



DEPARTMENT OF HEALTH AND HUMAN SERVICES  
OFFICE OF AUDIT SERVICES  
233 NORTH MICHIGAN AVENUE  
CHICAGO, ILLINOIS 60601

REGION V  
OFFICE OF  
INSPECTOR GENERAL

Report Number: A-05-03-00062

June 19, 2003

Mr. Jay Martinson  
Vice President  
Noridian Mutual Insurance Company  
4305 13th Avenue, S.W.  
Fargo, North Dakota 58103

Dear Mr. Martinson,

Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General, Office of Audit Services' (OAS) report entitled "Ineligible Medicare Payments to Skilled Nursing Facilities Under the Administrative Responsibility of Noridian Mutual Insurance Company." A copy of this report will be forwarded to the action official noted below for review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official named below. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act (5 U.S.C. 552, as amended by Public Law 104-231), OIG, OAS reports issued to the department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the department chooses to exercise. (See 45 CFR Part 5).

To facilitate identification, please refer to Report Number A-05-03-00062 in all correspondence relating to this report.

Sincerely,

Paul Swanson  
Regional Inspector General  
for Audit Services

Enclosures – as stated

**Direct Reply to HHS Action Official:**

Alex Trujillo – CMS Regional Administrator  
Centers for Medicare & Medicaid Services – Region VIII  
Colorado State Bank Building  
1600 Broadway, Suite 700  
Denver, Colorado 80202

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**INELIGIBLE MEDICARE PAYMENTS  
TO SKILLED NURSING FACILITIES  
UNDER THE ADMINISTRATIVE  
RESPONSIBILITY OF NORIDIAN  
MUTUAL INSURANCE COMPANY**



**June 2003  
A-05-03-00062**

# *Notices*

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**THIS REPORT IS AVAILABLE TO THE PUBLIC**  
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In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, Office of Inspector General, Office of Audit Services, reports are made available to members of the public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR Part 5.)

## **OAS FINDINGS AND OPINIONS**

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed as well as other conclusions and recommendations in this report represent the findings and opinions of the HHS/OIG/OAS. Final determination on these matters will be made by authorized officials of the HHS divisions.



## **EXECUTIVE SUMMARY**

### **OBJECTIVE**

The audit objective was to determine the extent of ineligible Medicare Skilled Nursing Facilities (SNF) payments contained in our database of payments made under the administrative responsibility of Noridian Mutual Insurance Company (Noridian).

### **FINDINGS**

We estimate that the Medicare program improperly paid \$2.4 million to SNF providers that should be recovered by Noridian. Based on a sample of 200 SNF stays, we estimate that 77 percent of the Noridian database is not in compliance with Medicare regulations requiring a three consecutive day inpatient hospital stay within 30 days of SNF admission.

The absence of automated cross-checking, within the Centers for Medicare and Medicaid Services' (CMS) Common Working File (CWF) and Noridian's claims processing systems, allowed ineligible SNF claims to be paid. Because a comparison of the actual dates of the inpatient stay on the hospital claim to the inpatient hospital dates on the SNF claim did not occur, a qualifying three-day hospital stay preceding the SNF admission was not verified. Neither the CWF nor Noridian have an automated means to match an inpatient stay to a SNF admission and to generate a prepayment alert that a SNF claim does not qualify for Medicare reimbursement. As a result, unallowable SNF claims amounting to \$2.4 million were paid without being detected.

### **RECOMMENDATIONS**

We recommend that Noridian:

- Initiate recovery actions estimated to be \$2.4 million or support the eligibility of the individual stays included in the database.
- Initiate SNF provider education to emphasize Medicare interpretations which establish an eligible three-day inpatient hospital stay and qualify a SNF admission for Medicare reimbursement.

In a written response to our draft report, Noridian agreed with our findings. However, per CMS instructions, Noridian will not initiate recovery action until further guidance is received from CMS.

# TABLE OF CONTENTS

	<b>Page</b>
INTRODUCTION .....	1
BACKGROUND .....	1
Skilled Nursing Facilities .....	1
Regulations .....	1
Data Analysis of Ineligible SNF Stays Nationwide .....	1
OBJECTIVE, SCOPE AND METHODOLOGY .....	2
FINDINGS AND RECOMMENDATIONS .....	3
No Automated Matching .....	3
EFFECT .....	4
RECOMMENDATIONS .....	5
AUDITEE RESPONSE .....	5
<b>APPENDICES</b>	
SAMPLING METHODOLOGY .....	A
AUDITEE RESPONSE .....	B

## **Glossary of Abbreviations and Acronyms**

CFR	Code of Federal Regulations
CMS	Centers for Medicare and Medicaid Services
CWF	Common Working File
FI	Fiscal Intermediary
HIC	Health Insurance Claim
INPL	Inpatient Listing
SNF	Skilled Nursing Facility

# INTRODUCTION

## BACKGROUND

### Skilled Nursing Facilities

A SNF is an institution primarily engaged in providing skilled nursing care and related services to residents who require medical or nursing care and the rehabilitation for the injured, disabled, and sick. To qualify for Medicare reimbursement, a SNF stay must be preceded by an inpatient hospital stay of at least three consecutive days, not counting the date of discharge, which is within 30 days of the SNF admission.

### Regulations

The legislative authority for coverage of SNF claims is contained in Section 1861 of the Social Security Act; governing regulations are found in Title 42 of the Code of Federal Regulations (CFR); and CMS coverage guidelines are found in both the Intermediary and Skilled Nursing Facility Manuals.

### Data Analysis of Ineligible SNF Stays Nationwide

In a previous, self-initiated review of SNF compliance with the three-day inpatient hospital stay requirement in the State of Illinois, we identified improper Medicare payments for calendar year 1996 of approximately \$1 million (CIN A-05-99-00018). Because of the significance of the improper payments in one state, we expanded our review to calendar years 1997 through 2001 and to SNF stays nationwide. In order to quantify the extent of improper SNF payments nationwide, we created a database of SNF claims that were paid even though CMS's automated systems did not support the existence of a preceding three-day inpatient hospital stay. Using the claim data from the CMS National Claims History Standard Analytical File, we matched SNF and inpatient hospital claims and identified 60,047 potentially ineligible SNF claims with potentially improper reimbursements of \$200.8 million.

In developing our nationwide database, all SNF claims, with service dates between January 1, 1997 and December 31, 2001, were extracted from the CMS National Claims History Standard Analytical File. We excluded all SNF claims with a zero dollar payment or identification with a Health Maintenance Organization. We also extracted inpatient hospital claims, with dates of service between January 1, 1996 and December 31, 2001, which were associated with the beneficiary Health Insurance Claim (HIC) numbers on the extracted SNF claims.

We created a file of inpatient hospital stays using the hospital admission and discharge dates for the extracted inpatient claims and created a SNF file by combining all the extracted SNF claims indicating an admission date within 30 days of a previous discharge. The files of inpatient hospital and the SNF stays were then sorted by HIC number and compared to determine whether an inpatient hospital stay actually occurred within 30 days of SNF admission. We extracted all SNF stays with an inpatient stay within 30 days of SNF admission, but less than three days in

length. Based on our previous review in Illinois, we excluded all SNF stays with no inpatient hospital stay prior to admission. These situations likely pertained to the beneficiary having either a Veterans Administration or private-pay qualifying inpatient hospital stay which made the SNF stay eligible for Medicare reimbursement.

By arraying the database by the Fiscal Intermediary (FI) responsible for the SNF payments, we determined that Noridian is responsible for 773 potentially ineligible SNF stays, consisting of 1,408 SNF claims and reimbursed by Medicare in the amount of \$3.2 million.

## **OBJECTIVE, SCOPE AND METHODOLOGY**

The audit objective was to determine the extent of ineligible Medicare SNF payments made under the administrative responsibility of Noridian.

We performed our audit in accordance with generally accepted government auditing standards. This audit is part of a nationwide review of ineligible SNF payments. Accordingly, this report is part of a series of reports to be issued to the FIs identified in our national database. In addition, a roll-up report will be issued to CMS, combining the results of the FI audits. Our review was limited to testing the extent of ineligible Medicare SNF payments associated with the financial and administrative responsibility of Noridian. Our database identified 773 potentially ineligible SNF stays, which included 1,408 SNF claims reimbursed in the amount of \$3.2 million under Noridian's responsibility.

Because of the limited scope of our review, we did not review the overall internal control structure of Noridian. Our internal control testing was limited to a questionnaire relating to the claim processing system edits in place at Noridian for SNF claim payments.

Our fieldwork was performed in the Chicago Regional Office during April 2003.

**Methodology.** Since our substantial data analysis established a database of SNF claims that were paid even though CMS's National Claim History File did not support the existence of a preceding three-day inpatient hospital stay, our audit testing was limited to determining whether any other sources supported the required inpatient stay. In essence, our validation process consisted of determining whether any eligible SNF stays were inadvertently included in the database. We selected a statistical sample of 200 SNF stays from the Noridian database (reimbursed at \$882,138) and compared the SNF admission to inpatient information on the CWF system. For each of the 200 SNF stays selected in our sample, we reviewed the Inpatient Listing (INPL) claims screen from the various CWF host sites to identify any inpatient stays omitted from our database which would make the SNF stay eligible for Medicare reimbursement.

Using the Department of Health and Human Services, Office of Inspector General, Office of Audit Services RAT-STATS Unrestricted Variable Appraisal Program, we projected the amount of SNF payments eligible for Medicare reimbursement. Since our database was intended to quantify only ineligible Medicare reimbursements, we used the "difference estimator" estimation method to measure the amount of eligible Medicare reimbursements that were inadvertently



included in the database. Using the difference estimator, we adjusted the database of ineligible SNF payments and calculated the upper and lower limits at the 90 percent confidence level. We estimate that the lower limit of the 90<sup>th</sup> percentile of ineligible SNF payments under Noridian's responsibility amounted to \$2.4 million during the period January 1, 1997 to December 31, 2001. Details of our sample methodology and estimation are presented in the Appendix.

## **FINDINGS AND RECOMMENDATIONS**

We estimate that the Medicare program improperly paid SNF providers \$2.4 million that Noridian should recover. Seventy-seven percent of the 773 SNF stays in the Noridian database were not in compliance with Medicare regulations requiring a three consecutive day inpatient hospital stay within 30 days of the SNF admission. In accordance with 42 CFR, section 409.30, a SNF claim generally qualifies for Medicare reimbursement only if the SNF admission was preceded by an inpatient hospital stay of at least three consecutive calendar days, not counting the date of discharge, and was within 30 calendar days after the date of discharge from a hospital. The majority of the potentially ineligible SNF payments within our database did not have the required inpatient stay and should be recovered.

### **No Automated Matching**

We attribute the significant amount of improper Medicare SNF payments to the lack of automated procedures within the CWF and Noridian's claims processing systems. SNF claims are not matched against a history file of hospital inpatient claims to verify that a qualifying hospital stay preceded the SNF admission. Consequently, neither the CWF nor Noridian have an automated means of assuring that the SNF claims are in compliance with the three consecutive day inpatient hospital stay regulations and eligible for Medicare reimbursement.

Instead of an automated match of inpatient and SNF claims data, SNFs are on an honor system. The automated edits, in place in the CWF and Noridian claims processing systems, merely ensure that the dates of a hospital stay have been entered on the SNF claim form. As the SNF claim is processed, edits ensure that the hospital dates on the SNF claim indicate a stay of at least three consecutive days. If the SNF mistakenly enters inaccurate hospital dates reflecting a three consecutive day hospital stay, the edits are unable to detect the errant data that renders the claim ineligible for Medicare reimbursement. Consequently, the ineligible SNF claim is processed for payment.

Relative to the improper SNF payments that we identified in our database, some SNFs may not understand that a particular day in a beneficiary's hospital stay may not be considered an inpatient day under Medicare regulations. We determined that occasionally a beneficiary's hospital stay of three consecutive days will include a day of outpatient services, such as emergency room or observation care preceding the actual inpatient services. When this situation occurs, the Medicare Hospital Manual, section 400D, states that the outpatient services, rendered during the hospital visit, are treated as inpatient services for billing purposes only. The first day of inpatient hospital services is the day that the patient is formally admitted as an inpatient, which is subsequent to the patient's release from the emergency room or from observational care. A SNF's

misunderstanding of these Medicare regulations will result in an incorrect claim of a three consecutive day hospital stay. The hospital's related inpatient claim will appropriately reflect two days of inpatient care. Since SNF claims are not matched against a history file of hospital inpatient claims, the disparity in the hospital days listed on the SNF and the hospital claims are not detected.

Although we have detected a weakness in the claims processing systems that enables a significant dollar amount of ineligible SNF claims to be paid, the processing of the SNF and inpatient claims by different contractors and delayed claims submission practices by Medicare providers may preclude an effective prepayment matching routine for SNF claims. Hospital providers may have their claims processed by FIs different than those processing the related SNF claims, and Medicare providers have up to 27 months, after the date of service, to submit a claim. Under these circumstances, the FI processing the SNF claims would not have the inpatient claim data necessary for an effective and efficient prepayment matching with SNF claims. While the CWF system would have all the inpatient hospital claim data and SNF claim data necessary for a matching procedure, the time allowed by Medicare regulations for providers to submit claims might result in a high incidence of inappropriately suspended SNF claims. Although generally SNFs submit claims more promptly than hospitals, it is not uncommon for a SNF to submit several claims for a prolonged beneficiary stay, before the hospital submits the claim for the qualifying hospital stay. Consequently, it is foreseeable that hospital inpatient claims data would not be available on the automated system for a prepayment matching, at the time a SNF claim is submitted for processing.

Although the cause of the improper SNF payments in the Noridian database is not directly attributable to any inappropriate action or inaction by Noridian, we believe that our review has identified the need for Noridian to educate SNF providers about the Medicare reimbursement regulations.

## **EFFECT**

Out of the potential unallowable database of \$3.2 million, we estimate that improper Medicare SNF payments under Noridian's responsibility for the period January 1, 1997 through December 31, 2001 amounted to \$2.4 million. From the Noridian database, we confirmed that 154 of the 200 SNF stays sampled were not in compliance with Medicare regulations requiring a three consecutive day inpatient hospital stay within 30 days of the SNF admission.

We determined that 46 SNF stays in our sample were eligible for Medicare reimbursement based on a three-day hospital stay. For these 46 stays, we found inpatient claims which were listed on the CWF host sites. For some unknown reason, these admissions were not transmitted to the CMS National Claims History File, used to create our database. If these claims had been included in our cross match procedure, the SNF stay would have been eligible and excluded from the database. Based on the results of our sample, we estimate that 77 percent of the 773 SNF stays and \$2.4 million of the payments in the Noridian database were not in compliance with Medicare reimbursement regulations.

To assist in the identification and recovery of the unallowable SNF payments, we will make the necessary arrangements for the secure transfer of the database to the designated Noridian officials.

## **RECOMMENDATIONS**

We recommend that Noridian:

- Initiate recovery actions estimated to be \$2.4 million or support the eligibility of the individual stays included in the database.
- Initiate SNF provider education to emphasize Medicare interpretations which establish an eligible three-day inpatient hospital stay and qualify a SNF admission for Medicare reimbursement.

## **NORIDIAN'S RESPONSE**

Based on a sample of 20 claims that Noridian reviewed from our database, they agree with our findings. However, per a May 23, 2003 memorandum from CMS, Noridian will not take recovery action on the items in our database until they receive further instructions from CMS.

## **APPENDICES**

## APPENDIX A

### SAMPLING METHODOLOGY

#### ESTIMATION METHODOLOGY

Using the Department of Health and Human Services, Office of Inspector General, Office of Audit Services RAT-STATS Unrestricted Variable Appraisal Program, we projected the amount of SNF payments eligible for Medicare reimbursement. Since our substantial data analysis identified a database of potentially ineligible Medicare reimbursements, we used the “difference estimator” estimation method to measure the effect of the projected amount of eligible payments in the database and, thus, estimate the extent of ineligible Medicare SNF payments contained in our database. We calculated the upper and lower limits of our adjusted estimate of ineligible SNF payments, at the 90 percent confidence level, by subtracting the upper and lower limits of our projected eligible payments from the original database value of \$3,220,254.

#### SAMPLE RESULTS

The results of our review are as follows:

<u>Number of SNF Stays</u>	<u>Sample Size</u>	<u>Value of Sample</u>	<u>Number of SNF Stays Eligible for Payment</u>	<u>Value of SNF Stays Eligible for Payment</u>
773	200	\$882,138	46	\$161,990

#### VARIABLE PROJECTION

Point Estimate                      \$626,091

#### 90% Confidence Interval

Lower Limit                      \$455,394  
Upper Limit                      \$796,789

Calculation of estimated ineligible SNF payments at the lower and upper limit of the 90% confidence interval:

Database Value	\$3,220,254	Database Value	\$3,220,254
Upper limit	<u>(-) \$796,789</u>	Lower limit	<u>(-) \$455,394</u>
<b>Lower Limit As Reported</b>	<b>\$2,423,465</b>	<b>Upper Limit</b>	<b>\$2,764,860</b>



4305 13th Avenue South  
Fargo, ND 58103-3373

## Medicare

June 6, 2003

Stephen Slamar  
DHHS-OIG Office of Audit Services  
233 North Michigan Avenue, Suite 1360  
Chicago, IL 60601

Re: Report Number: A-05-03-00062

Dear Mr. Slamar,

This is in response to your letter dated May 8, 2003 on ineligible Medicare Payments to Skilled Nursing Facilities Under the Administrative responsibility of Noridian Mutual Insurance Company.

Noridian Administrative Services (NAS) has compiled comments and recommendations to the findings. In reviewing the document NAS agrees neither CWF nor the Fiscal Intermediary Standard System have an automated means not to allow ineligible SNF claims to be paid.

NAS's comments to the findings are: Inpatient claims have 27 months to submit a claim, SNF claims could be held in the system for up to 27 or more months before finalizing. This situation would cause interest to be paid if the SNF claim had a three-day qualifying stay. In considering the system changes FISS would have to validate all of the CWF Host Sites for the Inpatient stay to verify the three-day qualifying stay. Since Veterans Administration (VA) claims are not submitted to CWF those claims would never be finalized unless we received documentation from the VA supporting the three-day qualifying stay.

MIM reference 3708.4 "Liability for Overpayments Discovered Subsequent to Third Calendar Year After the Year the Payment was Approved" states "The law prescribes special rules which apply when an overpayment is discovered (i.e., it is determined that a "payment was incorrect") subsequent to the third calendar year after the year in which the claim was approved. Under these rules, deem an overpaid provider without fault without further development, in the absence of evidence to the contrary, i.e. if there is no indication that the provider was at fault." The section also states, "After 4 years, your determination may be reopened only in cases involving fraud or similar fault." The SNF providers are provided the qualifying stay dates from the hospital when they receive the patient for admission to the SNF.



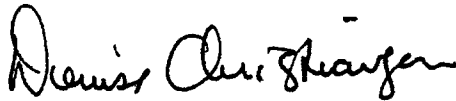
NAS has received ALJ decisions in which the judge ruled to allow SNF payment on claims without a three-day qualifying stay.

NAS has reviewed a sample of 20 claims from the list, from our review NAS agrees with the findings of the OIG. Per a May 23, 2003 Joint Signature Memo received from CMS no action is to be taken on this request until further guidance is received from CMS.

Our recommendation is these findings be referred to the Western Integrity Center (WIC) to run data analysis for post pay Medical Review starting with dates of service 2002 and be ongoing to ensure proper payment.

NAS appreciates the opportunity to review the draft and respond with comments. If you have questions, please call me at (701) 277-2009.

Sincerely,

A handwritten signature in cursive script that reads "Denise Christianson".

Denise Christianson  
Part A Operations, Manager

## ACKNOWLEDGMENTS

This report was prepared under the direction of Paul Swanson, Regional Inspector General for Audit Services. Other principal Office of Audit Services staff who contributed include:

Stephen Slamar, *Audit Manager*  
David Markulin, *Senior Auditor*

Technical Assistance

Tammie Anderson, *Advanced Audit Techniques*

For information or copies of this report, please contact the Office of Inspector General's Public Affairs office at (202) 619-1343.