



U.S. RAILROAD RETIREMENT BOARD

OFFICE OF INSPECTOR GENERAL

The Railroad Retirement Board was Not Compliant with the Payment Integrity Information Act for Fiscal Year 2020

Report No. 21-05

May 17, 2021



***The Railroad Retirement Board was Not Compliant with the
Payment Integrity Information Act for Fiscal Year 2020***

What We Found

The Railroad Retirement Board (RRB) was not compliant with the Payment Integrity Information Act of 2019 (PIIA) because it did not satisfy five of six payment integrity reporting requirements. This occurred because the RRB did not publish payment integrity information or improper payment data for Railroad Medicare.

We further determined that (1) the agency's payment integrity data call reporting was incomplete, and therefore inaccurate; (2) some of RRB's additional reporting requirements pertaining to improper payment barriers and accountability, information systems and other infrastructure were missing; and (3) Railroad Medicare improper payment data was not transparent in the Department of Health and Human Services' fiscal year 2020 Agency Financial Report.

What We Recommend

To address the exceptions outlined in this audit report, we made eight recommendations related to PIIA compliance, and annual data call and supplemental data call completeness.

RRB management did not concur with any of our eight recommendations. RRB's position was that the Centers for Medicare and Medicaid Services was responsible for the Medicare program as a whole, the RRB's Medicare responsibilities were limited overall, and if RRB published Railroad Medicare payment integrity information it would have resulted in duplicative reporting. We disagreed with this position and continue to see the need for our recommendations, as explained throughout this report.

What We Did

Section 3353 (a)(1)(A) of PIIA requires each agency's Inspector General to assess annual compliance. Our audit procedures included identification of criteria; and assessment of the accuracy and completeness of agency reporting, accompanying material, and related postings.

The mandated objectives of this audit were to

- determine whether the RRB is in compliance with the law;
- evaluate the accuracy of RRB risk assessments and improper payment estimates methodology;
- evaluate whether the RRB had correctly identified the causes of improper payments and whether the actions of the RRB to address those causes are adequate and effective;
- evaluate the adequacy of RRB action plans on how to address the causes of improper payments; and
- evaluate RRB efforts to prevent, reduce and recover improper payments.

The scope of the audit was improper payment data reported in the RRB's fiscal year 2020 Performance and Accountability Report.

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INTRODUCTION

This report presents the results of the Office of Inspector General's (OIG) audit titled, The Railroad Retirement Board was Not Compliant with the Payment Integrity Information Act for Fiscal Year 2020. The Payment Integrity Information Act of 2019 (PIIA) repealed the Improper Payments Elimination and Recovery Act (IPERA) and other laws, but set forth similar improper payment reporting requirements, including an annual compliance report by Inspectors General.¹

Objectives, Scope, and Methodology

The mandated objectives of this audit were to

- determine whether the RRB was in compliance with the law;
- evaluate the accuracy of RRB risk assessments and improper payment estimates methodology;
- evaluate whether the RRB had correctly identified the causes of improper payments and whether the actions of the RRB to address those causes are adequate and effective;
- evaluate the adequacy of RRB action plans on how to address the causes of improper payments; and
- evaluate RRB efforts to prevent, reduce, and recover improper payments.

The scope of this audit was the information published in the RRB's Payment Integrity section of its fiscal year 2020 Performance and Accountability Report (PAR). Payment integrity information and improper payment data reported in the PAR consisted of fiscal years 2018 and 2019 overpayments recaptured, outside of payment recapture audits for the RRB's Railroad Retirement Act (RRA) and Railroad Unemployment Insurance Act (RUIA) programs. The RRB did not report improper payment data on its Railroad Medicare program.

To accomplish the audit objectives, we

- assessed whether the RRB was in overall compliance with PIIA;
- assessed the accuracy and completeness of agency reporting;
- evaluated the accuracy of the agency's risk assessments and their improper payment estimates methodology;
- identified criteria from the law as well as Office of Management and Budget (OMB) government-wide guidance;

¹ Pub. L. No. 116-117, 134 Stat. 113 (2020), Pub. L. No. 114-186, 130 Stat. 547 (2016), Pub. L. No. 112-248, 126 Stat. 2390 (2013), Pub. L. No. 111-204, 124 Stat. 2224 (2010), Pub. L. No. 107-300, 116 Stat. 2350 (2002).

- identified and reviewed internal guidance, policies, and procedures for payment integrity reporting in the RRB PAR;
- reviewed the RRB's payment integrity section as provided in the fiscal year 2020 PAR, accompanying material, the OMB annual data call and supplemental data call;
- requested and review applicable source data and documentation from the agency to verify the support for the information in the PAR and data calls;
- evaluated whether the RRB correctly identified the causes of improper payments and whether their actions addressed those causes adequately and effectively;
- evaluated the adequacy of RRB's action plans in addressing the causes of its improper payments;
- evaluated the agency's efforts in preventing, reducing, and recovering improper payments;
- interviewed appropriate RRB officials and agency staff;
- determined if Railroad Medicare's improper payment estimate had been reported in the appropriate Department of Health and Human Services (HHS) and/or Centers for Medicare and Medicaid Services (CMS) Agency Financial Report (AFR);
- reviewed appropriate CMS documentation; and
- reviewed agency documentation.

We assessed the data reliability of the RRB's risk assessment and payment recapture data, appropriate to the risk of using the data by (1) tracing payment integrity totals reported in the PAR to source documents, (2) reviewing the underlying spreadsheet formulas supporting the source data calculations, and (3) considering the overall risk of the RRB's systems that provided the source data. We determined that the data were sufficiently reliable for the purposes of responding to our objectives. In addition, we determined that reliability of data would not materially affect our findings, conclusions, or recommendations.

Our review of internal controls was limited to those necessary to address the objectives and scope of the audit. For example, we used the Council of the Inspectors General on Integrity and Efficiency's *Guidance for Improper Payments Elimination and Recovery Act Compliance Reviews*, Part III, Section B of Appendix C to OMB Circular No. A-123, *Requirements for Payment Integrity Improvement* (OMB M-18-20), OMB Circular No. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control* (OMB M-16-17) to conduct our evaluation of the RRB's internal control over payment integrity and OMB Circular No. A-136, *Financial Reporting Requirements*.²

² Council of the Inspectors General on Integrity and Efficiency, *Guidance for Payment Integrity Information Act Compliance Reviews* (Washington, D.C.: November 30, 2020); Office of Management and Budget (OMB) Appendix C to Circular No. A-123, *Requirements for Payment Integrity Improvement*, M-18-20 (Washington, D.C.: June 26, 2018); OMB Circular No. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, M-16-17 (Washington, D.C.: July 15, 2016); and OMB Circular No. A-136, *Financial Reporting Requirements* (Washington, D.C.: August 27, 2020).

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 fieldwork at RRB headquarters in Chicago, Illinois from December 2020 through April 2021.

Background

The RRB, an independent agency in the executive branch of the Federal Government, administers retirement-survivor and unemployment-sickness insurance benefit programs for railroad workers and their families under the RRA and RUIA. The RRB paid \$13.2 billion in retirement and survivor benefits and \$198.9 million in unemployment and sickness insurance benefits during fiscal year 2020. The RRB also administers aspects of the Medicare program (Railroad Medicare) under the Social Security Act.³ The RRB, through its contractor, paid \$855.8 million in Railroad Medicare Part B claims on behalf of its beneficiaries from October 1, 2019 through September 30, 2020.

Improper payment legislation enacted to reduce improper payments, directed OMB to issue governmentwide guidance regarding reporting requirements. PIIA defines an improper payment as any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. An improper payment includes any payment to an ineligible recipient, any payment for an ineligible good or service, any duplicate payment, and any payment for a good or service not received (except for such payments authorized by law).⁴

The IPERA amended the Improper Payments Information Act of 2002, and based on guidance provided by OMB, required agencies to identify and review all programs and activities they administer that may be susceptible to significant improper payments. In addition, section 3 of IPERA required Inspectors General to review each agency's improper payment reporting and issue an annual report. On March 2, 2020, the PIIA repealed IPERA and other laws, but set forth similar improper payment reporting requirements, including an annual compliance report by Inspectors General. Because final OMB guidance related to PIIA was not expected to be issued until February 2021, as directed by OMB and Counsel of the Inspectors General on Integrity and Efficiency, we initiated our FY 2020 annual compliance review using a combination of the requirements in OMB M-18-20, OMB Circular A-136, OMB Annual Data Call Instructions, OMB Payment Integrity Question and Answer Platform, and the Counsel of the Inspectors General on Integrity and Efficiency guidance required under PIIA.

³ 42 U.S.C. § 1842(g). The portion of Medicare the Railroad Retirement Board (RRB) is responsible for is commonly known as Railroad Medicare. The term can be found on Google and throughout Palmetto GBA's website.

⁴ Pub. L. No. 116-117 (2020), 134 Stat. 114, Pub. L. No. 111-204 (2010), 124 Stat. 2224, Pub. L. No. 112-248 (2013), 126 Stat. 2390, and Pub. L. No. 107-300 (2002), 116 Stat. 2350.

The primary criteria derived from federal improper payment laws were

- OMB Circular No. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control* (OMB M-16-17);
- Appendix C to OMB Circular No. A-123, *Requirements for Payment Integrity Improvement* (OMB M-18-20); and
- OMB Circular No. A-136, *Financial Reporting Requirements*.

OMB M-18-20 defined significant improper payments "...as gross annual improper payments (i.e., the total amount of overpayments and underpayments) in the program exceeding (1) both 1.5 percent of program outlays and \$10,000,000 of all program or activity payments made during the fiscal year reported or (2) \$100,000,000 (regardless of the improper payment percentage of total program outlays)."⁵ The guidance also required agencies to approach improper payments with an Enterprise Risk Management (ERM) framework in mind and link agency efforts in establishing internal controls and preventing improper payments. According to OMB M-18-20,

... [ERM] framework can be used to assist in the management of payment integrity risk. Management is required to manage their payment integrity risk to an agency achieving its strategic, operations, reporting, or compliance objectives. While the extent of this may differ among agencies, ensuring the integrity of federal payments is fundamental to the core mission for agencies.

Part of an ERM model is the extended enterprise. According to OMB M-16-17 and OMB M-18-20, the extended enterprise consists of interdependent relationships, parent-child relationships, and relationships external to an agency. Thus, no agency is self-contained. In the context of ERM and the management of payment integrity risk, the extended enterprise includes state, local governments, other departments and agencies, or third party service providers. Although agency's have less control, they still maintain responsibility for managing risk to payment integrity that comes from the extended enterprise. Despite having little or no control, agencies retain the responsibility for the management of payment integrity risk that comes from the greater risk environment.

Within the RRB, the Office of Programs compiles and reports improper payment data for the annual PAR. OMB guidance requires each agency's Inspector General (IG) to assess [PIIA] compliance and submit its final report by May 15th of the following year after the issuance of the agency's PAR.⁶ Agencies that are noncompliant with PIIA are subject to additional reporting requirements. Noncompliance for one year requires that the agency submit a plan describing the actions to be taken to become compliant. Noncompliance for two consecutive fiscal years for the same program requires a review from OMB to determine if additional funding would help the agency become compliant.⁷

⁵ Also known as "programs and activities identified under section 3(A)(i) of the Payment Integrity Information Act of 2019" per 31 U.S.C. § 3352.

⁶ OMB M-18-20.

⁷ Pub. L. No. 116-117, 134 Stat. 125; Section 3353 (B)(2)(A).

Railroad Medicare, Payment Integrity Reporting, and Improper Payment Data

At the end of fiscal year 2020, approximately 453,000 qualified railroad beneficiaries were enrolled in the RRB's administered portion of Medicare Part B. During fiscal year 2020, the RRB contracted with a Specialty Medicare Administrative Contractor (SMAC), Palmetto, GBA (Palmetto) and administered certain provisions of the Medicare program.⁸ These provisions included eligibility determination, enrollment or removal from enrollment, premium collection, processing state buy-ins, processing arrearages and refunds, paying Canadian Part A claims, liaison work with Palmetto, quality assurance and oversight of Palmetto, records maintenance, and answering inquiries. According to the RRB, these costs were offset by approximately \$14.2 million in Railroad Medicare administrative expense reimbursements and \$19.9 million in transfers from CMS to fund the SMAC.⁹

As such, CMS has paid the RRB for these administrative services through an existing and ongoing cost reimbursement agreement. For fiscal year 2020, the total expense of \$34.1 million covered both direct and indirect costs for the RRB and the RRB OIG and the cost of its Palmetto contract to support the separate Railroad Medicare program.

With respect to the Railroad Medicare program, payment integrity reporting, and improper payment data, the RRB maintained an extended enterprise relationship with CMS and the RRB's SMAC, Palmetto. At the time of this audit, the governing documents between RRB, CMS, and Palmetto were the

- Interagency Agreement between HHS (CMS) and RRB, dated April 19, 1991, signed by the Health Care Finance Administration's (now CMS) Director of Office of Budget and Administration on April 16, 1991 and by RRB's Chief Executive Officer on March 22, 1991;
- Addendum to the Interagency Agreement between HHS (CMS) and RRB, dated July 26, 2004, signed by CMS' Director of Office of Financial Management on July 23, 2004 and by RRB's Senior Executive Officer on July 30, 2004;
- Memorandum of Understanding (MOU) between CMS and RRB (MOU13-61), signed by CMS' Deputy Center Director of the Center for Medicare on April 11, 2013 and by RRB's Director of Administration and Senior Procurement Executive on April 12, 2013; and
- RRB's Palmetto contract – RRB12C011 and corresponding statement of work. The SMAC contract was signed by Palmetto's President on November 26, 2012 and by RRB's Chief of Acquisition Management and Contracting Officer on November 27, 2012.

⁸ As part of its administrative responsibilities, the RRB selected a Specialty Medicare Administrative Contractor to process Railroad Medicare claims nationwide and administered the contract with the carrier, Palmetto GBA. The contracting officer, contracting officer representative, and the contracting team are all RRB government employees.

⁹ The Centers for Medicare & Medicaid Services, a branch of the U.S. Department of Health and Human Services, is the federal agency that administers the national Medicare program.

The governing documents have not changed since we published the results of our prior mandated improper payment audit.

As part of an extended enterprise, CMS provided the RRB with Railroad Medicare payment integrity information and data for the third year in a row, in time for fiscal year 2020 PAR reporting. The Railroad Medicare improper payment rate and estimates were determined through CMS' Comprehensive Error Rate Testing (CERT) program. As such, the RRB should have reported Railroad Medicare payment integrity information, including its fiscal year 2019 9.3 percent improper payment rate that exceeded the national Part B improper payment rate of 8.6 percent, to the President and Congress in its PAR which it did not. We discuss this in the section titled *Requirements #3 through #6 – RRB did not Publish an IP Estimate, a Corrective Action Plan, or a Reduction Target, or Report an IP Rate of Less than 10 Percent for Railroad Medicare*.

RESULTS OF AUDIT

We have determined the RRB was not compliant with PIIA because it did not satisfy five of six payment integrity reporting requirements as shown in Table 1.¹⁰ If an agency does not meet one or more of the six requirements, then it is not compliant under PIIA. The RRB's position was that CMS is responsible for the Medicare program as a whole, the RRB's Medicare responsibilities were limited overall, and if RRB published Railroad Medicare payment integrity information, it would have resulted in duplicative reporting.

Table 1. Assessment of RRB's Compliance with PIIA

Program Name	#1 - Published a PAR	#2 - Conducted a Risk Assessment	#3 - Published an Improper Payment Estimate	#4 - Published Corrective Action Plans	#5 - Published and is Meeting Reduction Targets	#6 - Reported an Improper Payment Rate of Less than 10 Percent
RRA	Compliant	Compliant	Not applicable	Not applicable	Not applicable	Not applicable
RUIA	Compliant	Compliant	Not applicable	Not applicable	Not applicable	Not applicable
Railroad Medicare	Noncompliant	Not applicable	Noncompliant	Noncompliant	Noncompliant	Noncompliant
Vendor Payments	Compliant	Compliant	Not applicable	Not applicable	Not applicable	Not applicable
Employee Payments	Compliant	Compliant	Not applicable	Not applicable	Not applicable	Not applicable

Source: RRB OIG analysis of fiscal year 2020 Performance and Accountability Report (PAR).

We determined the agency's payment integrity reporting was incomplete and therefore inaccurate. The agency could correct these deficiencies by implementing recommendations made in our prior RRB OIG improper payment audit. At the time of this audit, the prior year audit recommendations remained open.¹¹

Risk assessments were required for the RRA, RUIA, Vendor Payments, and Employee Payments three year cycle and were reviewed during this audit. As part of this audit, we determined some of RRB's additional reporting requirements pertaining to improper payment barriers, improper payment accountability, and information systems and other infrastructure were missing. In a prior RRB OIG audit, we made recommendations to correct these issues. At the time of this audit, the prior year audit recommendations remained open.¹²

¹⁰ Pub. L. 116-117, 134 Stat. 113 (2020).

¹¹ RRB Office of Inspector General (OIG), *Audit of Railroad Retirement Board's Compliance with Improper Payments Elimination and Recovery Act in Fiscal Year 2019 Performance and Accountability Report*, Report No. 20-06 (Chicago, IL: May 12, 2020), Recommendations 1, 2, 3, 4, and 5.

¹² RRB OIG, Report No. 20-06, Recommendations 15 and 16.

Beginning with fiscal year 2020, PIIA requires that we annually assess and report on six areas of compliance with criteria listed in the law. We considered OMB and Council of Inspectors General on Integrity and Efficiency guidance for our evaluations of the additional reporting required in statute. We have provided the details of these compliance assessments, audit findings, observations, and recommendations for corrective action in this report.

We made eight recommendations to address the exceptions identified during our audit. The full text of management's response to these recommendations is included in Appendix I.

Payment Integrity Reporting Required in Statute

The RRB was not compliant with PIIA because it did not satisfy five of six payment integrity reporting requirements as shown in Table 1.¹³ If an agency does not meet one or more of the six requirements, then it is not compliant under PIIA. The RRB's position was that CMS is responsible for the Medicare program as a whole, the RRB's Medicare responsibilities were limited overall, and if RRB published Railroad Medicare payment integrity information it would have resulted in duplicative reporting. We discuss our findings in the following sections.

Requirement #1 – RRB Did Not Publish a Complete Performance and Accountability Report

Although the RRB published a PAR with payment integrity information, it was not complete because it did not include improper payment information for the Railroad Medicare program nor did it explain why the information was not included, as it did in the prior year's PAR.

Under the PIIA, an executive agency shall publish improper payments information with the annual financial statement of the executive agency for the most recent fiscal year. The agency shall post this statement and any accompanying materials required under OMB's guidance on their website.¹⁴

The RRB didn't include Railroad Medicare improper payment data in their PAR or data call because they believe that since HHS is already reporting Railroad Medicare improper payment information the reporting by the RRB would be duplicate reporting. The RRB stated in its fiscal year 2019 PAR

The CERT program is administered by CMS and includes testing for all Medicare Administrative Contractors, including the RRB SMAC. Fiscal year 2018 was the first year that the SMAC was included in the testing program. As a result, the RRB reported the findings in the 2018 [PAR]. It was subsequently learned that these same testing results were captured by the Department of Health and Human Services in their 2018 Agency Financial Report, resulting in duplicative reporting.

¹³ Pub. L. 116-117, 134 Stat. 113 (2020).

¹⁴ 31 U.S.C. §3351(2)(A).

Although the RRB claims that HHS is reporting improper payments for the Railroad Medicare program, HHS reporting does not identify improper payments for the Railroad Medicare program. A reader of the PAR would be confused as the Payment Integrity section states that the RRB has a Railroad Medicare Benefit payment program but then makes no further explanation as to why no additional information is included in the PAR.

Recommendation

We recommend that the Office of Programs

1. publish Railroad Medicare program payment integrity information in accordance with the Payment Integrity Information Act of 2019 and the Office of Management and Budget's data call requirements until it formalizes an agreement with the Centers for Medicare and Medicaid Services to take over reporting for Railroad Medicare.

Management's Comments and Our Response

For recommendation 1, the Office of Programs nonconcurred and stated,

[t]he [RRB] has consistently acknowledged its responsibilities under the Social Security Act to administer certain provisions of the Medicare program for the railroad, including the administration of the [SMAC] contract with [Palmetto]. RRB does not issue Medicare payments to beneficiaries or providers directly. Notwithstanding the Agency's specified Medicare responsibilities for railroad annuitants, the [CMS], a component of the [HHS], administers the Medicare program as a whole.

In connection with this audit, on March 25, 2021 via an email to the RRB [OIG], CMS confirmed that the [Palmetto] had claims sampled and reviewed in the calculation of the fiscal year 2020 Medicare Fee-for-Service (FFS) improper payment rate based upon claims from July 2018 – June 2019, where said improper payment rate was reported in the CMS 2020 Financial Report. Please note that CMS categorizes [Palmetto] as a Medicare Administrative Contractor (MAC) rather than a SMAC. Since CMS is a component of HHS, HHS consolidates CMS' financial results and related Medicare improper payment information into its financial statements presented in its annual [AFR]. In its AFR, HHS reports the estimated proper and improper payments and related information for the Medicare FFS program as a whole, to include the results of all MACs. The Medicare FFS is a component discussed within the 2020 CMS Financial Report as well as presented in the Payment Integrity Report that HHS published in its fiscal year 2020 AFR to accompany its consolidated Principal Financial Statements.

Even so, the OIG continues to assert that the RRB is responsible for reporting improper payments related to the Railroad Medicare program and that HHS reporting does not identify improper payments for the Railroad Medicare program. However, under the [PIIA], an executive agency shall publish improper payments information with the annual financial statements of the executive agency for the most recent fiscal year and post on the website of the agency that statement and any accompanying materials required under the guidance of the Office of Management and Budget. [31 USC 3351(2)(A)] As such, it continues to be RRB's position that improper payments information related to the Medicare Part B medical services benefits payments issued by [Palmetto] should not accompany RRB's financial statements in its annual [PAR].

The RRB is responsible for making benefit payments to eligible Railroad beneficiaries under the [RRA], the [RUIA], as well as extended, enhanced, or other unemployment benefits payments authorized under

supplemental appropriations, and therefore, its financial statements reflect the financial results for accounts financing these benefit payments and related operations. To ensure proper preparation of the government-wide consolidated financial statements, RRB and CMS record intra-governmental transactions to reflect business activities conducted between our agencies to include reimbursement to the RRB for its specified Medicare administrative responsibilities, funding transferred for obligation on the contract with [Palmetto] as well as results of the annual financial interchange.

While the RRB has certain financial transactions with CMS and specified Medicare administrative responsibilities for railroad annuitants, said transactions and responsibilities do not include financing the Part B medical services benefit payments issued by [Palmetto]. Instead, [Palmetto] in accordance with CMS policy has an established Tripartite agreement with CMS and a CMS appointed bank, whereby funding is provided from the Medicare trust funds for Part B medical services benefit payments. The RRB is not a party to the financial transactions to pay the Medicare Part B medical services benefits financed by CMS and issued by [Palmetto]. RRB does not and should not report or disclose these financial transactions in its financial statements.

It is RRB's position that Medicare improper payment information should continue to accompany the financial statements of CMS and the consolidated financial statements of HHS, rather than those of the RRB, since the CMS' financial statements and HHS consolidated financial statements report the cost of the Medicare program in its entirety. By maintaining this posture, RRB and CMS continue to provide interested parties with the programmatic cost of the Medicare program in its entirety for comparison to the improper payment information covering the Medicare program in its entirety, as we interpret the PIIA to intend.

The comments provided by management did not warrant a modification to our report.

We continue to disagree with the RRB's position that they do not have to report improper payment data for the Railroad Medicare program. Under the RRB's current Specialty Medicare Administrative Contractor (SMAC) contract and MOU, the RRB is responsible for SMAC contract administration, oversight, and payment integrity reporting for the Railroad Medicare program. As previously stated, while the RRB and CMS plan to revise the MOU, this process was postponed due to CMS' administrative changes and its shifting of resources to address coronavirus activities and is expected to resume sometime during the current fiscal year. Because a revised MOU, that clearly states that CMS is responsible for reporting improper payment data for the Railroad Medicare program, is not in effect the RRB remains responsible for reporting Railroad Medicare improper payment data.

In addition, RRB's management response included inaccurate statements that it is not a party to the financial transactions to pay the Medicare Part B medical services benefits financed by CMS and issued by Palmetto, GBA LLC and that it does not and should not report or disclose these financial transactions in its financial statements. Effective as of fiscal year 2019, RRB reports program administration reimbursements on its Statement of Net Cost and SMAC contract payment transfers on the Statement of Changes in Net Position. Prior to fiscal year 2019, the transfers were included with reimbursements and reported on the Statement of Net Cost. A legal opinion concerning the accounting for intragovernmental transfers resulted in this change.

As discussed in our prior report and reiterated later in this report, OMB guidance requires that, “[a]gencies should not put programs or activities into groupings that may mask significant improper payment rates by the large size or scope of a grouping.”¹⁵ Therefore, the RRB should ensure the transparency of its improper payment information for this program as it is responsible for its oversight and administration. Because the RRB did not comply with PIIA, the Railroad Medicare program’s improper payment rate of 9.3 percent and its estimated improper payments of \$81.2 million went unreported for the current reporting year.

In the section of this report titled, *RRB’s Payment Integrity Data Call Reporting was Incomplete and Inaccurate*, we discussed RRB’s failure to properly respond to OMB data call questions including those for Railroad Medicare. Because the RRB’s data call responses were not complete and accurate, RRB did not provide OMB with the information it needs to ensure sufficient payment integrity oversight over the Railroad Medicare program.

In the section of this report titled, *Information on Railroad Medicare Improper Payment Barriers, Accountability, Information Systems, and Other Infrastructure was Missing*, we determined that without annual performance appraisal criteria, Railroad Medicare program officials would not be held accountable for reducing and recapturing improper payments. Further, RRB’s decision not to address supplemental data call questions for the Railroad Medicare program hinders OMB’s efforts to assist RRB in reducing its improper payments.

We further discussed duplication and transparency issues in the section of this report titled *Railroad Medicare Improper Payment Data is Not Transparent in HHS’ Fiscal Year 2020 Agency Financial Report*. We observed that HHS only includes Railroad Medicare program improper payment information as part of their national Part B improper payment rate and does not report it or identify it separately.

RRB believes that its informal agreement with CMS supersedes its payment integrity requirements under PIIA for the Railroad Retirement program.

While PIIA compliance requires the RRB to include the Railroad Medicare program in its payment integrity reporting, RRB’s decision to exclude Railroad Medicare requires revision of its MOU with CMS and formal approval by OMB. Until these necessary actions are completed, RRB will be noncompliant with PIIA’s payment integrity requirements.

¹⁵ OMB M-18-20.

Requirement #2 – RRB Conducted its Required Risk Assessments

The RRB was required to conduct risk assessments for four of RRB's five programs during the fiscal year 2020 PAR reporting cycle. This is the second of six payment integrity reporting requirements. The RRB performed risk assessments for its four benefit and non-benefit paying programs. Therefore, RRB was compliant with the second of its six requirements. Risk assessments were applicable for the four programs as part of its required three year risk assessment cycle. Risk assessments for the four programs had been previously completed during fiscal year 2017. During the interim period from fiscal year 2017 through fiscal year 2021:

- OMB granted the RRB relief from reporting improper payments for the RRA and RUIA programs on July 19, 2018. RRB's fiscal year 2020 RRA risk assessment determined that the program was under PIIA's threshold of significant Improper payments. RRB's fiscal year 2020 RUIA risk assessment concluded that, through fiscal year 2019, there were no reported issues or problems regarding the RUIA program. In response to the enactment, in fiscal year 2020, of The Coronavirus Aid, Relief, and Economic Security Act, which directly affects the payment of unemployment and sickness benefits, the RRB will report the results of its RUIA improper payment analysis in the Payment Integrity section of the fiscal year 2021 PAR.
- RRB reported an improper payment estimate for Railroad Medicare in the fiscal year 2018 PAR. Therefore, continued reporting of its annual improper payment estimates was required and a risk assessment was not required. However, RRB ceased reporting Railroad Medicare improper payment data beginning with the fiscal year 2019 PAR; and
- RRB's risk assessments deemed the non-benefit paying programs, vendor and employee payment programs, not susceptible to significant improper payments in its fiscal year 2017 and 2020 PAR reporting.

If required, federal agencies should conduct a program specific risk assessment for each program or activity that conforms with section 2(B) of the [PIIA].¹⁶ For programs that are deemed to be not susceptible to significant improper payments, agencies are required to perform risk assessments at least once every three years. Programs already reporting an improper payment estimate do not need to perform an additional improper payment risk assessment.

¹⁶ 31 U.S.C. § 3351.

Requirements #3 through #6 – RRB did not Publish an IP Estimate, a Corrective Action Plan, or a Reduction Target, or Report an IP Rate of Less than 10 Percent for Railroad Medicare

The RRB did not publish payment integrity information or improper payment data for Railroad Medicare in its PAR or as accompanying information in its data call submissions. Therefore, the RRB was noncompliant with requirements three through six. To comply with:

- Requirement #3 – Publish an Improper Payment Estimate, federal agencies must publish improper payments estimates for all programs and activities identified under section 2(C) of the PIIA in the accompanying materials to the annual financial statement;
- Requirement #4 – Publish a Corrective Action Plan, federal agencies must publish programmatic corrective action plans prepared under section 2(D) of the PIIA in the accompanying materials to the annual financial statement; and
- Requirement #5 – Publish and Meet Annual Reduction Targets, federal agencies must publish improper payments reduction targets established under section 2(E) of the PIIA for each program assessed to be at risk, and meet such targets; and
- Requirement #6 – Report a Gross Improper Payment Rate of Less than 10 Percent, federal agencies are required to report a gross improper payment rate of less than 10 percent for each program and activity for which an estimate was published under section 2(F) of the PIIA.¹⁷

The current version of OMB Circular A-136 also states that “beginning with FY 2020 AFR/PAR reporting, information previously contained in this section that is not explicitly required below will be reported on <https://paymentaccuracy.gov/> through the annual OMB payment integrity data call.”

PIIA noncompliance with requirements 3 through 6 is directly attributable to RRB’s decision to cease Railroad Medicare reporting as of fiscal year 2019. RRB ceased reporting Railroad Medicare improper payment data because CMS reports a combined overall error rate that includes all Medicare Administrative Contractors and the RRB SMAC. CMS and RRB agreed that RRB would no longer separately report this information in order to avoid reporting duplicative information. RRB management has stated that there was no change in their rationale for not reporting a Railroad Medicare improper payment rate for fiscal year 2020. While assessed as duplicative, we observed that the Railroad Medicare improper payment rate was not transparently disclosed in the HHS’ or CMS’ AFRs.

RRB should be reporting Railroad Medicare improper payment data because OMB did not formally grant the RRB approval to discontinue reporting Railroad Medicare. The OMB indicated that the RRB and CMS should resolve this issue amongst themselves. RRB and CMS have not formalized an agreement for reporting Railroad Medicare as they continue to work on updating an MOU between the agencies. Although the MOU was expected to be finalized by the end of 2020, RRB management explained that actions have been postponed due to CMS’

¹⁷ 31 U.S.C. § 3351.

administrative changes and its shifting of resources to address coronavirus activities. RRB management stated that the meetings are expect to resume in fiscal year 2021. Until the MOU is finalized, RRB's position was that they have a tentative agreement with CMS that Railroad Medicare reporting responsibilities belonged to CMS.

While below PIIA's established 10 percent threshold, RRB's improper payment rate of 9.3 percent determined during its November 2019 Comprehensive Error Rate Testing was not reported in its PAR or data call submissions. Because the rate was not published in its PAR, we determined that they were noncompliant for requirements 3 and 6.

Railroad Medicare improper payment estimates, corrective action plans, annual reduction targets, and improper payment rates are not being reported to OMB as required by PIIA, and it is RRB's responsibility to continue publishing this required improper payment information until the RRB and HHS sign a memorandum of understanding detailing who is responsible for Railroad Medicare reporting. As such, the RRB did not disclose to the public, the President, and Congress the following information about the Railroad Medicare program and the performance of the RRB's SMAC, Palmetto:

- The RRB had \$81.2 million in projected Railroad Medicare improper payments.
- The RRB did not have a Railroad Medicare corrective action plan to reduce the prior year's improper payment rate. The prior year's rate was 12.5 percent but was unpublished by the RRB in its fiscal year 2019 PAR, if published this would have triggered the need for a corrective action plan.
- The RRB did not publish a Railroad Medicare improper payment annual reduction target for this year.
- The RRB had an unpublished and unreported gross improper payment rate of 9.3 percent, below the 10 percent threshold.¹⁸

At the time of this report, the RRB had been noncompliant for three consecutive fiscal years.

Recommendations

Our prior year audit recommendation addressed these weaknesses and remained open.¹⁹ In addition, we recommend that the Office of Programs

2. publish improper payment estimates for the Railroad Medicare Program in the Office of Management and Budget's data calls, until the Office of Management and Budget formally approves the Railroad Retirement Board's discontinuation of reporting or approves an agreement between the Centers for Medicare and Medicaid Services and the Railroad Retirement Board on how Railroad Medicare will be reported;

¹⁸ The information provided is according to a CMS' Comprehensive Error Rate Testing report titled *November 2019 Final Report For Contractor RRB*. The report included reviewed claims data from the sampling period July 2017 through June 2018.

¹⁹ RRB OIG, Report No. 20-06, Recommendation 1.

3. develop and publish corrective action plan information in accordance with OMB directives;
4. publish reduction targets for the Railroad Medicare Program in accordance with the annual Office of Management and Budget Data Call requirements;
5. meet the published reduction targets for the Railroad Medicare Program; and
6. report an improper payment rate of less than 10 percent for the Railroad Medicare program in accordance with applicable laws and regulations.

Management's Comments and Our Response

The Office of Programs did not concur with recommendations two through six. Their response was the same as their response to recommendation one. Our evaluation of their comments is also the same. Please refer to our comments for that recommendation.

RRB's Payment Integrity Data Call Reporting was Incomplete and Inaccurate

The RRB's payment integrity reporting in its annual data calls and supplemental data calls was incomplete and therefore inaccurate. The RRB did not comply with OMB's Annual Data Call requirements because it did not complete tables 1, 2, and 4 for the Railroad Medicare Program:

- Table 1 includes prior and current year information detailing program outlays, improper payment amounts and rates, over and under payments and rates, monetary and non-monetary losses, loss control, out year projections, and sampling information.
- Table 2 reports improper payments by amount and root cause category.
- Table 4 reports information on overpayments recaptured outside of payment recapture audits, overpayments recaptured through payment recapture audits, disposition of funds recaptured through payment recapture audit programs, and aging of outstanding overpayments identified in payment recapture audit programs.

In addition, the RRB did not fully complete and publish OMB's fiscal year 2020 supplemental data call requirements as required. RRB either did not answer or insufficiently answered 14 of 16 supplemental data call questions. Of the 16, RRB did not respond to any of the 6 threshold determined questions and 5 of 10 additional required supplemental data call questions applicable to the Railroad Medicare program. RRB also failed to provide any response to 8 of 10 required supplemental data call questions for both the vendor and employee payment programs.

The supplemental data call questions that were not fully completed were designed to capture the following program improper payment information:

- Annual Performance Appraisal Criteria.
- Excluded Programs.
- Improper Payment Rate Reduction.

- Tolerable Rate.
- Internal Controls, Human Capital, Information Systems and Other Infrastructure and Program Needs.
- Corrective Actions Taken.
- Corrective Actions to Be Taken.
- Inspector General Compliance.
- Bringing the Program into Compliance.
- Creating Accountability to Achieve Compliance.
- Do Not Pay Initiative.

OMB's data call instructions required RRB to complete and publish the following tables as accompanying materials:

- Table 1: Improper Payment Reduction Outlook is required for each agency that has programs or activities reporting improper payments.
- Table 2: Improper Payment Root Cause Categories is required for each agency that has programs and activities reporting under OMB Circular A-123 Appendix C Part I.D regardless of whether the program or activity has improper payments exceeding the statutory thresholds.
- Table 4: Payment Recapture Reporting must include each program or activity that expends \$1 million or more annually and either conducts a payment recapture audit, and/or recaptures payments outside of a payment recapture audit.

OMB's supplemental data call instructions required RRB to publish responses to the OMB's supplemental data call questions as accompanying materials.

OMB developed 16 supplemental data call questions for fiscal year 2020. Questions 1, 7, 8, 9, 10, and 11 must be answered for each program or activity as determined under OMB Circular A-123, Appendix C, Part I.D with improper payments exceeding the statutory thresholds listed in OMB Circular A-123, Appendix C, Part I.B. Questions 2, 3, 4, 5, and 6 should be answered at an agency level by all agencies regardless of programmatic reporting. Questions 12, 13, 14, 15, and 16 should be answered by all programs or activities.

The RRB, through its contractor, paid \$873.4 million in Railroad Medicare Part B claims on behalf of its beneficiaries during fiscal year 2019, but did not complete table 1, 2 or 4 for the Railroad Medicare program because it believes Railroad Medicare improper payment information is being reported by HHS and CMS.

According to the RRB, it ceased reporting Railroad Medicare improper payment data because CMS reports a combined overall error rate that includes all Medicare Administrative Contractors and the RRB SMAC. As such, CMS and RRB agreed that RRB would no longer separately report this information to avoid reporting duplicative information.

However, the RRB should be reporting Railroad Medicare improper payment data because OMB did not formally grant the RRB approval to discontinue reporting Railroad Medicare. OMB indicated that the RRB and CMS should resolve this issue amongst themselves. RRB and CMS have not formalized an agreement for reporting Railroad Medicare as they continue to work on updating an MOU between the agencies.

The RRB did not provide sufficient responses for Railroad Medicare because they discontinued improper payment reporting for the program, as discussed above.

The RRB only provided responses to two questions for the vendor and employee payment programs and did not respond to the remaining eight applicable questions.

Due to RRB's insufficient responses, OMB will not receive the information needed to properly evaluate, monitor and provide oversight over the Railroad Medicare program. RRB's failure to properly respond to OMB data call questions does not allow the OMB to provide sufficient oversight over the RRB's improper payments and evaluate RRB's efforts in preventing, reducing, correcting and recovering improper payments. Also, the lack of required information could prevent OMB from aligning the necessary resources required to more effectively manage improper payments.

Recommendation

We recommend that the Office of Programs

7. fully complete and publish all required payment integrity information as requested by the Office of Management and Budget's annual and supplemental data calls, until it formalizes an agreement with the Centers for Medicare and Medicaid Services to take over reporting for Railroad Medicare.

Management's Comments and Our Response

The Office of Programs did not concur with recommendation seven. Their response was the same as their response to recommendation one. Our evaluation of their comments is also the same. Please refer to our comments for that recommendation.

Additional Reporting Required in Statute

As part of this audit, we evaluated the agency's additional reporting as required in the OMB data calls and OMB M-18-20. We determined that some of the RRB's additional required reporting was missing. We discussed our findings in reference to improper payment barriers, improper payment accountability, information systems and other infrastructure in the sections below.

Information on Railroad Medicare Improper Payment Barriers, Accountability, Information Systems, and Other Infrastructure was Missing

RRB did not describe specific performance appraisal criteria for its employees to reduce improper payments for the Railroad Medicare Program in its fiscal year 2020 PAR or its OMB supplemental data call submission. RRB also did not describe whether the RRB has the internal controls, human capital, information systems, and other infrastructure it needs to reduce improper payments to the levels the agency has targeted, or if it has the additional program resources needed to reduce improper payments to the levels the RRB has targeted, for the Railroad Medicare program. We previously reported this issue in our 2018 and 2019 improper payment compliance audit and our recommendations from the 2018 audit remain open.²⁰

Per OMB 2020 supplemental data call Question 1: Annual Performance Appraisal Criteria, each program or activity with improper payments exceeding the statutory thresholds must describe the steps the program has taken and plans to take, including the timeline, to ensure that agency managers including the agency head, accountable officers, program official/owner, and States and localities where appropriate are held accountable for reducing and recapturing improper payments through annual performance appraisal criteria for each of the following:

- Meeting applicable improper payments reduction targets;
- Preventing improper payments from being made; and
- Promptly detecting and recovering improper payments that are made.²¹

Per OMB 2020 supplemental data call Question 9: Internal Controls, Human Capital, Information Systems and other Infrastructure and Program Needs, RRB must answer whether the program has the internal controls, human capital, information systems, and other infrastructure it needs to reduce improper payments to the levels the agency has targeted, and indicate additional program needs to reduce improper payments to the levels the program has targeted.²²

The RRB did not report this information due to their belief concerning duplicate improper payment reporting of the Railroad Medicare program in HHS' AFR. RRB management believes that HHS should be and has been reporting Railroad Medicare information rather than the RRB. As a result, information on Railroad Medicare accountability, information systems, and other infrastructure has not been reported. The estimated Railroad Medicare improper payments of \$81.2 million reported as of November 2019 exceeded the OMB's threshold of 1.5 percent of the program's outlays and the established OMB threshold amount of \$10 million.

²⁰ RRB OIG, Report No. 19-09, Recommendations 15 and 16.

²¹ 31 U.S.C. §3352(d)(5)(A) and (B)) each program or activity under OMB Circular A-123, Appendix C, Part I.D with improper payments exceeding the statutory thresholds listed in OMB Circular A-123, Appendix C, Part I.B.

²² 31 U.S.C. §3352(d)(2)(A) through (C)3352(d)(3)) under OMB Circular A-123, Appendix C, Part I.D with improper payments exceeding the statutory thresholds listed in OMB Circular A-123, Appendix C, Part I.B.

Without implemented annual performance appraisal criteria, Railroad Medicare program officials will not be held accountable for reducing and recapturing improper payments. In addition, not reporting the internal controls, human capital, information system and infrastructure, and other needed resources will make it more difficult for OMB to provide RRB with the tools and resources needed to reduce Railroad Medicare improper payments.

Recommendation

We recommend that the Office of Programs

8. describe in its Performance and Accountability Report or Office of Management and Budget supplemental data call submission, the internal controls, human capital, its information systems and infrastructure needs, as well as its other program needs for reducing Railroad Medicare improper payments to the targeted levels, in accordance with OMB's supplemental data call requirements.

Management's Comments and Our Response

The Office of Programs did not concur with recommendation eight. Their response was the same as their response to recommendation one. Our evaluation of their comments is also the same. Please refer to our comments for that recommendation.

Other Observations

While conducting this audit, we made other observations regarding transparency of data. We describe the details of our observation in the next sections.

Railroad Medicare Improper Payment Data is Not Transparent in HHS' Fiscal Year 2020 Agency Financial Report

Railroad Medicare improper payment information was not separately published in HHS' or CMS' AFR or on www.paymentaccuracy.gov. Therefore, published Railroad Medicare information was not transparent. We reviewed HHS' fiscal year 2020 AFR and there was no mention of the RRB's Railroad Medicare program as a separate program when discussing improper payment information. In addition, CMS' fiscal year 2020 AFR made no mention of Railroad Medicare as a separate program in discussing Medicare improper payment information. Finally, there was no mention of Railroad Medicare for HHS or CMS on the fiscal year 2020 dataset on paymentaccuracy.gov.

Railroad Medicare, should be considered as one program for improper payment reporting. Appendix C to OMB Circular No. A 123 requires that, "agencies should not put programs or activities into groupings that may mask significant improper payment rates by the large size or scope of a grouping."

The RRB does not report the improper payment rate or other required information for the Railroad Medicare program because it maintains that this would be duplicate reporting. They maintain that HHS includes this information in their PAR and it is CMS' responsibility

to report Railroad Medicare improper payment information. However, HHS only includes Railroad Medicare program improper payment information as part of their national Part B improper payment rate and does not report it or identify it separately. If RRB does not accept responsibility for Railroad Medicare reporting as required by PIIA and it is not reported as a unique program of risk elsewhere, there is no reason for RRB to retain its administrative responsibilities for the Railroad Medicare program.

The intent of OMB's guidance in Appendix C is to provide complete transparency of improper payment rates for programs an agency is responsible for overseeing and administering. For example, a significant improper payment error rate of a small program should not be concealed within a larger program that has a rate below the statutory threshold to allow the otherwise noncompliant smaller program to become compliant.

One of our previous audit reports addressed these weaknesses and those recommendations remained open.²³

²³ RRB OIG, Report No. 19-09, Recommendations 9, 18, and 19.

APPENDIX I: MANAGEMENT COMMENTS



UNITED STATES GOVERNMENT
MEMORANDUM

FORM G-1151 (1-92)
RAILROAD RETIREMENT BOARD

May 11, 2021

TO: Debra Wheat
Assistant Inspector General for Audits

FROM: Micheal Pawlak **MICHEAL PAWLAK**
Deputy Director of Programs

Digitally signed by MICHEAL
PAWLAK
Date: 2021.05.11 07:15:53 -05'00'

SUBJECT: **Draft** – Audit of Railroad Retirement Board’s Compliance with Improper Payments Reporting in Fiscal Year 2020 Performance and Accountability Report

Recommendation 1

Publish Railroad Medicare program payment integrity information in accordance with the Payment Integrity Information Act of 2019 and the Office of Management and Budget’s data call requirements until it formalizes an agreement with the Centers for Medicare and Medicaid Services to take over reporting for Railroad Medicare.

Response

The Railroad Retirement Board (RRB) has consistently acknowledged its responsibilities under the Social Security Act to administer certain provisions of the Medicare program for the railroad, including the administration of the Specialty Medicare Administrative Contractor (SMAC) contract with Palmetto GBA, LLC. RRB does not issue Medicare payments to beneficiaries or providers directly. Notwithstanding the Agency’s specified Medicare responsibilities for railroad annuitants, the Centers for Medicare & Medicaid Services (CMS), a component of the Department of Health and Human Services (HHS), administers the Medicare program as a whole.

In connection with this audit, on March 25, 2021 via an email to the RRB Office of Inspector General (OIG), CMS confirmed that the Palmetto GBA, LLC had claims sampled and reviewed in the calculation of the fiscal year 2020 Medicare Fee-for-Service (FFS) improper payment rate based upon claims from July 2018 – June 2019, where said improper payment rate was reported in the CMS 2020 Financial Report. Please note that CMS categorizes Palmetto GBA, LLC as a Medicare Administrative Contractor (MAC) rather than a SMAC. Since CMS is a component of HHS, HHS consolidates CMS’ financial results and related Medicare improper payment information into its financial statements presented in its annual Agency Financial Report (AFR). In its AFR, HHS reports the estimated proper and improper payments and related information for the Medicare FFS program as a whole, to include the results of all MACs. The Medicare FFS is a component discussed within the 2020 CMS Financial Report as well as presented in the Payment Integrity Report that HHS published in its fiscal year 2020 AFR to accompany its consolidated Principal Financial Statements.

Response

Even so, the OIG continues to assert that the RRB is responsible for reporting improper payments related to the Railroad Medicare program and that HHS reporting does not identify improper payments for the Railroad Medicare program. However, under the Payment Integrity Information Act of 2019 (PIIA), an executive agency shall publish improper payments information with the annual financial statements of the executive agency for the most recent fiscal year and post on the website of the agency that statement and any accompanying materials required under the guidance of the Office of Management and Budget. [31 USC 3351(2)(A)] As such, it continues to be RRB's position that improper payments information related to the Medicare Part B medical services benefits payments issued by Palmetto GBA, LLC should not accompany RRB's financial statements in its annual Performance and Accountability Report.

The RRB is responsible for making benefit payments to eligible Railroad beneficiaries under the Railroad Retirement Act, the Railroad Unemployment Insurance Act, as well as extended, enhanced, or other unemployment benefits payments authorized under supplemental appropriations, and therefore, its financial statements reflect the financial results for accounts financing these benefit payments and related operations. To ensure proper preparation of the government-wide consolidated financial statements, RRB and CMS record intra-governmental transactions to reflect business activities conducted between our agencies to include reimbursement to the RRB for its specified Medicare administrative responsibilities, funding transferred for obligation on the contract with Palmetto GBA, LLC as well as results of the annual financial interchange.

While the RRB has certain financial transactions with CMS and specified Medicare administrative responsibilities for railroad annuitants, said transactions and responsibilities do not include financing the Part B medical services benefit payments issued by Palmetto GBA, LLC. Instead, Palmetto GBA, LLC in accordance with CMS policy has an established Tripartite agreement with CMS and a CMS appointed bank, whereby funding is provided from the Medicare trust funds for Part B medical services benefit payments. The RRB is not a party to the financial transactions to pay the Medicare Part B medical services benefits financed by CMS and issued by Palmetto, GBA LLC. RRB does not and should not report or disclose these financial transactions in its financial statements.

It is RRB's position that Medicare improper payment information should continue to accompany the financial statements of CMS and the consolidated financial statements of HHS, rather than those of the RRB, since the CMS' financial statements and HHS consolidated financial statements report the cost of the Medicare program in its entirety. By maintaining this posture, RRB and CMS continue to provide interested parties with the programmatic cost of the Medicare program in its entirety for comparison to the improper payment information covering the Medicare program in its entirety, as we interpret the PIIA to intend.

¹ RRB OIG Audit Report No. 20-06, *RRB's Compliance with Improper Payments Reporting, Appendix I: Management Comments, pages 23 through 26*, May 12, 2020

⁴Centers for Medicare and Medicaid Services web page, entitled "Who are the MACs" <https://www.cms.gov/Medicare/Medicare-Contracting/Medicare-Administrative-Contractors/Who-are-the-MACs#MapsandLists>

Recommendation 2

Publish improper payment estimates for the Railroad Medicare Program in the Office of Management and Budget's data calls, until the Office of Management and Budget formally approves the Railroad Retirement Board's discontinuation of reporting or approves an agreement between the Centers for Medicare and Medicaid Services and the Railroad Retirement Board on how Railroad Medicare will be reported.

Response

RRB non-concurs. See response to Recommendation #1 above.

Recommendation 3

Develop and publish corrective action plan information in accordance with OMB directives.

Response

RRB non-concurs. See response to Recommendation #1 above.

Recommendation 4

Publish reduction targets for the Railroad Medicare Program in accordance with the annual Office of Management and Budget Data Call requirements.

Response

RRB non-concurs. See response to Recommendation #1 above.

Recommendation 5

Meet the published reduction targets for the Railroad Medicare Program.

Response

RRB non-concurs. See response to Recommendation #1 above.

Recommendation 6

Report an improper payment rate of less than 10 percent for the Railroad Medicare program in accordance with applicable laws and regulations.

Response

RRB non-concurs. See response to Recommendation #1 above.

Recommendation 7

Fully complete and publish all required payment integrity information as requested by the Office of Management and Budget's annual and supplemental data calls, until it formalizes an agreement with the Centers for Medicare and Medicaid Services to take over reporting for Railroad Medicare.

Response

RRB non-concurs. See response to Recommendation #1 above.

Recommendation 8

Describe in its Performance and Accountability Report or Office of Management and Budget supplemental data call submission, the internal controls, human capital, its information systems and infrastructure needs, as well as its other program needs for reducing Railroad Medicare improper payments to the targeted levels, in accordance with OMB's supplemental data call requirements.

Response

RRB non-concurs. See response to Recommendation #1 above.

APPENDIX II: PREVIOUS OFFICE OF INSPECTOR GENERAL OPEN AUDIT RECOMMENDATIONS FOR IMPROPER PAYMENT REPORTING

Railroad Retirement Board Office of Inspector General Audit Reports		
Report	Recommendation	Status
15-06	Take all of the necessary steps to prepare and submit the required plans within the 90 day reporting requirement. (Recommendation 1)	Open
15-06	Ensure that the necessary policies and procedures are developed and documented for the agency's use for the preparation of a risk assessment process that meets Improper Payment Elimination and Recovery Act of 2010 requirements. (Recommendation 2)	Open
15-06	Revise and document their definitions of improper underpayments for the Railroad Retirement Act program in compliance with Improper Payment Elimination and Recovery Act of 2010 guidance, and if similar definitions are used for other programs, revise them accordingly. (Recommendation 6)	Open
15-06	Develop and document the necessary policies and procedures for the review and validation of the Railroad Unemployment Insurance Act improper payment data to be reported in the Performance and Accountability Report. (Recommendation 9)	Open No corrective action taken due to disagreement between agency and Office of Inspector General (OIG) auditors regarding which unit within the agency this recommendation should be directed.
15-06	Ensure that the proper controls are in place to make sure that the policies and procedures are followed to properly support the improper payment data reported for the Railroad Unemployment Insurance Act program. (Recommendation 10)	Open No corrective action taken due to disagreement between agency and OIG auditors regarding which unit within the agency this recommendation should be directed.
16-07	Revise its overall process for the Railroad Retirement Act program that supports improper payment reporting requirements to ensure the accuracy of the data. (Recommendation 1)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
16-07	Document policies and procedures to ensure that entire receivable balances are recorded in the agency's receivable system. (Recommendation 2)	Open

Railroad Retirement Board Office of Inspector General Audit Reports		
Report	Recommendation	Status
16-07	Revise its definitions of improper underpayments in the methodology used for the Railroad Unemployment Insurance Act program to ensure that it is in compliance with Improper Payment Elimination and Recovery Act of 2010 guidance. (Recommendation 3)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
17-05	Take the actions as required by Office of Management and Budget guidance in regard to noncompliance for third consecutive year for the same program to ensure that RRB programs for vendor payments and employee payments are brought into compliance. (Recommendation 1)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
17-05	Revise its computation for application of improper payment percentages for the Railroad Retirement Act program associated with initial and post underpayments to ensure that they are separately applied to the applicable components in Railroad Retirement Board calculations of the total improper payments. (Recommendation 2)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
18-05	Identify and post all existing unposted returned payments. (Recommendation 2)	Open
18-05	Identify the cause for unposted returned payments and take the necessary corrective actions to ensure the accuracy of future reported recaptured amounts. (Recommendation 3)	Open
19-09	Submit a plan, within 90 days, to the Senate Committee on Homeland Security and Governmental Affairs, the House Committee on Oversight and Government Reform, and the Office of Management and Budget, describing the actions that the agency will take to become compliant. (Recommendation 1)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
19-09	Achieve a gross improper payment rate of less than 10 percent for Railroad Medicare. The Office of Programs through the Railroad Retirement Board's Specialty Medicare Administrative Contractor should continue to work with Medicare providers to communicate the documentation requirements and monitor the adherence to such requirements throughout the year. (Recommendation 2)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
19-09	Remove or update the navigation instructions to the Performance and Accountability Report. (Recommendation 3)	Open
19-09	Obtain and maintain the applicable Railroad Medicare sampling and estimation plan agency certification. It must be a Centers for Medicare and Medicaid Services' certification, Railroad Retirement Board Chief Financial Officer's certification, or other Railroad Retirement Board program official's certification. (Recommendation 4)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.

Railroad Retirement Board Office of Inspector General Audit Reports		
Report	Recommendation	Status
19-09	Obtain the Railroad Medicare sampling and estimation plan for the fiscal year 2019 payment integrity reporting cycle. (Recommendation 5)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
19-09	Establish a written policy to ensure subsequent Railroad Medicare sampling and estimation plans are obtained and readily available for review so that a qualified statistician would be able to replicate what was done or so that Office of Management and Budget, agency Inspector General, or Government Accountability Office personnel can evaluate the design. (Recommendation 6)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
19-09	Submit the Railroad Medicare sampling and estimation plan for fiscal year 2019 to the Office of Management and Budget by the June 30th deadline. (Recommendation 7)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
19-09	Obtain the Office of Management and Budget approval for Railroad Medicare's overall reduction target rate. (Recommendation 8)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
19-09	Update the Memorandum of Understanding (MOU13-61) to describe the applicable agency responsibilities as they pertain to Improper Payments Elimination and Recovery Act laws and Office of Management and Budget guidance for payment integrity reporting. (Recommendation 9)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
19-09	Include a brief narrative of the reduction in improper payments that is attributable to the Do Not Pay Initiative for Railroad Medicare and associated systems. (Recommendation 10)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
19-09	Identify, publish, and provide a justification for Railroad Medicare uncollectible amounts. (Recommendation 11)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
19-09	Provide justification for Railroad Retirement Act and Railroad Unemployment Insurance Act uncollectible amounts. (Recommendation 12)	Open

Railroad Retirement Board Office of Inspector General Audit Reports		
Report	Recommendation	Status
19-09	Develop a payment recapture audit program for vendor and employee payments, or approved alternative method, if one is deemed cost effective. (Recommendation 13)	Open
19-09	If a payment recapture audit program is deemed not cost effective, provide a cost benefit analysis, in accordance with the Office of Management and Budget's best practices as outlined in OMB M-18-20, in writing to Office of Management and Budget and the Office of Inspector General, and include it in the fiscal year 2019 Performance and Accountability Report. (Recommendation 14)	Open
19-09	Adopt the Office of Management and Budget's recommended best practice and describe statutory or regulatory barriers in the fiscal year 2019 Performance and Accountability Report. (Recommendation 15)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
19-09	Update applicable performance appraisals with specific criteria for meeting applicable improper payment reduction targets and establish and maintain sufficient internal controls to reduce improper payments in accordance with Office of Management and Budget Circular A-136. (Recommendation 16)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
19-09	Develop and implement an internal control process (e.g. a checklist) to ensure all updates to OMB M-18-20 and Office of Management and Budget Circular A-136 relating to improper payments are sufficiently addressed for payment integrity reporting. (Recommendation 17)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
19-09	Work with the Centers for Medicare and Medicaid Services to meet the needs of Railroad Retirement Board's payment integrity reporting. If the Railroad Retirement Board is not able to obtain claims data that coincides with the fiscal year being reported, obtain Office of Management and Budget's approval for the delayed reporting timeframe. (Recommendation 18)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
19-09	Update the Memorandum of Understanding (MOU13-61) dated April 12, 2013 to ensure it reflects the applicable agency responsibilities as they pertain to improper payment reporting sampling and estimation plans. (Recommendation 19)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.

Railroad Retirement Board Office of Inspector General Audit Reports		
Report	Recommendation	Status
20-06	Create and submit proposals to Office of Management and Budget during their next budget submission that will bring the agency into compliance. If the Director of Office of Management and Budget determines that additional funding would help the agency become compliant, the agency should obligate an amount of additional funding determined by the Director of Office of Management and Budget to intensify compliance efforts. (Recommendation 1)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
20-06	Update the corrective action plan that was published in the Railroad Retirement Board's fiscal year 2018 Performance and Accountability Report to reduce Railroad Medicare improper payments and publish it in the Railroad Retirement Board's fiscal year 2020 Performance and Accountability Report. (Recommendation 2)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
20-06	Publish Railroad Medicare overpayment recapture data in the Railroad Retirement Board's fiscal year 2020 Performance and Accountability Report. (Recommendation 3)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
20-06	Perform a reconciliation of Railroad Retirement Act overpayments recapture source data to the Financial Management Integrated System when preparing the payment recapture data worksheet to ensure accurate information is published in the Railroad Retirement Board's Performance and Accountability Report's payment integrity section. (Recommendation 4)	Open
20-06	Resume payment integrity reporting in the Railroad Retirement Board's performance and accountability report, as required by applicable improper payment laws, until official approval from Office of Management and Budget is obtained and updated governing documents between the Railroad Retirement Board and the Department of Health and Human Services have been signed to reflect the extended enterprise relationship between the two agencies. (Recommendation 5)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.

Source: RRB OIG analysis of open recommendation related to payment integrity reporting.

APPENDIX III: ABBREVIATIONS

AFR	Agency Financial Report
CERT	Comprehensive Error Rate Testing
CMS	Centers for Medicare and Medicaid Services
ERM	Enterprise Risk Management
HHS	U.S. Department of Health and Human Services
IG	Inspector General
IPERA	Improper Payments Elimination and Recovery Act of 2010
IPERIA	Improper Payments Elimination and Recovery Improvement Act of 2012
MOU	Memorandum of Understanding
OIG	Office of Inspector General
OMB	Office of Management and Budget
PAR	Performance and Accountability Report
PIIA	Payment Integrity Information Act of 2019
RRA	Railroad Retirement Act
RRB	Railroad Retirement Board
RUIA	Railroad Unemployment Insurance Act
SMAC	Specialty Medicare Administrative Contractor