Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

THE CENTERS FOR MEDICARE & MEDICAID SERVICES SHOULD IMPROVE OVERSIGHT FOR THE TRANSFER OF TRUE OUT-OF-POCKET COSTS BETWEEN PART D PLANS

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Office of Inspector General

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EXECUTIVE SUMMARY

Medicare Part D and its enrollees could have saved approximately $1.6 million in 2010 if the Centers for Medicare & Medicaid Services had provided adequate oversight to ensure the transfer of all true out-of-pocket costs for enrollees who changed prescription drug plans.

WHY WE DID THIS REVIEW

In 2010, expenditures for Medicare's Part D prescription drug program totaled more than $62 billion and more than 34 million Medicare beneficiaries were enrolled (enrollees) in Part D prescription drug plans (plans). Medicare Part D rules require Part D sponsors (sponsors) to track enrollees' true out-of-pocket (TrOOP) costs. The appropriate transfer of TrOOP costs is essential for sponsors to correctly manage the Part D benefit. The amount of enrollees' TrOOP costs affects their cost sharing, as well as the Centers for Medicare & Medicaid Services (CMS) payments to sponsors. A prior Office of Inspector General review determined that a Part D sponsor in 2008 and 2009 did not always transfer TrOOP costs when an enrollee changed plans. In January 2009, CMS implemented new procedures for the automated transfer of TrOOP costs between plans. We conducted a nationwide review to determine if TrOOP transfer issues existed after the implementation of these new procedures.

The objective of this review was to determine whether Part D sponsors transferred TrOOP costs in accordance with Federal requirements for enrollees who changed plans during the 2010 coverage year.

BACKGROUND

TrOOP costs are prescription drug costs paid by enrollees, or by specified third parties on the enrollees' behalf, that count toward the annual out-of-pocket threshold that enrollees must meet before their catastrophic drug coverage begins. Sponsors are responsible for tracking and transferring enrollees' TrOOP costs as enrollees change plans throughout the coverage year. The TrOOP facilitator is a CMS contractor that assists sponsors with the transfer of TrOOP-related data if an enrollee changes plans during the coverage year. Effective January 1, 2009, sponsors must use the Financial Information Reporting (FIR) system to transfer TrOOP balances and gross covered drug costs whenever an enrollee makes an enrollment change during the coverage year. Part D requires that for every prescription filled, sponsors must submit an electronic summary record, called the prescription drug event (PDE), to CMS. The PDE record contains prescription drug cost and payment data.

WHAT WE FOUND

Sponsors did not always transfer TrOOP costs in accordance with Federal requirements. For 24 of the 100 enrollees we reviewed in a stratified random sample, sponsors transferred TrOOP costs correctly. For the remaining 76 enrollees, sponsors did not transfer TrOOP costs in accordance with Federal requirements. Specifically:

- for 27 enrollees, the TrOOP facilitator did not initiate FIR transactions to assist sponsors in transferring TrOOP balances between prescription drug plans;

- for 26 enrollees, the previous plan sponsors did not properly update FIR information because the sponsors processed prescription drug claims late and underreported TrOOP costs; and

- for 23 enrollees, the subsequent plan sponsors did not properly update their systems with reported FIR information.

We estimated that the enrollees and the Federal Government (on behalf of the enrollees) overpaid their shares of the drug costs by $1,091,154 and $479,357 respectively, while the sponsors underpaid their respective share of the drug costs by $1,570,511. Had the sponsors transferred TrOOP costs in accordance with Federal requirements, the enrollees and Federal Government would have saved a total of $1,570,511 in 2010.

CMS and the TrOOP facilitator did not have adequate procedures to ensure that (1) FIR transactions are initiated to transfer TrOOP costs between plans, (2) all FIR transactions are complete, and (3) plans are properly updating PDE records. CMS did not provide adequate oversight of sponsors to ensure the transfer of all TrOOP costs when enrollees changed prescription drug plans.

WHAT WE RECOMMEND

We recommend that CMS:

- transfer TrOOP costs in accordance with Federal requirements for enrollees who change plans, which would have saved the enrollees $1,091,154 and the Federal Government $479,357 in 2010 and

- implement controls to:

    - ensure the TrOOP facilitator initiates FIR transactions to transfer TrOOP balances from (1) plans providing services to non-enrollees and (2) previously rejected FIRs that have since been corrected,

    - compare FIR to PDE records to determine which FIR transactions are incomplete and require plan resubmission, and

    - ensure subsequent plan sponsors are properly updating PDE records with reported FIR information.

CMS COMMENTS

In written comments on our draft report, CMS concurred with our recommendations and described corrective actions it had taken and planned to take.

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INTRODUCTION

WHY WE DID THIS REVIEW

In 2010, expenditures for Medicare's Part D prescription drug program totaled more than $62 billion and more than 34 million Medicare beneficiaries were enrolled (enrollees) in Part D prescription drug plans (plans). Medicare Part D rules require Part D sponsors (sponsors) to track enrollees' true out-of-pocket (TrOOP) costs. The appropriate transfer of TrOOP costs is essential for sponsors to correctly manage the Part D benefit. The amount of enrollees' TrOOP costs affects their cost sharing, as well as the Centers for Medicare & Medicaid Services (CMS) payments to sponsors. A prior Office of Inspector General review[1] determined that a Part D sponsor in 2008 and 2009 did not always transfer TrOOP costs when an enrollee changed plans. In January 2009, CMS implemented new procedures for the automated transfer of TrOOP costs between plans. We conducted a nationwide review to determine if TrOOP transfer issues existed after the implementation of these new procedures.

OBJECTIVE

The objective of this review was to determine whether Part D sponsors transferred TrOOP costs in accordance with Federal requirements for enrollees who changed plans during the 2010 coverage year.

BACKGROUND

Medicare Part D Prescription Drug Program

Title I of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 amended Title XVIII of the Social Security Act (the Act) by establishing the Medicare Part D prescription drug program. Under Part D, which began January 1, 2006, individuals entitled to benefits under Part A or enrolled in Part B may obtain drug coverage. CMS contracts with sponsors to provide prescription drug coverage for eligible individuals. Each contract between CMS and a sponsor may include many plan benefit packages.

TrOOP costs are prescription drug costs paid by enrollees, or by specified third parties on the enrollees' behalf, that count toward the annual out-of-pocket threshold that enrollees must meet before their catastrophic drug coverage begins. Sponsors are responsible for tracking and transferring enrollees' TrOOP costs as enrollees change plans throughout the coverage year. Tracking and transferring TrOOP costs involves the coordination of many entities and data systems. The amount of enrollees' TrOOP costs affects the cost sharing, as well as the CMS payments to sponsors.

[1] *WellPoint, Inc. Did Not Always Calculate Enrollees' True-Out-Of-Pocket Costs in Accordance With Federal Requirements*, A-05-11-00018, May 29, 2012.

Standard Prescription Drug Coverage

Sponsors are required to offer a standard prescription drug benefit or an alternative benefit that is "actuarially equivalent" to the standard benefit. Sponsors may also offer enhanced plan benefit packages. Most enrollees are responsible for certain costs, which may include a monthly premium, an annual deductible, and coinsurance. However, enrollees with limited income are eligible to receive a low-income subsidy to pay for some or all of these costs. Low-income subsidy payments are included in an enrollee's TrOOP costs.

In 2010, the standard drug benefit required enrollees to pay a maximum deductible of $310. In the initial phase of the Part D benefit, after this deductible was paid, enrollees contributed 25-percent coinsurance toward their drug costs and the plan paid the remaining 75 percent until combined enrollee and plan payments reached $2,830. After that limit was reached, enrollees entered the coverage gap phase of the benefit, in which they were responsible for 100 percent of their drug costs. The catastrophic phase generally began when combined enrollee and plan payments reached $6,440 (out-of-pocket threshold). The enrollee's share of this amount, the true out-of-pocket threshold, was $4,550. These amounts included the enrollee's deductible and coinsurance payments. Once enrollees reached the catastrophic phase of the benefit, they contributed approximately 5-percent coinsurance toward their drug costs. Of the remaining 95 percent, the sponsors were responsible for approximately 15 percent and Medicare paid the sponsors the remaining 80 percent. This 80-percent reimbursement is called a reinsurance subsidy. See Appendix A for a graph showing the defined standard benefit for 2010.

Prescription Drug Event Data

For every prescription filled, a plan must submit an electronic summary record, called a prescription drug event (PDE) record, to CMS. A PDE record contains prescription drug cost and payment data. Sponsors are required to submit PDE records, including retroactive changes, to CMS.

Coordination of Prescription Drug Benefits and Financial Information Reporting

Tracking TrOOP costs involves coordination and communication among CMS, sponsors, and other payers of prescription drug benefits, as well as the TrOOP facilitator.[2] The TrOOP facilitator assists plans in coordinating enrollees' prescription drug benefits at the point of sale. Among other responsibilities, the TrOOP facilitator identifies costs that are reimbursed by other payers and assists sponsors with the transfer of TrOOP-related data if an enrollee changes plans during the coverage year.

Effective January 1, 2009, sponsors must use the Financial Information Reporting (FIR) system to transfer TrOOP balances and gross covered drug costs whenever an enrollee makes an enrollment change at the contract level during the coverage year. The TrOOP facilitator then generates a FIR transaction to each prior sponsor with which the enrollee was enrolled or which paid covered part D drug claims for the enrollee during the coverage year. Each sponsor

[2] CMS contracts with an outside organization to act as the TrOOP facilitator.

responds with the enrollee's monthly gross covered drug costs and TrOOP amounts, which the TrOOP facilitator forwards to the next sponsor. Sponsors must update their systems to incorporate all changes to ensure the enrollee is classified in the correct phase of the benefit.

HOW WE CONDUCTED THIS REVIEW

We limited our review to the 40,758 enrollees who reached catastrophic coverage and changed plans in calendar year 2010. These enrollees and the Federal Government combined to pay approximately $219 million in TrOOP costs. We selected a random sample of 100 enrollees from two strata on the basis of whether the calculated TrOOP costs at the attachment point[3] exceeded the TrOOP threshold (1) by exactly the TrOOP balances of the enrollees' previously enrolled plans or (2) by another amount. We reviewed the sampled enrollees TrOOP costs to determine whether Part D sponsors transferred the costs in accordance with Federal requirements.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix B contains the details of our audit scope and methodology, Appendix C contains our sample design and methodology, Appendix D contains the estimated cost savings based on our sample results, and Appendix E contains the Federal requirements related to the Part D program and the transfer of TrOOP.

FINDINGS

Sponsors did not always transfer TrOOP costs in accordance with Federal requirements. For 24 of the 100 enrollees we reviewed, sponsors transferred TrOOP costs correctly. For the remaining 76 enrollees, sponsors did not transfer TrOOP costs in accordance with Federal requirements. Specifically:

- for 27 enrollees, the TrOOP facilitator did not initiate FIR transactions to assist sponsors in transferring TrOOP balances between prescription drug plans;

- for 26 enrollees, the previous plan sponsors did not properly update FIR information because the sponsors processed prescription drug claims late and underreported TrOOP costs; and

- for 23 enrollees, the subsequent plan sponsors did not properly update their systems with reported FIR information.

[3] The attachment point is the point at which a beneficiary enters the catastrophic phase of the benefit on the basis of accumulated TrOOP costs.

We estimated that the enrollees and the Federal Government (on behalf of the enrollees) overpaid their shares of the drug costs by $1,091,154 and $479,357 respectively, while the sponsors underpaid their respective share of the drug costs by $1,570,511. Had the sponsors transferred TrOOP costs in accordance with Federal requirements, the enrollees and Federal Government would have saved a total of $1,570,511 in 2010.

These deficiencies occurred because CMS and the TrOOP facilitator did not have adequate procedures to ensure that (1) FIR transactions are initiated to transfer TrOOP costs between plans, (2) all FIR transactions are complete, and (3) plans are properly updating PDE records. CMS did not provide adequate oversight of sponsors to ensure the transfer of all TrOOP costs when enrollees changed plans.

TRUE OUT-OF-POCKET FACILITATOR DID NOT INITIATE ALL FINANCIAL INFORMATION REPORTING TRANSACTIONS

Sponsors must coordinate benefits with each other (the Act § 1860D-23(a) and 1860D-24(a) and 42 CFR 423.464). CMS guidance[4] says the TrOOP facilitator will identify: (1) when a change in enrollment has occurred and (2) will send a FIR transaction to each previous sponsor with which the enrollee was enrolled or paid covered Part D drug claims for the enrollee during the coverage year. When a sponsor realizes it paid for Part D drug claims for an enrollee enrolled in another plan, the non-plan of record[5] sponsor should contact the TrOOP facilitator and request inclusion in the FIR reporting.

For 27 enrollees, the TrOOP facilitator did not initiate FIR transactions to assist sponsors in transferring TrOOP balances between prescription drug plans:

- **Untimely disenrollments.** For 22 enrollees, previous sponsors processed claims with service dates after disenrollment because of untimely notification of enrollment in another plan. CMS' enrollment system sent enrollment notifications to plans on a weekly basis, which created delays between the effective dates of enrollment and plan notifications of disenrollments.[6] The TrOOP facilitator did not have procedures in place to initiate FIR transactions for these untimely disenrollments.

- **Non-plans of record.** For four enrollees, the TrOOP facilitator did not initiate manual FIR transactions to transfer TrOOP balances from previous to subsequent plans. Manual FIR transactions were necessary because CMS's enrollment system did not show that the individuals' had been enrolled in the previous plans.

[4] *Medicare Prescription Drug Benefit Manual* (the *Manual*), publication 100-18, chapter 14, Appendix C, "Part D Sponsor Implementation Guidance on Automated TrOOP Balance Transfer."

[5] A non-plan of record is a Part D sponsor that paid covered Part D drug claims for a Medicare beneficiary for whom the sponsor did not have a valid and effective enrollment in the CMS system and for whom the sponsor did not receive a final monthly payment.

[6] We discussed this issue with CMS officials and were informed that CMS had taken steps to correct this issue. During 2011, CMS began sending enrollment notification to plans daily.

- **Rejected Financial Information Reporting transaction.** For one enrollee, a previous plan sponsor rejected a FIR transaction, so the subsequent plan did not receive the associated information on TrOOP costs. CMS monitors unsuccessful transfers, including FIR rejections, and issues compliance letters to plans for unresolved items more than 30 days old. Once the prior plan sponsor corrects the issue causing the rejection, the TrOOP Facilitator can process the FIR. This rejection did not show up in CMS's December 31, 2010, monitoring report, and therefore the TrOOP facilitator did not initiate a new FIR transaction.

SPONSORS PROCESSING LATE CLAIMS AND UNDERREPORTING TRUE OUT-OF-POCKET COSTS RESULTED IN INCOMPLETE DATA IN THE FINANCIAL INFORMATION REPORTING SYSTEM

CMS guidance[7] states if a change in a beneficiary's TrOOP-related data occurs outside the scheduled FIR timing cycle,[8] the sponsor should call the TrOOP facilitator to request the initiation of a FIR transaction. According to the guidance, CMS works with the TrOOP facilitator to evaluate the acceptability of the plan's FIR responses through automatic computer edits to ensure the data are complete and valid.

For 26 enrollees, the previous plan sponsors did not accurately update FIR information because they processed prescription drug claims late and underreported TrOOP costs. FIR transactions contained inaccurate TrOOP balances:

- **Late claims processing.** For 17 enrollees, previous plan sponsors processed claims after the scheduled FIR timing cycle. Therefore, the automated FIR process did not pick up TrOOP costs from these claims.

- **Underreported True Out-of-Pocket costs.** For 9 enrollees, previous plan sponsors submitted FIR responses with underreported TrOOP costs, such as $0 balances. CMS automatic computer edits were not effective in ensuring that FIR responses contained complete TrOOP balances, as the edits do not compare FIR responses to PDE records.

SPONSORS DID NOT PROPERLY UPDATE THEIR SYSTEMS WITH DATA FROM THE FINANCIAL INFORMATION REPORTING SYSTEM

An enrollee's Part D coverage has an initial coverage limit on the maximum costs that may be recognized for payment purposes including the annual deductible (the Act § 1860D-2(b)(3)). CMS guidance states the coinsurance or copayments the person paid during the initial coverage period in his or her former plan and what the plan paid will all count toward the deductible in the

[7] The *Manual*, chapter 14, Appendix C, "Part D Sponsor Implementation Guidance on Automated TrOOP Balance Transfer."

[8] The scheduled FIR timing cycle lasts 7 months: the TrOOP facilitator sends change inquiry transactions weekly for 4 weeks and then monthly for an additional 6 months or until March 31st of the following year, whichever is sooner.

new plan.[9] CMS guidance states sponsors must update their systems to incorporate TrOOP-related data reported by prior plan sponsors through FIR transactions.[10]

For 23 enrollees, the subsequent plan sponsors did not appropriately update PDE records with reported FIR information:

- **Prescription drug event not updated.** For 11 enrollees, subsequent plan sponsors updated their claims system on the basis of reported FIR information but did not update the PDE information submitted to CMS.

- **Overcharged deductibles.** For nine enrollees, subsequent plan sponsors did not take into account prior plans' deductible/copayment information and therefore overcharged the enrollee deductible. These errors are easily identifiable by reviewing PDE information as standard deductibles are a set amount ($310 for 2010, Appendix A).

- **Disregarded Financial Information Reporting information.** For three enrollees, subsequent plan sponsors disregarded the FIR information and therefore did not transfer TrOOP costs between plans. In these situations, the enrollees changed plans within the same parent organization, which made mistakes when trying to handle the transfers internally.

CONCLUSION

We estimate that enrollees could have saved $1,091,154 and Medicare could have saved $479,357 had TrOOP costs been transferred properly. Of the 100 sampled enrollees, plans did not properly transfer TrOOP costs for 76 enrollees. These deficiencies occurred because CMS and the TrOOP facilitator did not have adequate procedures to ensure that (1) FIR transactions are initiated to transfer TrOOP costs between plans, (2) all FIR transactions are complete, and (3) plans are properly updating PDE records. CMS did not provide adequate oversight of sponsors to ensure the transfer of all TrOOP costs when enrollees changed prescription drug plans.

RECOMMENDATIONS

We recommend that CMS:

- transfer TrOOP costs in accordance with Federal requirements for enrollees who change plans, which would have saved the enrollees $1,091,154 million and the Federal Government $479,357 in 2010 and

[9] CMS, *Information Partners Can Use on: Understanding True Out-of-Pocket Costs,* updated November 2011.

[10] The *Manual*, chapter 14, Appendix C, "Part D Sponsor Implementation Guidance on Automated TrOOP Balance Transfer."

- implement controls to:

    - ensure the TrOOP facilitator initiates FIR transactions to transfer TrOOP balances from (1) plans providing services to non-enrollees and (2) previously rejected FIRs that have since been corrected,

    - compare FIR to PDE records to determine which FIR transactions are incomplete and require plan resubmission, and

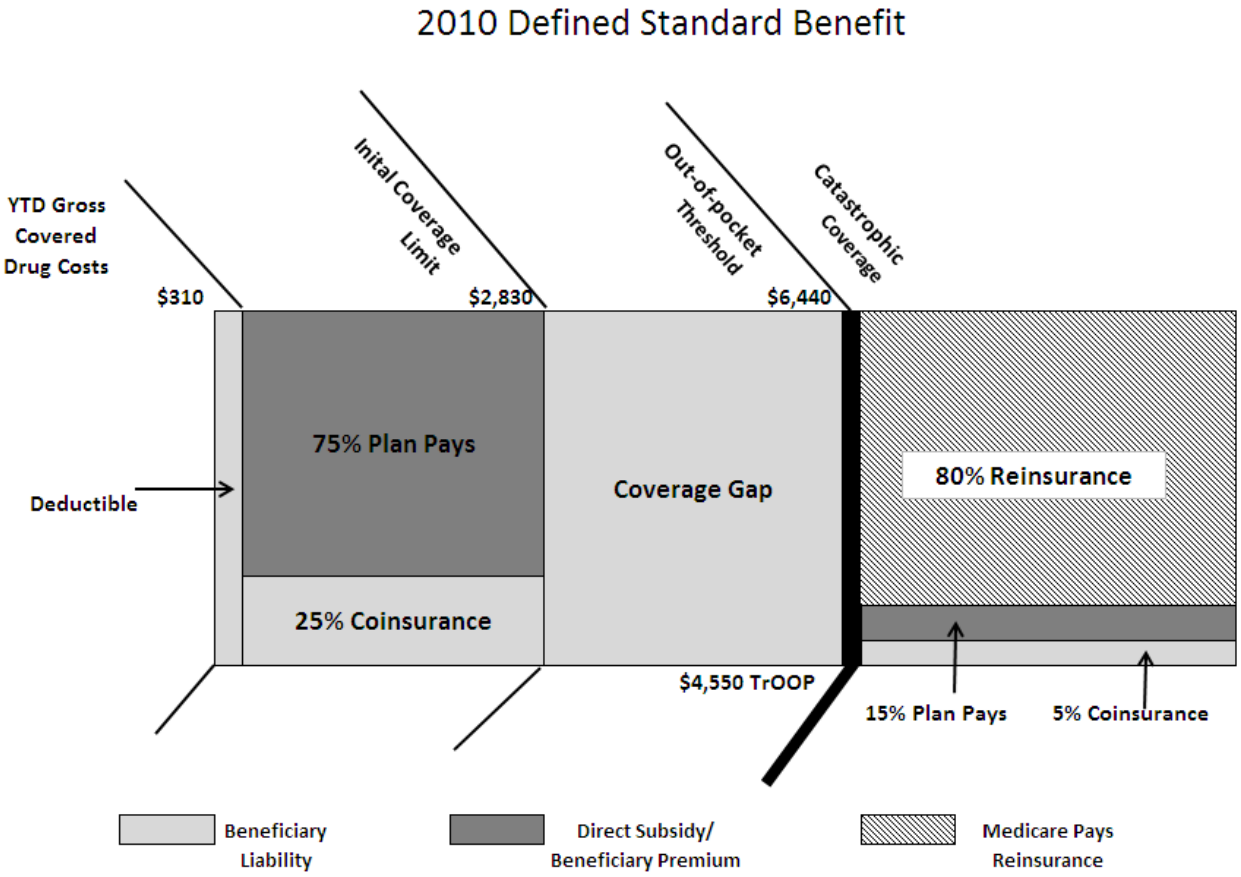
    - ensure subsequent plan sponsors are properly updating PDE records with reported FIR information.

CMS COMMENTS

In written comments on our draft report, CMS concurred with our recommendations and described corrective actions it had taken and planned to take.

CMS's comments are included in their entirety as Appendix F.

APPENDIX A: DEFINED STANDARD BENEFIT FOR PART D ENROLLEES IN 2010



YTD = year to date

Sources: Centers for Medicare & Medicaid Services, *Prescription Drug Event Data Foundations* (regional training presentation), July 2007 and The Henry J. Kaiser Family Foundation, *Medicare Prescription Prescription Drug Benefit Fact Sheet*, November 2009.

APPENDIX B: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our review covered 40,758 enrollees who changed plans and whose individual calculated TrOOP at the attachment point was greater than $4,550. We obtained a database containing PDE records for 199,627 enrollees who reached the attachment point and changed plans during 2010. We eliminated 158,869 enrollees from our sampling frame for whom we calculated that the attachment point TrOOP cost was equal to or less than the out-of-pocket threshold of $4,550 in 2010, because these items had a small risk of being transfer errors. Our revised sampling frame contained 40,758 enrollees with a total TrOOP cost of $219,048,649.

We did not review the overall internal control structure of CMS or Medicare. Rather, we limited our internal control review to those that related to the objective of our audit.

We conducted fieldwork at the Indianapolis field office in Indianapolis, Indiana, from August 2012 through January 2013.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and guidance;
- held discussions with CMS officials to gain an understanding of and identify policies and procedures related to the transfer of TrOOP costs between plans;
- analyzed PDE records to identify 40,758 enrollees whose individual calculated TrOOP costs exceeded $4,550 at the attachment point and changed plans during 2010;
- selected a stratified random sample of 100 enrollees (Appendix C) and:
    - calculated TrOOP cost in accordance with Federal requirements and the plans' explanation of coverage and
    - compared PDE records submitted to CMS by the plans to FIR records maintained by the TrOOP facilitator;
- obtained additional support from the plans as to why each transfer error happened; and
- estimated the total amount of overpayment, underpayment, or misallocation of payments among the plans, the enrollees, and Medicare because of TrOOP costs not transferred (Appendix D).

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain

sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX C: SAMPLE DESIGN AND METHODOLOGY

POPULATION

The population consisted of all enrollees whose individual calculated TrOOP costs exceeded $4,550 at the attachment point and changed plans during our audit period of January 1 through December 31, 2010.

SAMPLING FRAME

The sampling frame was an Access database file containing PDE information for 40,758 enrollees that changed plans and whose individual calculated TrOOP costs at the attachment point was greater than $4,550. The total TrOOP cost for these 40,758 enrollees was $219,048,649.

SAMPLE UNIT

The sample unit was an enrollee.

SAMPLE DESIGN

We used a stratified random sample, defined as follows:

> **Stratum 1:** the 16,464 enrollees whose individual calculated TrOOP cost at the attachment point was greater than the TrOOP threshold by exactly the amount of TrOOP balances from prior plans.
>
> **Stratum 2:** the 24,294 remaining enrollees whose individual calculated TrOOP cost at the attachment point was greater than the TrOOP threshold by amounts different than prior plan balances.

SAMPLE SIZE

We selected and reviewed a random sample of 30 enrollees from Stratum 1 and 70 enrollees from Stratum 2.

SOURCE OF RANDOM NUMBERS

We used the Office of Inspector General, Office of Audit Services (OAS), statistical software to generate the random numbers.

ESTIMATION METHODOLOGY

We used the OAS statistical software to estimate the amounts the plan owes the Federal Government and enrollees as a result of not properly transferring TrOOP costs.

APPENDIX D: SAMPLE RESULTS AND ESTIMATION

Table 1: Sample Results for Plan Underpayments

Stratum	Frame Size	Value of Frame	Sample Size	Value of Sample	Number of Plan Under-payments	Value of Plan Under-payments
1	16,464	$86,037,795	30	$154,557	28	$1,214
2	24,294	133,010,854	70	378,298	48	2,606
Totals	**40,758**	**$219,048,649**	**100**	**$532,855**	**76**	**$3,820**

Table 2: Estimated Amount for Plans Underpaid
(Limits Calculated for a 90-percent Confidence Interval)

Overall	Total Plans Underpaid
Point Estimate	$1,570,511
Lower Limit	$1,096,974
Upper Limit	$2,044,047

Table 3: Sample Results for Enrollee and Government Over/Underpayments

Stratum	Number of Enrollee Over-Payments[11]	Value of Enrollee Over-Payments	Number of Government Over/Under-Payments	Value of Government Over/Under-Payments
1	25	$1,586	28	-$373
2	38	636	48	1,971
Totals	**63**	**$2,222**	**76**	**$1,598**

Table 4: Estimated Amounts for Enrollees and Government Overpaid
(Limits Calculated for a 90-percent Confidence Interval)

Overall	Total Enrollees Overpaid	Total Government Overpaid
Point Estimate	$1,091,154	$479,357
Lower Limit	505,378	-205,880
Upper Limit	$1,676,931	$1,164,593

[11] The reason there are fewer enrollee overpayments than errors is 13 enrollee payments were 100% subsidized by the Federal Government, so these errors did not result in enrollee overpayments.

APPENDIX E: FEDERAL REQUIREMENTS

FEDERAL REQUIREMENTS FOR MEDICARE PART D PRESCRIPTION DRUG PROGRAM

Pursuant to 42 CFR § 423.104(d)(5), once an enrollee's incurred costs exceed the annual out-of-pocket threshold, the enrollee's cost-sharing is the greater of either the copayments designated by the enrollee's plan or five percent of actual cost (which is known as "coinsurance").

The *Manual*, chapter 14, section 50.4, states that sponsors must correctly calculate the TrOOP costs to properly adjudicate enrollee claims.

FEDERAL REQUIREMENTS FOR INITIATING FINANCIAL INFORMATION REPORTING TRANSACTIONS

Sections 1860D-23(a) and 1860D-24(a) of the Act require sponsors to coordinate benefits with other sponsors.

The *Manual*, section 30.4, requires a contractor to identify costs that are being reimbursed by other payers and facilitate the transfer of TrOOP-related data when an enrollee changes enrollment during the coverage year.

The *Manual*, section 50.9.1, states effective January 1, 2009, Part D sponsors must use the new National Council of Prescription Drug Programs FIR standard to transfer TrOOP balances and gross covered drug costs whenever a beneficiary makes an enrollment change at the contract-level during the coverage year. An updated version of the CMS automated TrOOP balance transfer implementation guidance issued by CMS on October 20, 2008, is included as Appendix C.

According to the *Manual*, Appendix C, "Part D Sponsor Implementation Guidance on Automated TrOOP Balance Transfer," the TrOOP cost threshold and gross covered drug cost must be transferred between Part D plans if an enrollee transfers plans at any time before the end of the coverage year. The TrOOP facilitator will identify when a change in enrollment at the contract level has occurred and will generate a FIR transaction to each prior sponsor with which the beneficiary was enrolled or which paid covered part D drug claims for the beneficiary during the coverage year.

The *Manual*, Appendix C, "Part D Sponsor Implementation Guidance on Automated TrOOP Balance Transfer," further states a non-plan of record is a Part D sponsor that paid covered Part D drug claims for a Medicare beneficiary for whom the sponsor did not have a valid and effective enrollment in the CMS system and for whom the sponsor did not receive final monthly payment. TrOOP-related data must also be transferred between Part D plans when a Part D plan other than the plan of record (i.e., a non-plan of record) paid for covered Part D drug costs as a primary payer and subsequently becomes aware that the beneficiary is enrolled in another Part D plan. In situations in which the TrOOP facilitator is unable to identify the existence of a non-plan of record, for the TrOOP data to be transferred, the non-plan of record sponsor must contact the TrOOP facilitator and request inclusion in the FIR reporting.

FEDERAL REQUIREMENTS FOR INCOMPLETE FINANCIAL INFORMATION REPORTING INFORMATION

Pursuant to 42 CFR § 423.505(k)(2), a part D sponsor must certify that the information CMS relies on in determining payment is accurate, complete, and truthful and acknowledge that this information will be used to obtain Federal reimbursement.

The *Manual*, section 50.4, states that Part D sponsors are ultimately responsible for accurately tracking TrOOP costs.

The *Manual*, Appendix C, *Part D Sponsor Implementation Guidance on Automated TrOOP Balance Transfer*, states Part D sponsors must track TrOOP-related data for their months of coverage for beneficiaries who disenroll during the coverage year and report these data. After disenrollment, change inquiry transactions will be sent weekly for a 4-week period, then monthly for an additional 6 months or until March 31st of the following year, whichever is sooner. If a change in a beneficiary's TrOOP-related data occurs outside the scheduled timing cycle, the sponsor should call the TrOOP facilitator's help desk call center and request that a FIR transaction be initiated.

CMS will work with the TrOOP facilitator to define a set of business rules for evaluating the acceptability of sponsor FIR responses; these will be limited to automatic computer edits to verify that there are no missing/invalid data elements. When the TrOOP facilitator suspends a FIR response transaction as unacceptable (e.g., if the accumulated TrOOP cost reported for a month is a negative number), the sponsor must make the necessary changes and, once made, the TrOOP facilitator will re-initiate the transaction.

FEDERAL REQUIREMENTS FOR SPONSORS UPDATING SYSTEMS WITH FINANCIAL INFORMATION REPORTING INFORMATION

Section 1860D-2(b)(3) of the Act states an enrollee's Part D coverage has an initial coverage limit on the maximum costs that may be recognized for payment purposes including the annual deductible. CMS guidance, *Information Partners Can Use on: Understanding True Out-of-Pocket Costs* (updated November 2011), states the coinsurance or copayments the person paid during the initial coverage period in his or her former plan and what the plan paid will all count toward the deductible in the new plan.

Pursuant to 42 CFR § 423.505(k)(2), a part D sponsor must certify that the information CMS relies on in determining payment is accurate, complete, and truthful and acknowledge that this information will be used for the purposes of obtaining Federal reimbursement.

The *Manual*, Appendix C, "Part D Sponsor Implementation Guidance on Automated TrOOP Balance Transfer," states sponsors must also receive FIR transactions reporting TrOOP-related data reported by prior plan sponsors through the TrOOP facilitator, update their systems to

incorporate these data, and recalculate, as necessary, any prior claims affected by changes in the TrOOP accumulators.[12]

[12] A TrOOP accumulator is the sum of an enrollee's TrOOP costs year-to-date and is used by sponsors to help determine where the enrollee is in the benefit and to appropriately process claims.

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

Administrator
Washington, DC 20201

DATE: OCT 31 2013

TO: Daniel R. Levinson
Inspector General

FROM: Marilyn Tavenner
Administrator

SUBJECT: Office of Inspector General (OIG) Draft Report: *CMS Should Improve Oversight for the Transfer of True Out-of-Pocket Costs Between Part D Plans* (A-05-12-00053)

The Centers for Medicare & Medicaid Services (CMS) appreciates the opportunity to review and comment on the above-referenced OIG draft report. The purpose of this review was to determine whether Medicare Part D sponsors transferred true out-of-pocket (TrOOP) costs in accordance with Federal requirements for enrollees who change plans during the 2010 coverage year.

Title I of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 amended Title XVIII of the Social Security Act (the Act) by establishing the Medicare Part D prescription drug benefit. Under Part D, which began January 1, 2006, sponsors are responsible for tracking and transferring TrOOP-related costs as enrollees change plans throughout the coverage year. The TrOOP (now Part D Transaction) Facilitator is a CMS contractor that assists sponsors with the transfer of TrOOP-related data if an enrollee changes plans during the coverage year. Beginning January 1, 2009, sponsors must use the automated TrOOP balance transfer process' Financial Information Reporting transaction to transfer TrOOP balances and gross covered drug costs whenever an enrollee makes an enrollment change during the coverage year.

We appreciate the OIG's efforts in working with CMS in identifying vulnerabilities in the Medicare program. Our response to each of the OIG recommendations follows.

OIG Recommendation

The OIG recommends CMS transfer TrOOP costs in accordance with Federal requirements for enrollees who change plans, which would have saved the enrollees $1,091,154 million and the federal government $479,357 in 2010.

CMS Response

The CMS concurs with this recommendation and has implemented a number of systems changes and process improvements related to this recommendation. Beginning January 1, 2013, CMS changed the compliance timeframe for sponsors to successfully transfer TrOOP balances, reducing the period from 30 days to 15 days. Given the new 15-day compliance period, CMS worked with the National Council of Prescription Drug Program (NCPDP) Work Group 1 Financial Information Reporting (FIR) Task Group to revise the timing of the FIR transactions to increase the number of the transactions sent during the 15-day compliance period.

Additionally, to enable sponsors to report data changes that occur late in the current year or in the early months of the subsequent year, a change was made to the timing of the last FIR transaction sequences. As a result, 3 end-of-year FIR sequences are sent for all enrollees on December 1 of the current year and January 15 and February 28 of the subsequent year. Sponsors needing to update beneficiaries' TrOOP accumulator data after these year-end transactions may submit a special request to the transaction facilitator during the period March 1 through May 31 for a FIR transaction series to be initiated for those beneficiaries. The revised timing provides additional opportunity to transfer updated beneficiaries' TrOOP accumulator data and for subsequent plans to consider these changes in administering the Part D benefit.

The CMS working with the NCPDP FIR Task Group and the Transaction Facilitator created a new Daily Cumulative FIR Aging Report to permit sponsors and their FIR processors to identify and resolve problems. This new report identifies for each sponsor all beneficiaries for whom balances have not successfully transferred and provides additional information to assist sponsors in complying with CMS' requirements.

Finally, in conjunction with CMS' redesign of our Medicare Advantage-Prescription Drug (MARx) system implemented in 2011, CMS implemented a daily transaction reply report (DTRR) that reports enrollment changes to sponsors on a daily, instead of the previous weekly, basis. This change significantly improved the timeliness of the data to sponsors and permits sponsors to update their systems in a more timely manner and reduce the number of FIR rejects.

OIG Recommendation

The OIG recommends CMS implement controls to ensure the TrOOP Facilitator initiates FIR transactions to transfer TrOOP balances for (1) plans providing services to non-enrollees and (2) previously rejected FIRs that since have been corrected.

CMS Response

The CMS concurs with this recommendation. CMS is currently working with the NCPDP FIR Task Group and the Transaction Facilitator to develop an NCPDP White Paper detailing the FIR-related responsibilities of the plans that provided services to non-enrollees (known as non-plans of record) and the processes in place to permit their inclusion in the FIR transaction sequence. We believe the changes to the timing of the FIR transactions described above address the second part of this recommendation. Because sponsors cannot initiate a FIR transaction, a sponsor

cannot know that a previously rejected transaction has been corrected until the next transaction is received and the sponsor responds successfully. Increasing the number of transactions during the 15 days following the change in enrollment also increases the number of opportunities sponsors have to correct the problem causing the reject and successfully transfer the data in a timely manner.

OIG Recommendation

The OIG recommends CMS implement controls to compare FIR to PDE records which FIR transactions are incomplete and require plan resubmission.

CMS Response

The CMS concurs with this recommendation. CMS' one-third audit protocol reviews a complete PDE history for a sample of beneficiaries at all stages of the benefit. For beneficiaries in the sample who transferred in, the audit examines the beginning TrOOP balance. The protocol also includes a separate test for members who have transferred into the plan to determine if the sponsor properly updated/applied the accumulators and the balances agree with the accumulators reported by the Transaction Facilitator on the FIR transaction.

OIG Recommendation

The OIG recommends CMS implement controls to ensure subsequent plan sponsors are properly updating PDE records with reported FIR information.

CMS Response

The CMS concurs with this recommendation. We are considering a regulatory change that would codify our policy that sponsors report and accept the TrOOP-related data in real-time and apply these costs in the sponsors' administration of the Part D benefit in accordance with processes specified by CMS. We believe that imposing this requirement in regulation would strengthen our enforcement ability.

Again, we appreciate the opportunity to comment on this draft report and look forward to working with OIG on this and other issues.