



U.S. RAILROAD RETIREMENT BOARD

OFFICE OF INSPECTOR GENERAL

The Railroad Retirement Board Complied with the Payment Integrity Information Act for Fiscal Year 2022

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What We Found

The Railroad Retirement Board (RRB) complied with the Payment Integrity Information Act of 2019 (PIIA) because it satisfied 10 payment integrity reporting requirements. We determined the agency's payment integrity reporting was complete and accurate. A risk assessment was required for the Railroad Unemployment Insurance Act program due to legislative changes and was reviewed during this audit.

As of August 31, 2022, RRB is no longer responsible for reporting payment integrity information for Railroad Medicare because of a written agreement between the Department of Health and Human Services (HHS), Centers for Medicare and Medicaid Services (CMS) and RRB which clarifies that CMS will calculate and report Railroad Medicare program payment integrity data. However, we determined that the Railroad Medicare payment integrity information is masked within the CMS and HHS reporting. Also, we determined that the Railroad Medicare payment integrity sampling used by CMS could be improved. Finally, we identified ineffective audit follow-up for Railroad Medicare payment integrity recommendations.

What We Recommend

To address the weaknesses identified in this audit we made five recommendations related to Railroad Medicare payment integrity including transparency of reporting, sampling, and resolution of open audit recommendations.

RRB management did not concur with our recommendations. RRB's position was that CMS was solely responsible for calculating and reporting Railroad Medicare payment integrity information. RRB management also noted they had not concurred with prior Office of Inspector compliance audit recommendations related to Railroad Medicare improper payment reporting.

What We Did

Section 3353(a)(1)(A) of the 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 materials and related postings.

The mandated objectives of this audit were to: (1) determine whether the RRB complied with the PIIA for fiscal year 2022, (2) evaluate the accuracy of RRB risk assessments and improper payment estimates, (3) evaluate whether the RRB has correctly identified the causes of improper payments and whether the actions of the RRB to address those causes are adequate and effective, (4) evaluate the adequacy of RRB action plans on how to address the causes of improper payments, and (5) evaluate RRB efforts to prevent, reduce and recover improper payments.

The scope of the audit was payment integrity reporting in RRB's fiscal year 2022 Performance and Accountability Report and accompanying materials.

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INTRODUCTION

This report presents the results of the Office of Inspector General's (OIG) audit of the Railroad Retirement Board's (RRB) fiscal year 2022 compliance with the Payment Integrity Information Act of 2019 (PIIA). PIIA incorporates select provisions from prior payment integrity legislation and establishes the payment integrity statutory framework and reporting requirements including an annual compliance report by Inspectors General.¹

Objectives, Scope, and Methodology

The mandated objectives of this audit were to: (1) determine whether the RRB complied with the PIIA for fiscal year 2022, (2) evaluate the accuracy of RRB risk assessments and improper payment (IP) estimates methodology, (3) evaluate whether the RRB has correctly identified the causes of improper payments and whether the actions of the RRB to address those causes are adequate and effective, (4) evaluate the adequacy of RRB action plans on how to address the causes of improper payments, and (5) 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 2022 Performance and Accountability Report (PAR), and accompanying materials.

To accomplish the audit objectives, we:

- assessed whether the RRB was in overall compliance with the 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) governmentwide guidance,
- identified and reviewed internal guidance, policies, and procedures for payment integrity reporting in RRB's PAR,
- reviewed RRB's payment integrity section as provided in the fiscal year 2022 PAR, accompanying materials, and the OMB annual data call,
- requested and reviewed applicable source data and documentation from the agency to verify the support for the information in the PAR and data call,

¹ Pub. L. No. 116-117, 134 Stat. 113, enacted March 2, 2020, codified at 31 U.S.C. §3353(a)(1). The Payment Integrity Information Act of 2019 repealed/revised the Improper Payments Information Act of 2002, the Improper Payments Elimination and Recovery Act of 2010, the Improper Payments Elimination and Recovery Improvement Act of 2012 and the Fraud Reduction and Data Analytics Act of 2015 and incorporated select provisions of those acts.

- evaluated whether 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 RRB'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 and accompanying materials 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. 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 January 2023 through April 2023.

Background

The RRB is an independent executive branch agency of the Federal Government that administers retirement-survivor and unemployment-sickness insurance benefit programs for railroad workers and their families under the Railroad Retirement Act (RRA) and Railroad Unemployment Insurance Act (RUIA). The RRB paid \$13.5 billion in retirement and survivor benefits and \$90.4 million in unemployment and sickness insurance benefits during fiscal year 2022. The RRB also administers aspects of the Medicare program (Railroad Medicare) under the Social Security Act.² The RRB, through its Specialty Medicare Administrative Contractor (SMAC),

² 42 U.S.C. § 1395u (also known as Section 1842(g) of the Social Security Act). The portion of Medicare the Railroad Retirement Board (RRB) is responsible for is commonly known as Railroad Medicare. That term can be found throughout the Specialty Medicare Administrative Contractor's (SMAC) website.

paid \$923.7 million for about 8 million Railroad Medicare Part B claims from October 1, 2021 through September 30, 2022.

OMB issued governmentwide guidance regarding reporting requirements based on improper payment legislation enacted to reduce improper payments. PIIA defines an improper payment as any payment that should not have been made or that was made in an incorrect amount (including an overpayment or underpayment) under a statutory, contractual, administrative, or other legally applicable requirement. An improper payment includes any payment to an ineligible recipient, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments authorized by law), and any payment that does not account for credit for applicable discounts.³

PIIA aims to improve efforts to identify and reduce governmentwide improper payments. Agencies must identify and review all programs and activities they administer that may be susceptible to significant improper payments based on guidance provided by OMB. Payment integrity information is published with the agency's annual financial statement in accordance with payment integrity guidance in OMB Circular A-136.⁴ The agency must also publish applicable payment integrity information required in the accompanying materials to the annual financial statement in accordance with applicable guidance. The most common accompanying materials are the payment integrity information published on PaymentAccuracy.gov. Each agency Inspector General is to review payment integrity reporting for compliance and issue an annual report.

As directed by OMB and the Council of the Inspectors General on Integrity and Efficiency (CIGIE), we conducted our fiscal year 2022 annual compliance review using a combination of the requirements in OMB Circular A-123, Appendix C; OMB Circular A-136; OMB Annual Data Call Instructions; OMB Payment Integrity Question and Answer Platform; and CIGIE guidance required under PIIA.⁵

OMB M-21-19 defined significant improper payments as “[a]nnual [improper payments] and [unknown payments] (i.e., the sum of monetary loss [improper payments], non-monetary loss [improper payments], and [unknown payments]) 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).”⁶

³ Pub. L. No. 116-117, 134 Stat. 114 (2020), codified at 31 U.S.C. §3351(4).

⁴ This information is provided by the agency to the Office of Management and Budget (OMB) through the Annual Data Call and is then subsequently published on PaymentAccuracy.gov; OMB Circular No. A-136, *Financial Reporting Requirements* (Washington, D.C.: June 3, 2022).

⁵ Council of the Inspectors General on Integrity and Efficiency, *Guidance for Payment Integrity Information Act Compliance Reviews* (Washington, D.C.: November 8, 2022); OMB Appendix C to Circular No. A-123, *Requirements for Payment Integrity Improvement*, M-21-19 (Washington, D.C.: March 5, 2021); OMB Circular No. A-123, *Management's Responsibility for Enterprise Risk Management and Internal Control*, M-16-17 (Washington, D.C.: July 15, 2016); OMB Circular A-123.

⁶ OMB M-21-19, pgs. 73-74.

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-21-19,

[t]he [ERM] framework, introduced in OMB Circular A-123, can be used to assist in the identification and management of payment integrity risks for the agency. Ensuring the integrity of Federal payments is fundamental to the core mission for agencies. A significant risk in managing IP risk is the potential that agencies may make investments in risk controls that negatively affect program mission, efficiency, customer experience or the overall operations of the agency. Agency senior management is required to manage the payment integrity risk to an agency achieving its strategic, operations, reporting, or compliance objectives.⁷

Part of an ERM model is the extended enterprise. According to OMB M-16-17, the extended enterprise consists of interdependent relationships, parent-child relationships, and relationships external to an agency. Thus, no agency is self-contained, and risk drivers can arise out of organizations that extend beyond the enterprise. These relationships give rise to a need for assurance that risk is being managed in that relationship both appropriately and as planned.⁸

The risk environment is beyond the boundary of the extended enterprise. The environment generates risks that cannot be controlled, or constrained the way the organization is permitted to take on or address risk.

OMB guidance requires each agency's Inspector General to assess PIIA compliance and submit its final report within 180 days after the publication date for the agency's PAR and the accompanying materials.⁹ 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.¹⁰

Within RRB, the Office of Programs compiles and reports payment integrity data for the annual PAR. At the beginning of fiscal year 2022, the RRB was required to report on five programs: 1) RRA benefit payments, 2) RUIA benefit payments, 3) vendor payments, 4) employee payments, and 5) Railroad Medicare. Railroad Medicare is a nationwide healthcare program for railroad workers administratively maintained by the RRB. Historically, the RRB reported the Railroad Medicare improper payment rate once in fiscal year 2018, then subsequently failed to report its Railroad Medicare improper payments because RRB management believed PIIA reporting was the responsibility of CMS and such reporting would result in duplicative reporting. However, RRB did not formalize a PIIA reporting agreement with CMS until the end of fiscal year 2022. During this period of PIIA noncompliance, RRB excluded the Railroad

⁷ OMB M-21-19, pg. 29.

⁸ OMB M 16-17, pg. 14.

⁹ OMB M-21-19, pg. 50.

¹⁰ Pub. L. No. 116-117, 134 Stat. 113, codified at 31 U.S.C. §3353(b)(1)(A).

Medicare program from its improper payment reporting and did not exercise corrective action to implement PIIA recommendations related to Railroad Medicare. On August 31, 2022, the RRB and CMS entered into a Memorandum of Understanding (MOU) and CMS formally accepted responsibility for PIIA reporting.¹¹ However, by this time many years had passed and the public taxpayers and railroad community had been misguided by the lack of payment integrity transparency. And while a reporting agreement had been reached between the two agencies, the critical issue of Railroad Medicare improper payment transparency had not been resolved or addressed.

Railroad Medicare, Payment Integrity Reporting, and Improper Payment Data

At the end of fiscal year 2022, more than 442,000 qualified railroad beneficiaries were enrolled in RRB's administered portion of Medicare Part B. During fiscal year 2022, RRB contracted with a SMAC and administered certain provisions of the Medicare program.¹² 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 the SMAC, quality assurance and oversight of the SMAC, records maintenance, and answering inquiries. According to RRB, these costs for fiscal year 2022 were offset by approximately \$13.6 million in Railroad Medicare administrative expense reimbursements and \$27.0 million in transfers from CMS to fund the SMAC.¹³

As such, CMS has paid RRB for these administrative services through an existing and ongoing cost reimbursement agreement. For fiscal year 2022, the total expense of \$40.6 million covered both direct and indirect costs for RRB and RRB OIG and the cost of its SMAC contract to support the separate Railroad Medicare program.

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

¹¹ *Memorandum of Understanding Between the Department of Health and Human Services, Centers for Medicare & Medicaid Services and the Railroad Retirement Board*, RRB MOU22-191 (Chicago, IL: August 31, 2022).

¹² As part of its administrative responsibilities, RRB selected a SMAC to process Railroad Medicare claims nationwide and administer the contract with the carrier. The contracting officer, contracting officer representative, and the contracting team are all RRB government employees.

¹³ The Centers for Medicare and Medicaid Services (CMS), a branch of the U.S. Department of Health and Human Services, is the federal agency that administers the national Medicare program.

- 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;
- RRB's SMAC contract – RRB12C011 and corresponding statement of work. The SMAC contract was signed by the SMAC President on November 26, 2012, and by RRB's Chief of Acquisition Management and Contracting Officer on November 27, 2012. The 10 year contract should have ended on December 31, 2022. However, due to the procurement process it is still in effect at the time of this audit. The RRB and its SMAC is operating on an emergency extension. The RRB plans to award a new 10 year contract to the incumbent or a new vendor dependent upon the finalization of the procurement process; and
- MOU between CMS and RRB (MOU22-191), signed by CMS' Deputy Director, Center for Medicare on August 31, 2022, and by RRB's Chief of Acquisition Management on August 31, 2022.

The only significant change to the governing documents occurred on August 31, 2022 with the signing of a new MOU.¹⁴

As part of an extended enterprise, CMS provided RRB with Railroad Medicare payment integrity information and data for the sixth year in a row, in time for fiscal year 2022 PAR reporting. The Railroad Medicare improper payment rate and estimates were determined through CMS' Comprehensive Error Rate Testing (CERT) program. The most recent Railroad Medicare payment integrity information revealed a 5.2 percent improper payment rate. This did not exceed the national Part B improper payment rate of 8.2 percent. Neither RRB nor CMS were transparent with this data in either of their annual reports.

We discuss the Railroad Medicare issues in the sections titled *Railroad Medicare Improper Payment Information was not Transparent in HHS's Fiscal Year 2022 Agency Financial Report*, *Concerns About the Sampling and Estimation Plans for Railroad Medicare*, and *Audit Follow-up for Railroad Medicare Payment Integrity Recommendations*.

¹⁴ RRB MOU22-191, pg. 9.

RESULTS OF AUDIT

Our audit determined that RRB was compliant with the PIIA because it satisfied all of the 10 payment reporting requirements that were applicable as shown in Table 1.¹⁵ Eight requirements, including two addressing risk assessments, were not applicable for three programs and six requirements were not applicable for all four programs because they were not susceptible to significant improper payments. We did not review Railroad Medicare compliance for the reasons explained in the subsequent section.

Table 1. Assessment of RRB’s Compliance with PIIA Requirements

Program Name	#1a - Published PI Information w/ the AFS	#1b - Posted the AFS & Accompanying Materials on the Agency Website	#2a - Conducted IP RAs for Each Program w/ Annual Outlays > \$10,000,000 at Least Once in the Last 3 Years	#2b - Adequately Concluded Whether the Program is Likely to Make IPs & UPs Above or Below the Statutory Threshold	#3 - Published IP & UP Estimates for Programs Susceptible to Significant IPs in the Accompanying Materials to the AFS	#4 - Published Corrective Action Plans for Each Program for Which an Estimate Above the Statutory Threshold was Published in the Accompanying Materials to the AFS	#5a - Published IP & UP Reduction Targets for each Program for Which an Estimate Above the Statutory Threshold was Published in the Accompanying Materials to the AFS	#5b - Has Demonstrated Improvements to PI or Reached a Tolerable IP & UP Rate	#5c - Has Developed a Plan to Meet the IP & UP Reduction Target	#6 - Reported an IP & UP Estimate of Less than 10 Percent for Each Program for Which an Estimate was Published in the Accompanying Materials to the AFS
RRA	C	C	NA	NA	NA	NA	NA	NA	NA	NA
RUIA	C	C	C	C	NA	NA	NA	NA	NA	NA
Vendor Payments	C	C	NA	NA	NA	NA	NA	NA	NA	NA
Employee Payments	C	C	NA	NA	NA	NA	NA	NA	NA	NA

Source: RRB OIG analysis of fiscal year 2022 Performance and Accountability Report (PAR) and accompanying materials.

Note: Table 1 acronyms are Compliant (C), Payment Integrity (PI), Annual Financial Statement (AFS), Risk Assessment (RA), Improper Payment (IP), and Unknown Payment (UP).

¹⁵ Pub. L. 116-117, 134 Stat. 113 (2020), codified at 31 U.S.C. §3351(2).

We determined the agency's payment integrity reporting was complete and accurate. A risk assessment was required for the RUIA program due to legislative changes and was reviewed during this audit.

A new written agreement between the RRB, CMS, and HHS clarifies that CMS will calculate the Railroad Medicare improper payment rate and report Railroad Medicare improper payment information under the PIIA. As of August 31, 2022, RRB is no longer responsible for reporting improper payment information for Railroad Medicare. However, we determined that the Railroad Medicare improper payment rate and information is masked within the CMS and HHS reporting. Additionally, we determined that the Railroad Medicare improper payment sampling methodology used by CMS' CERT team could be improved. We made five recommendations aimed at addressing these weaknesses. The full text of management's response to these recommendations is included in Appendix I.

At the time of this audit, the prior year audit recommendations remained open.¹⁶ The status of our prior open audit recommendations is provided in Appendix II.

Payment Integrity Reporting Required in Statute

The RRB complied with the PIIA because it satisfied the two applicable reporting requirements for the RRA benefit payment, vendor payment, and employee payment programs and the four applicable requirements for the RUIA benefit payment program. Eight improper payment requirements were not applicable for three programs and six were not applicable for the RUIA benefit payment program as shown in Table 1.¹⁷ These requirements were not applicable because the programs were not susceptible to significant improper payments. We discuss our findings in the following sections.

RRB Published and Posted Payment Integrity Information in its PAR and in its Accompanying Materials

Under PIIA requirements 1a and 1b, 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.¹⁸

The RRB complied with this requirement by publishing payment integrity information in its PAR, including the link to OMB's PaymentAccuracy.gov website, and posting the RRB's PAR on their website. The RRB responded to OMB's Annual Data call and this response was the source of the RRB's payment integrity information included in PaymentAccuracy.gov. This information represents the RRB's accompanying materials to the annual financial statement.

¹⁶ RRB Office of Inspector General (OIG), *The Railroad Retirement Board was Not Compliant with the Payment Integrity Information Act for Fiscal Year 2021*, Report No. 22-08 (Chicago, IL: June 16, 2022), Recommendations 1 through 7 and 9.

¹⁷ OMB M-21-19, pg. 52; Pub. L. 116-117, 134 Stat. 113 (2020), codified at 31 U.S.C. § 3351(2).

¹⁸ OMB M-21-19, pg. 43; Pub. L. 116-117, 134 Stat. 113 (2020), codified at 31 U.S.C. § 3351(2)(A).

RRB Conducted its Required Risk Assessment and Adequately Concluded with Regard to the Statutory Threshold

Under PIIA requirement 2a, the agency must conduct an improper payment risk assessment at least once every three years, for each program with annual outlays greater than \$10 million to determine whether the program is likely to make improper payments plus unknown payments that would be in total above the statutory threshold.¹⁹ Under PIIA requirement 2b, the agency must ensure that the improper payment risk assessment methodology used adequately concludes whether the program is likely to make improper payments plus unknown payments above or below the statutory threshold.²⁰ For programs that are not deemed to be susceptible to significant improper payments, agencies are required to perform risk assessments at least once every three years. If a program has a significant change in legislation or significant increase in funding, a risk assessment may be needed in the next annual cycle.

During fiscal year 2022 payment integrity reporting, the RRB was required to conduct a risk assessment for one of RRB's four programs and conclude whether the program was likely to result in improper or unknown payments above OMB's statutory threshold. The RRB performed a risk assessment for its RUIA benefit payment program and adequately concluded that the RUIA benefit payment program was not susceptible to making improper or unknown payments above the statutory threshold. Therefore, RRB complied with the two requirements. The risk assessment was required during fiscal year 2022 because of legislative changes.

Risk assessments were not required for the RRA benefit payment, vendor payment, and employee payment programs. The RRB last performed risk assessments for these programs in fiscal year 2020. The risk assessments for these programs concluded that none of the programs were susceptible to significant improper payments above the PIIA threshold. Risk assessments for these programs are on a three-year cycle and will be performed in fiscal year 2023.

Payment Integrity Information Act of 2019 Requirements Sections 3 through 6 were Not Applicable to the RRB

If applicable, federal agencies must report on the following requirements:

- Requirement #3 – Publish improper payment and unknown payment estimates for programs susceptible to significant improper payments and unknown payments in the accompanying materials to the annual financial statement.
- Requirement #4 – Publish corrective action plans for each program for which an estimate above the statutory threshold was published in the accompanying materials to the annual financial statement.

¹⁹ Programs are considered to be above the statutory threshold if they are reporting an annual improper payment and unknown payment estimate that is either above \$10 million and 1.5 percent of the program's total annual outlays or above \$100 million.

Pub. L. 116-117, 134 Stat. 113 (2020), codified at 31 U.S.C. § 3351(2)(B).

²⁰ OMB M-21-19, pg. 44.

- Requirement #5a – Publish improper payment and unknown payment reduction target for each program for which an estimate above the statutory threshold was published in the accompanying materials to the annual financial statement.
- Requirement #5b – Demonstrate improvements to payment integrity or reach a tolerable improper payment and unknown payment rate.
- Requirement #5c – Develop a plan to meet the improper payment and unknown payment reduction target.
- Requirement #6 – Report an improper payment and unknown payment estimate of less than 10 percent for each program for which an estimate was published in the accompanying materials to the annual financial statement.²¹

Because of the latest risk assessments performed for the RRB’s four payment integrity programs, the RRB determined the programs were not susceptible to significant improper payments or unknown payments (these programs remained in Phase 1). Therefore, requirements three through six were not applicable to these programs.

Agency’s Efforts to Prevent and Reduce IPs and UPs

OMB Circular A-123 Appendix C, section VI.C.3, requires the OIG to “...include an evaluation of agency efforts to prevent and reduce [improper payments] and [unknown payments].” In addition, “...the OIG must include recommendation(s) for action(s) to further improve prevention and reduction of [improper payments] and [unknown payments] within the program[]” for each agency program reporting an estimate above the statutory threshold.²²

The RRB continued to make efforts to prevent, reduce and recover improper payments for their most significant programs. We could not evaluate the RRB’s efforts to prevent, reduce, or recover improper payments for the vendor and employee benefit payment programs because these programs are not susceptible to significant improper payments and not a priority of the RRB. Additionally, the RRB was not required to report an RRA program improper payment rate or amount since fiscal year 2017. However, they did include these amounts in their last risk assessment for RRA. Based on a comparison of these amounts, RRB reduced the amount and rate of improper payments in the RRA program between fiscal year 2016 and fiscal year 2019.

During fiscal years 2017 through 2020, the RRB was not required to report improper payments and percentages for the RUIA benefit payment program. However, due to pandemic legislative changes, the RRB performed risk assessments for RUIA in fiscal year 2021 and fiscal year 2022 which included improper payment totals and rates.²³ The improper payment rate and amount were 2.40 percent and \$8.72 million for the fiscal year 2021 RUIA risk assessment. In fiscal year 2022 these amounts increased to 2.92 percent and \$8.78 million. Therefore, RRB’s

²¹ OMB M-21-19, pgs. 45-49; Pub. L. 116-117, 134 Stat. 113 (2020), codified at 31 U.S.C. § 3351(2).

²² OMB M-21-19, pg. 51.

²³ Due to program changes implemented as a result of the Coronavirus Aid, Relief, and Economic Security Act, the RRB conducted a risk assessment for the Railroad Unemployment Insurance Act (RUIA) program in fiscal 2021. During fiscal year 2022, the RRB conducted another RUIA Risk Assessment due to the passage of the Continued Assistance to Railway Workers Act of 2020 and the American Rescue Plan Act of 2021.

performance in preventing and reducing improper payment amounts in the RUIA program declined slightly over the prior year.

RRA program recoveries increased from \$45.9 million in fiscal year 2015 to \$82.7 million in fiscal year 2019 and dropped significantly to \$43.3 million in fiscal year 2021 presumably in response to pandemic challenges. RUIA recoveries have increased from \$22 million in fiscal year 2015 to \$26.3 million in fiscal year 2021. RUIA recovery amounts have generally increased in most years as can be seen in Table 2. Additionally, the RRB has identified the major causes of overpayments for both the RRA and RUIA benefit payment programs and implemented actions for improving the accuracy of the payments and reducing erroneous payments.

Table 2. Overpayments Recaptured Outside of Payment Recapture Audits (\$ in millions)

Program	Fiscal Year 2021	Fiscal Year 2020	Fiscal Year 2019	Fiscal Year 2018	Fiscal Year 2017	Fiscal Year 2016	Fiscal Year 2015
RRA	\$43.30	\$53.50	\$82.73	\$72.00	\$70.22	\$64.42	\$45.90
RUIA	\$26.32	\$22.89	\$26.12	\$25.49	\$25.95	\$23.19	\$21.97

Source: RRB OIG analysis of Performance and Accountability Reports and PaymentAccuracy.gov.

The RRB has determined that it would not be cost effective to recapture employee and vendor payments; therefore, we could not make a determination with regard to the RRB’s adequacy in this area.

Other Issues Potentially Impacting Payment Integrity Information Reporting

While conducting this audit, we identified continued transparency issues with the Railroad Medicare program, continued concerns about CMS’ sampling and estimation plans for Railroad Medicare improper payment data, and noncompliance with audit follow-up responsibilities. We described the details of these issues in the next sections.

Railroad Medicare Improper Payment Information was Not Transparent in HHS’s Fiscal Year 2022 Agency Financial Report

Congress, the public taxpayers, and the railroad community have been denied access to Railroad Medicare’s payment integrity performance for four consecutive years.²⁴ The Railroad Medicare improper payment rate and estimated amount of improper payments are not transparent in HHS’ AFR or RRB’s PAR.

We determined that a new MOU between CMS and RRB was signed on August 31, 2022. According to the terms of the MOU, CMS will calculate and report Railroad Medicare improper

²⁴ The RRB did not report Railroad Medicare payment integrity information in its Performance and Accountability Report for fiscal years 2019, 2020, 2021, and 2022 even though it previously had reported in fiscal year 2018.

payment data starting with fiscal year 2022.²⁵ Therefore, the RRB is not responsible for reporting Railroad Medicare in its PAR or accompanying materials to the financial statement for fiscal year 2022 and beyond. As a result, we have not cited the RRB with noncompliance with the PIIA for fiscal year 2022.

However, Railroad Medicare improper payment information was not separately published in HHS' or CMS' AFR or on PaymentAccuracy.gov. In addition, Railroad Medicare improper payment information was not reported in HHS' 2022 Medicare Fee-for-Service Supplemental Improper Payment Data supplement to HHS's AFR.²⁶ Therefore, published Railroad Medicare information was not transparent and the Railroad Medicare's improper payment information is effectively masked in HHS' reporting. We reviewed HHS' fiscal year 2022 AFR and CMS' fiscal year 2022 AFR and there was no mention of the RRB's Railroad Medicare program as a separate program when discussing improper payment information. Finally, there was no mention of Railroad Medicare by HHS or CMS on the fiscal year 2022 dataset on PaymentAccuracy.gov.

This is in direct opposition to OMB's intent for transparency and illustrates the failings and risk inherent with the extended enterprise (i.e., a smaller program being overshadowed by a larger program). Railroad Medicare, should be considered as one program for improper payment reporting as its annual outlays are greater than \$10 million and its improper payments have historically exceeded the statutory threshold deeming it susceptible to significant improper payments. 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 and OIG have historically disagreed on the reporting of Railroad Medicare improper payment information. The OIG believed that without approval from OMB or a formal agreement with CMS and HHS to the contrary, RRB should report Railroad Medicare payment integrity payment information. The RRB argued that CMS was calculating an improper payment rate and estimated the amount of improper payments for Railroad Medicare and that these amounts were included in HHS' overall Medicare program improper payment reporting. Therefore, if they reported Railroad Medicare improper payment information it would result in duplicative reporting with HHS. The OIG observed that in none of the prior years was the Railroad Medicare improper payment information transparent in either CMS' or HHS' reporting. Even though the updated MOU clarifies that RRB is not responsible for Railroad Medicare reporting, Railroad Medicare improper payment information is still not transparent in HHS' AFR or dataset on PaymentAccuracy.gov.²⁷

With no transparency of the Railroad Medicare improper payment rate and estimated amount of improper payments, Congress, and the public taxpayers have been disallowed access to Railroad Medicare's payment integrity performance over the years, including its SMAC's

²⁵RRB MOU22-191, pgs. 6 and 9.

²⁶ CMS' website (<https://www.cms.gov/files/document/2022-medicare-fee-service-supplemental-improper-payment-data.pdf>) was accessed on April 21, 2023.

²⁷ RRB MOU22-191, pg. 6.

fiscal year 2022 performance in processing approximately 8 million claims totaling over \$923 million paid to national providers.

Recommendations

We recommend that the Office of Programs:

1. update the Railroad Retirement Board and Centers for Medicare and Medicaid Services' Memorandum of Understanding dated August 31, 2022 to ensure the Railroad Medicare payment integrity information complies the Payment Integrity Information Act of 2019 and the enterprise risk management framework, and
2. request that the Department of Health and Human Services provide a footnote in the Payment Integrity Information Act of 2019 reporting section of either the Department of Health and Human Services' or Centers for Medicare and Medicaid Services' Agency Financial Report to provide the Railroad Medicare program improper payment rate and estimated improper payments in their future years reporting. If the Department of Health and Human Services does not agree, the Railroad Retirement Board should include the improper payment rate and amount from the Comprehensive Error Rate Testing report for the Railroad Medicare program in future Railroad Retirement Board Performance and Accountability Reports to ensure transparency and compliance with the enterprise risk management framework.

Management's Comments and Our Response

For recommendation 1 and 2, the Office of Programs did not concur. They stated that they do not issue Medicare payments and that CMS, a component of HHS, is responsible for the Medicare program as a whole. They noted that Medicare consolidated improper payment information for the Medicare Administrative Contractors (MAC) and Railroad Medicare is reported in HHS's Annual Financial Report. Therefore, it continues to be RRB's position that Railroad Medicare benefit payment integrity information should not be reported in the RRB's PAR.

The Office of Programs indicated that the update and efforts to modernize the MOU between RRB, CMS, and HHS addresses each Agency's PIIA reporting responsibilities and demonstrates the combined desire of the agencies to prevent and reduce improper payments.²⁸ Under this new MOU, CMS is responsible to calculate the Railroad Medicare improper payment rate and report payment integrity information under the PIIA and OMB guidance.²⁹

The Office of Programs states that Railroad Medicare payment integrity information should continue to accompany the financial statements of CMS and HHS since those financial statements report the total cost of the Medicare program. They assert that this would allow interested parties to compare total program costs for Medicare to total improper payments for Medicare as they believe the PIIA intended.

²⁸ RRB MOU22-191.

²⁹ RRB MOU22-191, pg. 6.

In addition, they noted that through annual improper payment compliance audits the OIG identified numerous recommendations related to Railroad Medicare for which the RRB disagreed.

The comments provided by management did not warrant a modification to our report. Although the Office of Programs provided several points to support their belief that Railroad Medicare improper payments should not be distinctly reported, they did not express concern that Railroad Medicare improper payment rates and amounts are not transparent in HHS or CMS annual improper payment reporting. Their overall position is essentially that HHS and CMS are responsible for Railroad Medicare improper payment reporting and that RRB has no responsibility to report Railroad Medicare improper payments under PIIA. Therefore, Railroad Medicare improper payment rates and information should not be reported with the RRB's financial statements.

RRB management asserted that HHS consolidates the improper payment information for all MACs and SMACs and reports the information with their financial statements for Medicare. This is the point that the OIG has made in prior compliance reports and made again in this report. Railroad Medicare improper payment rates are masked and are not published. We stand by our position that RRB stakeholders including the railroad industry, railroad retirement annuitants, the tax paying public, and Congress deserve to know the RRB SMAC's performance in paying over eight million claims annually. Total Railroad Medicare claim payments amounted to over \$920 million in fiscal year 2022. The Railroad Medicare projected improper payments of \$47.6 million for fiscal year 2022 were dwarfed by the overall Medicare Part B projected improper payments of \$8.8 billion. RRB stakeholders will not be able to garner any information on the performance of the RRB's SMAC from a review of the overall Medicare Part B improper payment information. With Railroad Medicare improper payments being such a small part of the overall Medicare Part B improper payments, HHS and CMS will likely not be motivated to provide information on Railroad Medicare in their reporting. However, Railroad Medicare improper payments are significant and reportable as defined by PIIA. Therefore, we believe that even though the new MOU between HHS, CMS, and the RRB clarified that RRB is not required to report Railroad Medicare for PIIA purposes, RRB should include the improper payment rates and amounts in the Payment Integrity section of the PAR to inform their stakeholders of how the RRB SMAC is performing in making payments.³⁰ This information is provided to the RRB by CMS's CERT contractor, therefore, all the RRB would need to do is publish it.

Concerns About the Sampling and Estimation Plans for Railroad Medicare

In a prior audit report, the OIG identified concerns with the sampling and estimation plan used for Railroad Medicare.³¹ The PIIA requires that improper payment estimation plans be statistically valid and comply with the requirements of OMB Circular A-123, Appendix C. The

³⁰ RRB MOU22-191.

³¹ RRB OIG, *Audit of Railroad Retirement Board's Compliance with Improper Payments Elimination and Recovery Act in Fiscal Year 2018 Performance and Accountability Report*, Report No. 19-09 (Chicago, IL: May 30, 2019), pgs. 27 - 28.

prior OIG report determined that the Railroad Medicare improper sampling and estimation plan did not conform to the guidance for a statistically valid and rigorous plan.

In that same report, OIG determined the sample size used to calculate the improper payment rate was too small to provide an accurate rate that the RRB could rely on to determine SMAC vulnerabilities, prepare medical review strategies, use as a driver to reduce improper payments, and assess SMAC performance.³² For example, the nonpublic internal report provided to the RRB on November 2022, indicated a total sample size of 115, or less than 10 claims sampled per month. However, the population size for Railroad Medicare was more than 7.9 million claims. The Railroad Medicare CERT sample represents only 0.0014 percent of its claims, and was determined to be not statistically valid and rigorous as defined by OMB. At the time of our audit, CMS continues to sample its MACs differently than the RRB's SMAC. While not at the optimal level, the Railroad Medicare program continues to rely on the statistically invalid CMS CERT sample reports and estimations for monitoring their improper payments.

Our review of nonpublic internal reports supported this determination by revealing unreliable and erratically fluctuating Railroad Medicare improper payment rates. The CERT report, dated November 2017, contained a Railroad Medicare improper payment rate of 10.5 percent, while the subsequent annual November reports contained a rate of 12.5 percent, 9.3 percent, 13.7 percent, 2.0 percent, and 5.2 percent. Each CERT report warned readers to proceed with caution when interpreting data because of small sample sizes; this warning came without cause or explanation.

Recommendation

We recommend the Office of Programs:

3. update the Railroad Retirement Board and Centers for Medicare and Medicaid Services' Memorandum of Understanding dated August 31, 2022 to ensure the sampling and estimation methodology of the Railroad Medicare program complies with the requirements of Office of Management and Budget Circular A-123, Appendix C and the Payment Integrity Information Act of 2019.

Management's Comments and Our Response

The Office of Programs did not concur with recommendation 3. Their response was the same as their response to recommendation 1. Their comments did not warrant a modification to our report.

However, management's response did not specifically address our finding and recommendation. They made a general argument that CMS and HHS are responsible for calculating and reporting the improper payment rate. The OIG does not dispute this. However, RRB does have oversight responsibilities over the contract with its SMAC who processes

³² The RRB's Acquisition Management Division and the RRB's Office of Programs are responsible for assessing the performance of its SMAC. The SMAC's contracting officer and contracting officer's representative are employed by the RRB and not HHS' CMS.

Medicare Part B claims for railroad annuitants. Therefore, we believe that RRB should be interested in having a more accurate and compliant CERT sample methodology for its SMAC which would achieve a larger sample size more consistent with other MAC contractors. The OIG believes the erratically fluctuating SMAC annual improper payment rate in addition to the statistical warnings in the SMAC annual CERT reports about interpreting data due to small sample sizes support this argument.

Ineffective Audit Follow-up for Railroad Medicare Payment Integrity Recommendations

OMB Circular A-50 requires that each executive agency establish systems to assure the prompt and proper resolution and implementation of audit recommendations.³³ Executive agencies must consider reports issued by the Inspectors General (IGs), other executive branch audit organizations, the General Accounting Office (GAO), and non-Federal auditors where follow-up is necessary.

Responsibility for effective audit follow-up rests with the head of the RRB's organization, the Board. Resolution of OIG audit recommendations are an important element of the Board's management system, consistent with the requirements of OMB Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control, the GAO Standards for Internal Control in the Federal Government (the GAO Green Book), and OMB Circular A-50.³⁴

As of April 2023, there were over 31 open audit recommendations regarding Railroad Medicare payment integrity reporting. Sixteen of these recommendations were over three years old. This situation is contradictory to OMB's requirement for prompt resolution and corrective actions on audit recommendations. Resolution shall be made within a maximum of six months after issuance of a final report and corrective action should proceed as rapidly as possible.

RRB OIG's outstanding recommendations related to Railroad Medicare payment integrity reporting remain valid.

Without resolution or corrective action addressing Railroad Medicare's payment integrity outstanding recommendations, Congress, the public taxpayers, and the railroad community will never know the extent of Railroad Medicare's payment integrity performance over the years, including its SMAC's prior year and historical performance in processing an average of 8.2 million claims per year that are paid to national providers on behalf of railroad retirement annuitants.

³³ OMB, *Audit Followup*, Circular No. A-50 Revised (Washington, D.C.: September 1982).

³⁴ Government Accountability Office (GAO), *Standards for Internal Controls in the Federal Government*, GAO 14-704G (Washington, D.C.: September 2014); OMB Circular A-123; OMB Circular A-50.

Recommendations

We recommend Office of Programs:

4. coordinate with the Railroad Retirement Board's audit follow-up official to develop a plan to address Railroad Medicare payment integrity outstanding audit recommendations to ensure resolution and prompt corrective action in accordance with the requirements of Office of Management and Budget Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control, the Government Accountability Office's Standards for Internal Control in the Federal Government, and Office of Management and Budget Circular A-50, Audit Follow Up.
5. update the Railroad Retirement Board and Centers for Medicare and Medicaid Services' Memorandum of Understanding dated August 31, 2022 to ensure past and future Railroad Retirement Board Office of Inspector General audit recommendations regarding Railroad Medicare payment integrity will be appropriately handled in accordance with the requirements of Office of Management and Budget Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control, the Government Accountability Office Standards for Internal Control in the Federal Government, and Office of Management and Budget Circular A-50, Audit Follow Up.

Management's Comments and Our Response

The Office of Programs did not concur with recommendations 4 and 5. Their response was the same as their response to recommendation 1. Their comments did not warrant a modification to our report.

Management's response did not address recommendation 4 or 5. The only comment regarding these audit recommendations was that the OIG through annual improper payments audits has identified numerous audit recommendations regarding the Railroad Medicare program which RRB has not concurred with.

The OIG stands by its past and present recommendations. The RRB should initiate action to close-out past open audit recommendations where they have been superseded by a change in circumstances. The RRB is responsible for reviewing past recommendations and submitting a closure request. If the RRB does not initiate action, the recommendations will continue to remain open and will continue to be reported to Congress and the public. Further, as improperly paid claims may ultimately result in higher Railroad Medicare premiums for those enrolled; RRB management should take better care to ensure open payment integrity recommendations are properly closed.

APPENDIX I: MANAGEMENT COMMENTS

We redacted the name of the Railroad Retirement Board's (RRB) Specialty Medicare Administrative Contractor (SMAC) from RRB's management response. We made the redactions in response to recent legislation and determined inclusion of the SMAC's name was unnecessary.³⁵ Each instance where we redacted the SMAC's name is highlighted in black and contains the text "the SMAC Business Entity." RRB's full management response follows.

³⁵ Pub. L. 117-263, 136 Stat. 3244 (2022).



UNITED STATES GOVERNMENT
MEMORANDUM

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

May 10, 2023

TO: Shannon Holman
Assistant Inspector General for Audits

FROM: Arturo Cardenas
Director of Programs

SUBJECT: Draft – Audit of Railroad Retirement Board’s Compliance with Improper Payments Reporting in Fiscal Year 2022 Performance and Accountability Report

MICHEAL PAWLAK Digitally signed by MICHEAL PAWLAK
Date: 2023.05.10 13:05:25 -0500

Recommendation 1

We recommend that the Office of Programs update the Railroad Retirement Board and Centers for Medicare & Medicaid Services Memorandum of Understanding dated August 31, 2022, to ensure the Railroad Medicare payment integrity information complies the Payment Integrity Information Act of 2019 and the enterprise risk management framework.

Response

RRB non-concurs. 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 the SMAC Business Entity. The RRB does not directly issue Medicare payments to beneficiaries or providers. 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), oversees the Medicare program as a whole.

In prior audits related to improper payments, CMS confirmed that the SMAC Business Entity had claims sampled and reviewed in the calculation of the Medicare Fee-for-Service (FFS) improper payment rate, where said improper payment rate was reported in CMS’ financial report. 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, to include the results of all MACs including the SMAC. The Medicare FFS is a component discussed within CMS’ financial report as well as presented in the Payment Integrity Report that HHS publishes in its AFR to accompany its consolidated Principal Financial Statements.

Response

Despite this information, the Office of Inspector General (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; and through annual improper payments audits has identified numerous audit recommendations regarding the Railroad Medicare program that the RRB has not concurred with.

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 **the SMAC Business Entity** 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 **the SMAC Business Entity** 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 Medicare Part B medical services benefit payments issued by **the SMAC Business Entity**. Instead, **the SMAC Business Entity** 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 **the SMAC Business Entity**. Accordingly, the RRB does not and should not report and/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.

Response

Additionally, as stated by the OIG the Memorandum of Understanding (MOU) between CMS and the RRB was updated on August 31, 2022. The purpose of updating the MOU was to reflect the current environment and responsibilities more accurately for both CMS and the RRB. The wording was specifically added under the responsibilities for CMS to...

Calculate and report the Medicare Fee-for-Service (FFS) program improper payment rate as required by the Payment Integrity Information Act of 2019; OMB Circular A-136; and Appendix C of OMB Circular A-123. The sample for the calculation includes Medicare FFS claims processed by the MACs and the SMAC. CMS shall furnish the SMAC and the RRB Medicare Contractor Operations program staff with the SMAC-specific improper payment data.

We believe this update and the efforts taken to modernize the MOU addresses each agency's responsibility regarding the reporting of improper payments and demonstrates the combined desire to properly report and address/reduce improper payments in the Medicare program.

The Office of Programs recognizes and appreciates the OIG's change in position this year to not cite the RRB as non-compliant with PIIA for Medicare. Even so, the RRB's position on this matter has remained clear in that CMS oversees the Medicare program in its entirety, which has included improper payment reporting under the PIIA. RRB's responsibilities in terms of PIIA covers benefit paying programs under the RRA and RUIA as well as non-benefit paying programs for employees and vendors. For all the reasons stated in the RRB's response, the recommendations proposed by the OIG in our opinion are not applicable.

Recommendation 2

We recommend that the Office of Programs request that the Department of Health & Human Services provide a footnote in the Payment Integrity Information Act of 2019 reporting section of either the Department of Health & Human Services' or Centers for Medicare & Medicaid Services' Agency Financial Report to provide the Railroad Medicare program improper payment rate and estimated improper payments in their future years reporting. If the Department of Health & Human Services does not agree, the Railroad Retirement Board should include the improper payment rate and amount from the Comprehensive Error Rate Testing report for the Railroad Medicare program in future Railroad Retirement Board Performance & Accountability Reports to ensure transparency and compliance with the enterprise risk management framework.

Response

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

Recommendation 3

We recommend that the Office of Programs update the Railroad Retirement Board and Centers for Medicare & Medicaid Services Memorandum of Understanding dated August 31, 2022 to ensure the sampling and estimation methodology of the Railroad Medicare program complies with the requirements of Office of Management & Budget Circular A-123, Appendix C and the Payment Integrity Information Act of 2019.

Response

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

Recommendation 4

We recommend that the Office of Programs coordinate with the Railroad Retirement Board's audit follow-up official to develop a plan to address Railroad Medicare payment integrity outstanding audit recommendations to ensure resolution and prompt corrective action in accordance with the requirements of Office of Management & Budget Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control, the Government Accountability Office's Standards for Internal Control in the Federal Government (the Government Accountability Office's Green Book), and Office of Management & Budget Circular A-50, Audit Follow Up.

Response

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

Recommendation 5

We recommend that the Office of Programs update the Railroad Retirement Board and Centers for Medicare & Medicaid Services Memorandum of Understanding dated August 31, 2022 to ensure past and future Railroad Retirement Board Office of Inspector General audit recommendations regarding Railroad Medicare payment integrity will be appropriately handled in accordance with the requirements of Office of Management & Budget Circular A-123, Management's Responsibility for Enterprise Risk Management and Internal Control, the Government Accountability Office Standards for Internal Control in the Federal Government (the Government Accountability Office's Green Book), and Office of Management & Budget Circular A-50, Audit Follow Up.

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.
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.
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.

Railroad Retirement Board Office of Inspector General Audit Reports		
Report	Recommendation	Status
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
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

Railroad Retirement Board		
Office of Inspector General Audit Reports		
Report	Recommendation	Status
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.
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.

Railroad Retirement Board Office of Inspector General Audit Reports		
Report	Recommendation	Status
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.
21-05	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. (Recommendation 1)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
21-05	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. (Recommendation 2)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.

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Report	Recommendation	Status
21-05	Develop and publish corrective action plan information in accordance with OMB directives. (Recommendation 3)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
21-05	Publish reduction targets for the Railroad Medicare Program in accordance with the annual Office of Management and Budget Data Call requirements. (Recommendation 4)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
21-05	Meet the published reduction targets for the Railroad Medicare Program. (Recommendation 5)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
21-05	Report an improper payment rate of less than 10 percent for the Railroad Medicare program in accordance with applicable laws and regulations. (Recommendation 6)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
21-05	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. (Recommendation 7)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
21-05	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. (Recommendation 8)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
22-08	Post Railroad Medicare program payment integrity information in the annual financial statement and accompanying materials on the agency website, in accordance with the Payment Integrity Information Act of 2019 and Office of Management and Budget's data call requirements, until RRB formalizes an agreement with the Centers for Medicare and Medicaid Services to take over reporting for Railroad Medicare. (Recommendation 1)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.

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Report	Recommendation	Status
22-08	Publish unknown 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. (Recommendation 2)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
22-08	Develop and publish a Railroad Medicare corrective action plan in accordance with Office of Management and Budget directives. (Recommendation 3)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
22-08	Publish improper payment and unknown payment reduction targets for the Railroad Medicare Program in accordance with the annual Office of Management and Budget Data Call requirements. (Recommendation 4)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
22-08	Demonstrate improvement and develop a plan to meet the published improper payment and unknown payment reduction targets for the Railroad Medicare Program in accordance with Office of Management and Budget directives. (Recommendation 5)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
22-08	Report an improper payment and unknown payment rate of less than 10 percent for the Railroad Medicare program. (Recommendation 6)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
22-08	Accept responsibility and accountability for the Railroad Medicare program to further improve prevention and ensure that improper payments and unknown payments are minimized. (Recommendation 7)	Open Agency did not concur. OIG auditors believe this recommendation should still be implemented.
22-08	Establish procedure to ensure timely revision of improper payment methodology and procedure to reflect the most recent OMB guidance and requirements. (Recommendation 9)	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
CIGIE	Council of the Inspectors General on Integrity and Efficiency
CMS	Centers for Medicare and Medicaid Services
ERM	Enterprise Risk Management
HHS	U.S. Department of Health and Human Services
IP	Improper Payment
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
UP	Unknown Payment