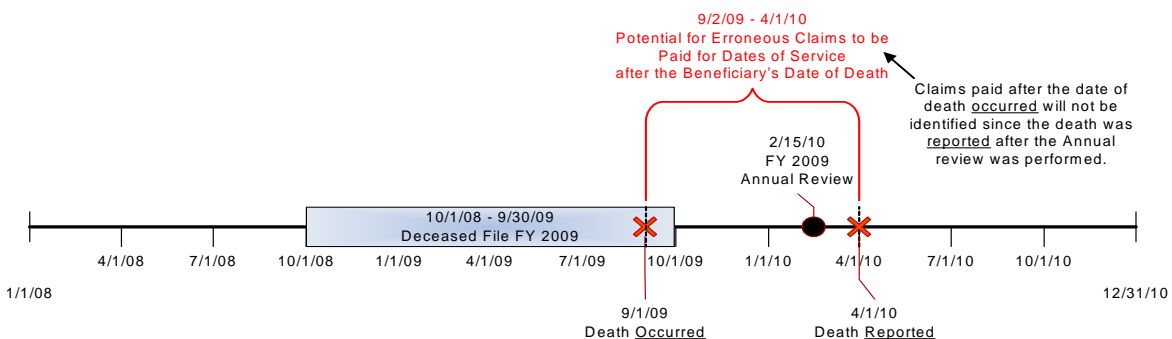
As illustrated in the following examples, Palmetto's current method and CMS's procedure for performing the annual deceased beneficiary post-payment review will not identify improper claims paid for Medicare services charged after an individual dies if the death occurs during the year under review, but is not reported until after the review is performed.

Example 1 - Potential for Undetected Claims Based On Calendar Year Review



In this example, the beneficiary's death occurred on 11/15/2009 but was not reported until 4/1/2010. As the death was reported after performance of the annual review, Medicare Part B claims with dates of service after the date of death would not be detected if paid prior to the reported date of death. Once the death is reported, any subsequent claims submitted will be rejected during system processing.

Example 2 - Potential for Undetected Claims Based On Fiscal Year Review



In this example, the beneficiary's death occurred on 9/2/2009 but was not reported until 4/1/2010. Medicare beneficiary deaths reported during a fiscal year subsequent to when the death occurred and after performance of the review will circumvent the post-payment control and allow claims overpayments to occur without detection.



UNITED STATES
GOVERNMENT

FORM G-115f (1-92)
RAILROAD RETIREMENT BOARD

MEMORANDUM

SEP 28 2010

TO: Diana Kruei
Assistant Inspector General for Audit

FROM: Catherine A. Leyser *Catherine A. Leyser*
Director of Assessment and Training

THROUGH: Dorothy Isherwood *D. Isherwood*
Director of Programs

SUBJECT: **Draft Report – Railroad Medicare Services Billed with Dates of Service after the Beneficiaries’ Dates of Death**

**Overall
comments**

This response reflects the coordinated efforts of the Office of Programs and the Office of Administration.

The stated objective of this audit is “to determine if Palmetto’s post-payment review process effectively identified Railroad Medicare provider claims with service dates occurring after the beneficiary’s death”. This draft report did not identify any cases where there was service after the beneficiary’s death that were not caught during Palmetto’s review.

We are not in a position to agree or disagree with the findings at this time. We will investigate the reason for the differences in the volumes between the file CMS provided to Palmetto and the extract of RRB Medicare records with a month and year of death cited in the audit. If we find that there is a problem with the file CMS sent we will work with them to determine what action, if any, is necessary to address them. In light of the upcoming changes to the CMS process to go to real-time reviews when dates of death are posted, as cited in the audit, it may not make sense to revise the current process.

For these reasons, we cannot agree to the “Extrapolated Projection of Potential Overpayments for Claims Paid to Deceased Beneficiaries” contained in this audit. If and when we determine that there is a deficiency in the files provided by CMS, and find that there were cases that result in additional overpayments we will work with you to determine a projection to which we can agree.

Continued on next page

Draft Report – Railroad Medicare Services Billed with Dates of Service after the Beneficiaries’ Dates of Death, Continued

Recommendation 1 We recommend that Palmetto and RRB officials work with CMS to resolve the data integrity weaknesses within the CMS deceased Medicare beneficiary file or develop an alternative source data file utilizing the most accurate deceased Railroad Medicare beneficiary records available.

RRB Response We agree to investigate the discrepancy in the counts and determine if there is a deficiency in the files provided by CMS. We will determine the best course of action in light of the planned changes to the process referenced on page 9 of the audit. As indicated, CMS expects to implement a real-time review to scan two years of claim history as the date of death is entered into their records to determine if any payments were made after the date of death. This process will be more effective and efficient than the current process and will likely eliminate the need for the current process.

We expect to complete our investigation within 6 months of the date of this audit.

We see no need for Palmetto to take any action on this recommendation.

Recommendation 2 We recommend that Palmetto and RRB officials expedite re-performance of the annual post-payment review for the prior three calendar years utilizing the corrected or best available deceased Railroad Medicare beneficiary data, beginning with the earliest of the three years.

RRB Response We defer. We will determine our action on this recommendation contingent on our investigation described in response to recommendation 1 above.

Recommendation 3 We recommend that Palmetto and RRB officials establish procedures to validate the record counts on the CMS deceased Medicare beneficiary file with the RRB’s Office of Programs prior to performing each annual review.

RRB Response We defer, contingent on our findings in relation to the first recommendation. Also, since it appears that this whole process will be replaced by the new process CMS is instituting, this may not be necessary.

Continued on next page

Draft Report – Railroad Medicare Services Billed with Dates of Service after the Beneficiaries’ Dates of Death, Continued

Recommendation 4 We recommend that Palmetto and RRB officials request additional funding from CMS to support resolution of the data integrity issues and the necessary corrective actions.

RRB Response We defer. It is not clear that any additional funding will be needed unless additional cases are identified prior to the implementation of the new process.

Recommendation 5 We recommend that Palmetto and RRB officials work with CMS to determine the optimal computer file parameters to be used for the annual deceased beneficiary post-payment review procedure that will ensure the comprehensive identification of Railroad Medicare Part B claims paid with dates of service after the beneficiary’s date of death.

RRB Response RRB will contact CMS regarding this finding and determine an appropriate course of action within 6 months of the date of this audit.

Recommendation 6 We recommend that RRB officials work with CMS to upgrade the RRB’s Medicare systems to ensure compatibility with the new CMS real-time system.

RRB Response At this point, CMS has not identified any system requirements or changes that RRB would need to make to implement their new process. Until we know what they need from us, we are not in a position to commit to an audit recommendation to change the RRB Medicare system. We believe that this audit recommendation is premature and unnecessary. We suggest that it be withdrawn.

Continued on next page

Draft Report – Railroad Medicare Services Billed with Dates of Service after the Beneficiaries’ Dates of Death, Continued

Recommendation 7, 8 Directed to Palmetto.

Recommendation 9 We recommend that Palmetto and RRB officials work with CMS to clarify the reporting requirements for the deceased beneficiary post-payment review and establish a procedure that will ensure effective monitoring and reporting of the results of Palmetto’s overpayment identification and recoupment efforts. These reporting requirements should be reinforced within the forthcoming Specialty Medicare Administrative Contractor agreement.

RRB Response Palmetto has revised their procedures and issued new instruction to fully conform to CMS reporting requirements as outlined in the CMS manual. These changes became effective on June 10, 2010.

The solicitation, currently being prepared by the RRB, requires that the RRB Specialty MAC contractor conduct medical review of claims submitted by providers, or services in accordance with IOM Pub. 100-08. The Specialty MAC contractor will also be required to identify, prevent, or correct potential fraud, waste and/or abuse which shall include, but not be limited to, the matching and analysis of Medicare data. Once the Specialty MAC contract is awarded, we will work with the contractor to ensure that the provisions of IOM Pub.100-08 are implemented.

cc: Director of Administration
 Director of Policy and Systems
 Chief of Payment Analysis and Systems
 Director of Operations
 Chief of Unemployment and Programs Support
 Medicare Contract Operations Specialist
 Supervisory Contracting Specialist




UNITED STATES GOVERNMENT
MEMORANDUM

FORM G-115f (1-92)
RAILROAD RETIREMENT BOARD

September 29, 2010

TO : Diana Kruef
Assistant Inspector General for Audit

FROM : Henry M. Valiulis

Director of Administration/Senior Executive Officer

SUBJECT: Draft Report – Railroad Medicare Services Billed with Dates of Service after the Beneficiaries' Dates of Death

As requested, I am confirming that the memorandum provided by the Director of Programs dated September 28, 2010 regarding the subject draft report reflects a coordinated effort by the Office of Programs and the Office of Administration. The Office of Administration's primary responsibility is with the second paragraph in response to recommendation 9.

cc: Director of Programs



Palmetto GBASM
PARTNERS IN EXCELLENCE™

Bruce W. Hughes
President and Chief Operating Officer

September 13, 2010

Diana Krueel
Assistant Inspector General for Audit
United States Railroad Retirement Board
Office of Inspector General
844 N Rush Street
Chicago, IL 60611-2092

RE: Draft Report – Railroad Medicare Services Billed with Dates of Service after the Beneficiaries’ Date of Death

Dear Ms. Krueel:

The stated objective of this audit was to “determine if Palmetto’s post-payment review process effectively identified Railroad Medicare provider claims with service dates occurring after the beneficiary’s death”; however, the results of the audit as outlined in the report are not limited to the stated objective and scope of the audit, nor within the CMS contractor requirements as outlined in Section 4.27 of the CMS Program Integrity Manual (PIM). While we agree that there are controls that require strengthening to ensure IOM requirements are met, we do not agree with the overall report.

The report states that “the post-payment review is the only control that Palmetto has for detecting Railroad Medicare Part B overpayments to providers for unallowable claims on behalf of deceased beneficiaries”; it is important to note that the post-payment review is the CMS requirement contained in Section 4.27 of the PIM. The resolution of the discrepancies between the CMS and RRB date of death files are outside the scope of our requirements and the Extrapolated Projection is not reflective of the data available to Palmetto. The data reports used by Palmetto, in accordance with the PIM, reflect that for CY 2005 and CY 2006 there were no claims paid after the beneficiaries’ date of death. For CY 2007, 2008 and 2009, the overpayment amounts were \$376.85, \$186.23 and \$461.70 respectively, totaling \$1,024.78. The total amount recouped so far is \$698.23.

Outlined below is Palmetto GBA’s response to the recommendations contained in the draft report.

Recommendation 1: We recommend that Palmetto and RRB officials work with CMS to resolve the data integrity weaknesses within the CMS deceased Medicare beneficiary file or develop an alternative source data file utilizing the most accurate deceased Railroad Medicare beneficiary records available.

Palmetto GBA Response: It is outside the scope of our contract to resolve data integrity weaknesses within the CMS deceased Medicare beneficiary file or to develop an alternative data source. We will follow the instructions as

outlined by CMS in the PIM for the post-payment review until otherwise directed by RRB officials or a change is made to PIM requirements.

Recommendation 2: We recommend that Palmetto and RRB officials expedite re-performance of the annual post-payment review for the prior three calendar years utilizing the corrected or best available deceased Railroad Medicare beneficiary data, beginning with the earliest of the three years.

Palmetto GBA Response: We will continue to follow the requirements in the PIM until otherwise directed by RRB officials. We will comply with the recommendation to expedite a re-performance of the annual post payment review utilizing a different data source when directed to do so by RRB officials.

Recommendation 3: We recommend that Palmetto and RRB officials establish procedures to validate the record counts on the CMS deceased Medicare beneficiary file with the RRB's Office of Programs prior to performing each annual review.

Palmetto GBA Response: We will continue to follow the requirements in the PIM until otherwise directed by RRB officials. If directed by RRB officials to perform a validation between the CMS data source and a source supplied by the RRB, we will work with the contracting officer to ensure compliance with any new requirements outside of our statement of work.

Recommendation 4: We recommend that Palmetto and RRB officials request additional funding from CMS to support resolution of the data integrity issues and the necessary corrective actions.

Palmetto GBA Response: We defer to the RRB officials on their position on this recommendation and will follow their instruction accordingly.

Recommendation 5: We recommend that Palmetto and RRB officials work with CMS to determine the optimal computer file parameters to be used for the annual deceased beneficiary post-payment review procedure that will ensure the comprehensive identification of Railroad Medicare Part B claims paid with dates of service after the beneficiary's date of death.

Palmetto GBA Response: We defer to RRB officials to determine the optimal computer file parameters. Once a determination has been made, Palmetto will implement appropriate changes to the annual deceased beneficiary post-payment review procedure as directed by RRB officials.

Recommendation 6: We recommend that RRB officials work with CMS to upgrade the RRB's Medicare systems to ensure compatibility with the new CMS real-time system.

No response. Directed to RRB officials.

Recommendation 7: Improve the controls over the annual deceased beneficiary post-payment review process to ensure the review is adequately coordinated, timely completed, sufficiently documented, and readily maintained.

Palmetto GBA Response: In accordance with IOM Publication 100-08, Section 4.27, the Benefits Integrity Unit (BIU) Investigator will coordinate with our Technical Support staff to initiate a request for the annual deceased beneficiary file in February of each year. Palmetto's internal work instructions have been revised to document procedures for coordination of this activity and the requirement added to our internal metrics report. The CMS report will be compared to the previous year's report and the Palmetto report for any billing discrepancies or fraudulent activities by the Investigator.

Any discrepancies or current year findings will be reported to the Accounting Supervisor to recover payments. BIU will further investigate any fraudulent activity findings.

The Accounting Supervisor will review the potential overpayments requested from BIU. Overpayments identified in the Accounting review will be recovered and reported to BIU within 7 business days. Any patterns of fraud will be immediately referred to the Investigator. All overpayments and referrals will be documented and forwarded to the Investigator and Management.

In addition, Palmetto will be implementing CMS Change Request (CR) 7123 effective 4/1/2011. The subject of CR 7123 is *Common Working File (CWF) Informational Unsolicited Response (IUR) for Claims that Have Line Item Dates of Service after the Date of Death of a Beneficiary*. The activity related to claims with dates of service after the date of death of a beneficiary will be automated. CR 7123 requires Medicare contractors to recoup on all claims after the Beneficiary's Date of Death according the IUR using automated processes currently in use for IURs.

Recommendation 8: Work with the EDC to establish a procedure for validating future Railroad Medicare system specifications.

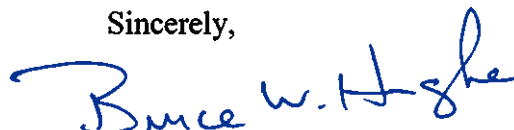
Palmetto GBA Response: It is outside of Palmetto's scope to establish or validate procedures for the EDC. CMS provides oversight of the EDC contractor. The EDC contractor is responsible for validating that their specifications produce accurate reports to contractors. The EDC has confirmed they had a documentation defect that led to the incorrect data files being produced. The documentation regarding this was previously provided to the RRB OIG. The EDC updated their specifications with the April 2010 documentation release.

Recommendation 9: We recommend that Palmetto and RRB officials work with CMS to clarify the reporting requirements for the deceased beneficiary post-payment review and establish a procedure that will ensure effective monitoring and reporting of the results of Palmetto's overpayment identification and recoupment efforts. These reporting requirements should be reinforced within the forthcoming Specialty Medicare Administrative Contractor agreement.

Palmetto GBA Response: Work instructions for the deceased beneficiary post-payment review process have been revised and were implemented June 10, 2010.

If you have any questions regarding our response to the recommendations, please do not hesitate to contact me.

Sincerely,



cc: Henry M. Valiulis, Director of Administration, RRB
 Dorothy Isherwood, Director of Programs, RRB
 Catherine A. Leyser, Assessment and Training, RRB
 Joseph Giansante, COTR, RRB
 Robin Spires, Vice President, Operations, Palmetto GBA
 Gina Jenkins, Senior Director, Palmetto GBA