DEPARTMENT OF HEALTH & HUMAN SERVICES Office of Inspector General

Washington, D.C. 20201

APR 22 2005

TO: Herb Kuhn
Director, Center for Medicare Management
Centers for Medicare & Medicaid Services

FROM: Joseph E. Vengrin
Deputy Inspector General for Audit Services

SUBJECT: Review of TrailBlazer Health Enterprises' Outlier Payments to Foundation Behavioral Health Center for Partial Hospitalization Services for the Period August 1, 2000, Through December 31, 2003 (A-07-04-04035)

Attached is an advance copy of our final report on TrailBlazer Health Enterprises' (TrailBlazer) outlier payments to Foundation Behavioral Health Center (Foundation) for partial hospitalization services for the period August 1, 2000, through December 31, 2003. We will issue this report to TrailBlazer within 5 business days. This is one of a series of reports on Medicare outlier payments made to community mental health centers.

Our objective was to determine if the fiscal intermediary, TrailBlazer, calculated Medicare outlier payments to Foundation in accordance with Medicare reimbursement requirements.

TrailBlazer did not calculate Medicare outlier payments to Foundation in accordance with Medicare reimbursement requirements. TrailBlazer used an incorrect cost-to-charge ratio in computing the outlier payments. The cost-to-charge ratio was based on a short period Medicare cost report, contrary to Medicare reimbursement requirements.

The errors occurred because TrailBlazer did not have adequate internal controls to prevent or detect the improper determination of the cost-to-charge ratio. As a result of using the incorrect cost-to-charge ratio, TrailBlazer overpaid Foundation approximately $1.4 million.

RECOMMENDATIONS

We recommend that TrailBlazer:

- recover from Foundation the improper outlier payments totaling $1,426,058 and
- implement internal controls that ensure the correct cost-to-charge ratios are used for future outlier payments.

In response to our draft report, TrailBlazer agreed with the finding that an error was made in determining the cost-to-charge ratio used to compute outlier payments. TrailBlazer also agreed that adequate internal controls were not in place in September 2000 to identify and correct the

error in determining the cost-to-charge ratio for this provider. TrailBlazer stated that it will seek guidance from the Centers for Medicare & Medicaid Services regarding the issue of reprocessing claims and recovery of any overpayment. However, TrailBlazer disagreed with the cost-to-charge ratio we used to compute the overpayment. We revised our report to address TrailBlazer's comment regarding which cost-to-charge ratio was used to compute the overpayment.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact George M. Reeb, Assistant Inspector General for the Centers for Medicare & Medicaid Audits, at (410) 786-7104 or Mr. James P. Aasmundstad, Regional Inspector General for Audit Services, Region VII, at (816) 526-3591. Please refer to report number A-07-04-04035 in all correspondence.

Attachment

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General
Offices of Audit Services

Region VII
601 East 12th Street
Room 284A
Kansas City, Missouri 64106

Report Number: A-07-04-04035

APR 26 2005

Mr. Scott J. Manning
Vice President, Audit & Reimbursement
TrailBlazer Health Enterprises, LLC
Audit & Reimbursement Division
Executive Center III
8330 LBJ Freeway
Dallas, Texas 75243-1765

Dear Mr. Manning:

Enclosed are two copies of the Department of Health and Human Services (HHS), Office of Inspector General (OIG) final report entitled "Review of TrailBlazer Health Enterprises' Outlier Payments to Foundation Behavioral Health Center for Partial Hospitalization Services for the Period August 1, 2000, Through December 31, 2003." A copy of this report will be forwarded to the action official noted below for review and any action deemed necessary.

The HHS action official named below will make final determination as to actions taken on all matters reported. We request that you respond to the HHS action official within 30 days. 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 reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent the information is not subject to exemptions in the Act which the Department chooses to exercise (see 45 CFR part 5).

Please refer to report number A-07-04-04035 in all correspondence.

Sincerely,

James P. Aasmundstad
Regional Inspector General
for Audit Services

Enclosures

Direct Reply to HHS Action Official:

James R. Farris, Jr., M.D.
Regional Administrator, Region VI
Centers for Medicare & Medicaid Services
Department of Health and Human Services
1301 Young Street, Suite 714
Dallas, Texas 75202

Enclosures

Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

REVIEW OF TRAILBLAZER HEALTH ENTERPRISES' OUTLIER PAYMENTS TO FOUNDATION BEHAVIORAL HEALTH CENTER FOR PARTIAL HOSPITALIZATION SERVICES FOR THE PERIOD AUGUST 1, 2000, THROUGH DECEMBER 31, 2003

APRIL 2005
A-07-04-04035

Office of Inspector General

http://oig.hhs.gov

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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 the information 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. Authorized officials of the HHS divisions will make final determination on these matters.

EXECUTIVE SUMMARY

BACKGROUND

Partial hospitalization is an intensive outpatient program of psychiatric services that hospitals or community mental health centers (CMHCs) may provide to patients in lieu of inpatient psychiatric care. Under the Medicare hospital outpatient prospective payment system, which was implemented in August 2000, providers receive a per diem rate for partial hospitalization services. In extraordinary cases, Medicare may make additional payments, called outlier payments, if the cost of care is high in relation to the average cost of treating comparable conditions or illnesses.

We conducted this audit because the Centers for Medicare & Medicaid Services (CMS) raised concerns about excessive Medicare outlier payments to CMHCs. This review is part of a nationwide audit of payments to CMHCs.

OBJECTIVE

Our objective was to determine if the fiscal intermediary, TrailBlazer Health Enterprises (TrailBlazer), calculated Medicare outlier payments to the Foundation Behavioral Health Center (Foundation) in accordance with Medicare reimbursement requirements. The audit period covered dates of service between August 1, 2000, and December 31, 2003.

SUMMARY OF FINDINGS

TrailBlazer did not calculate Medicare outlier payments to Foundation in accordance with Medicare reimbursement requirements. TrailBlazer used an incorrect cost-to-charge ratio in computing the outlier payments. The cost-to-charge ratio was based on a short-period Medicare cost report, contrary to Medicare reimbursement requirements.

The errors occurred because TrailBlazer did not have adequate internal controls to prevent or detect the improper determination of the cost-to-charge ratio. As a result of using the incorrect cost-to-charge ratio, TrailBlazer overpaid Foundation approximately $1.4 million.

RECOMMENDATIONS

We recommend that TrailBlazer:

- recover from Foundation the improper outlier payments totaling $1,426,058 and
- implement internal controls that ensure the correct cost-to-charge ratios are used for future outlier payments.

AUDITEE COMMENTS

In response to our draft report, TrailBlazer agreed with the finding that an error was made in determining the cost-to-charge ratio used to compute outlier payments. TrailBlazer also agreed that adequate internal controls were not in place in September 2000 to identify and correct the error in determining the cost-to-charge ratio for this provider. TrailBlazer stated it had taken corrective action on or about this time to improve quality and strengthen internal controls by initiating several organizational and operational changes.

TrailBlazer stated that it will seek guidance from CMS regarding the issue of reprocessing claims and recovery of any overpayment. However, TrailBlazer disagreed with the cost-to-charge ratio we used to compute the overpayment. TrailBlazer's response is summarized in our report and included in its entirety as Appendix B.

OFFICE OF INSPECTOR GENERAL RESPONSE

We have revised our report to address TrailBlazer's comment regarding which cost-to-charge ratio was used to compute the overpayment. The recommended recovery of $2,049,769 has been reduced to $1,426,058.

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INTRODUCTION

BACKGROUND

Partial Hospitalization Program

Partial hospitalization is an intensive outpatient program of psychiatric services that hospitals or community mental health centers (CMHCs) may provide to patients in lieu of inpatient psychiatric care. The program is designed to provide patients who have profound and disabling mental health conditions with an individualized, coordinated, comprehensive, and multidisciplinary treatment involving nurses, psychiatrists, psychologists, and social workers.

Pursuant to the Balanced Budget Act of 1997, Medicare payments for partial hospitalization services provided by CMHCs are made as part of hospital outpatient prospective payment system (OPPS) that was implemented in August 2000. Under the OPPS, Medicare pays CMHCs a per diem rate for such services. Medicare may also make outlier payments for situations in which the cost of care is extraordinarily high in relation to the average cost of treating comparable conditions or illnesses. Medicare makes these additional outlier payments when the provider's charges for the services, adjusted to cost, exceed a given threshold established by the Centers for Medicare & Medicaid Services (CMS).

Cost-to-Charge Ratio

Providers bill for Medicare claims based on patient charges. To determine whether a claim qualifies for an outlier payment, billed charges must be converted to estimated costs using a cost-to-charge ratio. The use of provider-specific cost-to-charge ratios is essential to ensure that outlier payments are made only for cases that have extraordinarily high costs, not merely high charges. The Medicare fiscal intermediaries calculate these ratios by dividing total patient-related costs by total charges as shown on the providers' Medicare cost reports.

Intermediary Responsibilities

CMS contracts with fiscal intermediaries for assistance in administering the partial hospitalization program, including:

- processing and paying claims for CMHCs;
- calculating initial cost-to-charge ratios based on fiscal year (FY) 1997 Medicare cost reports;
- computing outlier payment amounts;
- updating cost-to-charge ratios, effective April 30, 2003, based on the most recent cost reports available;
- conducting audits of cost reports submitted by CMHCs; and

- performing medical reviews of claims for necessity and reasonableness of services.

Tentative and Final Settlements of Medicare Cost Reports

Each CMHC is required to file a Medicare cost report each year. After acceptance of the cost report, the fiscal intermediary performs a tentative settlement to ensure that providers are reimbursed expeditiously. The intermediary may perform a detailed audit after the tentative settlement. If the intermediary does not perform a detailed audit, the intermediary determines final settlement by performing a limited desk audit. After auditing the cost report, the intermediary issues a notice of program reimbursement. As the final settlement document, this notice shows whether payment is owed to the provider or the Medicare program. The final settlement incorporates any audit adjustments the fiscal intermediary may have made.

Foundation Community Mental Health Center

Foundation Behavioral Health Center (Foundation), a Medicare-certified CMHC in Ft. Worth, TX, started business in June 1997. Foundation received Medicare payments totaling $4,658,674 for services rendered from the inception of OPPS in August 2000 through December 2003. Of these payments, $3,384,590 (or about 73 percent) represented outlier payments.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether TrailBlazer Health Enterprises (TrailBlazer) calculated Medicare outlier payments to Foundation in accordance with Medicare reimbursement requirements.

Scope

For services rendered between August 1, 2000, and December 31, 2003, Foundation received $3,384,590 in outlier payments from TrailBlazer. We reviewed the elements of the outlier payment calculation.

We limited our internal control review to the processes TrailBlazer used in the outlier payment methodology and Foundation's internal controls related to its cost and charge structure that affected the outlier payment mechanism. We did not perform detailed tests of internal controls because the objective of our review did not require this testing. Moreover, these claims were not reviewed for medical necessity.

We performed fieldwork at Foundation in Ft. Worth, TX, and TrailBlazer in Dallas, TX.

Methodology

We reviewed the Balanced Budget Act of 1997, the Balanced Budget Refinement Act of 1999, the Federal Register, program memorandums, the CFR, the Medicare Intermediary Manual, and

the Provider Reimbursement Manual as they pertain to outlier payments for partial hospitalization services. We also interviewed officials of TrailBlazer, CMS, and Foundation.

From TrailBlazer, we obtained (1) cost reports from FYs that ended between December 31, 1997, and December 31, 2002; (2) documentation detailing the cost-to-charge ratio calculation; (3) information from the online system screen that identified the cost-to-charge ratio effective date; and (4) summaries and details of provider statistical and reimbursement (PS&R) reports. We identified the cost report that was used to establish the cost-to-charge ratio.

We extracted individual detailed claim information from CMS's Standard Analytic File using the Data Extract System for partial hospitalization claims for the period August 1, 2000, to December 31, 2003. We reconciled these data to the PS&R reports from TrailBlazer.

We independently recomputed the outlier payments as they appeared on the PS&R report. Specifically, we computed the outlier payments on a claim-by-claim basis from a spreadsheet obtained from TrailBlazer and claim data in the Standard Analytical File.

To establish the correct amount of outlier payments, we recomputed the outlier payments using the cost-to-charge ratio from the FY 1999 cost report. In our recomputation, we calculated all of the outlier payments based on the aggregate services on the claim (as shown in appendix A). Effective April 2002, CMS changed the outlier payment methodology from the aggregate service method to a computation based on each individual service on the claim. However, while recomputing actual payment amounts processed by the fiscal intermediary, we determined that the different methodologies had an immaterial impact on the outlier payments to Foundation.

We conducted our review in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

TrailBlazer did not calculate Medicare outlier payments to Foundation in accordance with Medicare reimbursement requirements. TrailBlazer used an incorrect cost-to-charge ratio in computing outlier payments. TrailBlazer assigned a cost-to-charge ratio based on a short-period Medicare cost report, contrary to the requirements of CMS Program Memorandum A-00-63.

These calculation errors occurred because TrailBlazer did not have adequate internal controls to prevent or detect the improper determination of the cost-to-charge ratio. As a result of using the incorrect cost-to-charge ratio, TrailBlazer overpaid Foundation approximately $1.4 million.

ESTABLISHMENT OF COST-TO-CHARGE RATIO

On September 8, 2000, CMS issued to fiscal intermediaries Program Memorandum A-00-63 on how to compute OPPS outlier payments effective August 1, 2000. The memorandum required intermediaries to use FY 1997 cost reports and to calculate a cost-to-charge ratio for each CMHC. For CMHCs that did not have 1997 cost reports, intermediaries were required to use the most recent cost report available. If, in the judgment of an intermediary, the 1997 cost report did

not yield a valid or usable cost-to-charge ratio, the intermediary was allowed to use a more recent cost report. In addition, if a hospital or CMHC had a short, i.e. partial-year, cost reporting period, the memorandum required the intermediaries to use the latest full-year cost report.

According to CMS officials, the use of a short cost reporting period is prohibited because the short time period could skew the cost-to-charge ratio.

CMS requires fiscal intermediaries to use provider-specific cost-to-charge ratios in outlier computations to convert providers' billed charges to costs. As part of these computations, fiscal intermediaries compare converted cost figures to a prescribed threshold.

IMPROPER CALCULATION OF OUTLIER PAYMENTS TO FOUNDATION

TrailBlazer did not calculate Medicare outlier payments to Foundation in accordance with Medicare reimbursement requirements. Specifically, TrailBlazer used an incorrect cost-to-charge ratio in computing the payments. The incorrect cost-to-charge ratio was based on a short-period Medicare cost report. TrailBlazer used a 1.088 cost-to-charge ratio in computing outlier payments between August 1, 2000, and April 30, 2003. Instead, it should have used a cost-to-charge ratio of 0.781.

Foundation was certified as a Medicare facility as of June 18, 1997. Foundation filed a short-period cost report for the FY that ended December 31, 1997. During this period, the provider treated approximately 40 patients. The small number of patients, in addition to the startup costs, resulted in a cost-to-charge ratio of 1.088, for the FY that ended December 31, 1997. As of the effective date of the OPPS outlier instructions (September 8, 2000), Foundation's cost-to-charge ratio from the latest full-year cost report, December 31, 1999, was 0.781.

In 2003, CMS issued Program Memorandum A-03-004 that required fiscal intermediaries to revise the cost-to-charge ratio for outlier payment computations using the most recent full-year cost reporting period, whether tentatively settled or final settled. As a result, TrailBlazer correctly computed a revised cost-to-charge ratio for Foundation as of April 30, 2003.

INADEQUATE INTERNAL CONTROLS

TrailBlazer's internal controls did not prevent or detect the improper calculation of the cost-to-charge ratio. While TrailBlazer had increased its oversight of CMHCs by conducting more medical reviews and onsite audits to improve Medicare reimbursement accuracy, it had not implemented effective procedures to verify the accuracy of its cost-to-charge ratio computations.

The Medicare Intermediary Manual, CMS Publication 13-2, section 2901.3, requires fiscal intermediaries to ensure that Medicare pays neither no more, nor less, than appropriate and to implement proper Medicare reimbursement policy. If TrailBlazer had more carefully reviewed the initial cost-to-charge ratio computation, the payment errors would have been prevented. Moreover, given the size of the outlier payments to Foundation relative to the size of this provider, we believe that more active monitoring of the outlier payment process by TrailBlazer during this 3-year period would have detected these errors.

IMPROPER OUTLIER PAYMENTS

Of the $3,384,590 in outlier payments Foundation received for services rendered between August 1, 2000, and December 31, 2003, $1,426,058 were improperly paid as a result of TrailBlazer's assignment of the incorrect cost-to-charge ratio. If TrailBlazer used the correct cost-to-charge ratio to compute the outlier payments as prescribed by CMS, Foundation would have received $1,958,532 in outlier payments.

The appendix demonstrates the impact of using the incorrect cost-to-charge ratio on individual claims.

RECOMMENDATIONS

We recommend that TrailBlazer:

- recover from Foundation the improper outlier payments totaling $1,426,058 and

- implement internal controls that ensure the correct cost-to-charge ratios are used for future outlier payments.

AUDITEE COMMENTS

In response to our draft report, TrailBlazer agreed with the finding that an error was made in determining the cost-to-charge ratio used to compute outlier payments. TrailBlazer also agreed that adequate internal controls were not in place in September 2000 to identify and correct the error in determining the cost-to-charge ratio for this provider. TrailBlazer stated it had taken corrective action on or about this time to improve quality and strengthen internal controls by initiating several organizational and operational changes.

TrailBlazer stated that it will seek guidance from CMS regarding the issue of reprocessing claims and recovery of any overpayment. However, TrailBlazer disagreed that the payments should have been computed using the cost-to-charge ratio from the 1998 cost report. TrailBlazer stated that the Office of Inspector General should have used the 1999 cost report because it was the latest available cost report as of September 8, 2000. In addition, TrailBlazer stated that they believed the outlier computation methodology reflected in the appendix has been inaccurately presented for services provided on or after April 1, 2002.

TrailBlazer's response is included in its entirety as Appendix B.

OFFICE OF INSPECTOR GENERAL RESPONSE

In our draft report, we recomputed the outlier payments using the cost-to-charge ratio from the 1998 cost report. The 1998 cost report was the latest cost report that had been tentatively settled. According to a CMS official, CMS intended that cost-to-charge data were based on tentatively settled or final settled cost report figures. In fact, basing outlier payments on a cost-to-charge ratio for which the fiscal intermediary had not completely reviewed the underlying cost report

data, runs contradictory to CMS's policy that cost reports have to be tentatively settled prior to remitting any amounts due to the provider.

In 2003, CMS clarified this point by issuing Program Memorandum A-03-004 that states a provider's intermediary will calculate revised cost-to-charge ratios using the cost report for the provider's most recent full-year cost reporting period, whether tentatively settled or final settled. However, we agree with TrailBlazer that the Program Memorandum that was effective in 2000 did not specify that the cost report had to be tentatively settled. Therefore, we have revised our report to calculate the overpayment using the cost-to-charge ratio from the 1999 cost report.

As TrailBlazer indicated, CMS revised the outlier payment computation effective April 1, 2002, from an aggregate claim basis to an individual service basis. However, as stated in the methodology section of the report, we concluded that any difference in computing the overpayment using the aggregate claim methodology versus the service-by-service basis was immaterial. Any recovery action will not be based on our computations. Recovery action will be based on actual claim adjustments processed through the Medicare claims processing system using the appropriate methodology for the applicable timeframes.

OTHER MATTER

Foundation did not accurately record certain costs and charges on submitted cost reports, including cost reports that were submitted to TrailBlazer under the reasonable cost reimbursement system (in place prior to the adoption of OPPS in August 2000). The improper treatment of charges and costs had a direct impact on Medicare reimbursement under the reasonable cost reimbursement system and affected the accuracy of the cost-to-charge ratio.

We referred these issues to TrailBlazer in a letter dated December 17, 2003. As a result of our referral, TrailBlazer performed an onsite focused review of the Foundation cost reports for the 1997, 1998, and 2002 cost reports. Following CMS's approval, final settlements for these cost reports were issued on November 24, 2004, resulting in a combined overpayment owed to the Medicare program of $952,248.

APPENDIXES

OUTLIER COMPUTATION EXAMPLES

	A	B	C	D	E	F	G
	Billed Charges	CCR	Conversion Factor[1]	Charges Converted to Cost	OPPS Ambulatory Procedure Classification (APC) Payment	Threshold (3.5 times the APC payment)	Outlier Payment (50 percent of the difference)
	Per PS&R			(**A** x **B** x **C**)	Per PS&R	(3.5 x **E**)	(0.50 x [**D** - **F**])
Paid Claim 1 with dates of service of June 3-13, 2002	$12,000	1.088	0.981956	$12,820.42	$1,636.40	$5,727.40	$3,546.51
Office of Inspector General revised payment	$12,000	0.644	0.981956	$7,588.56	$1,636.40	$5,727.40	$930.58
Overpayment Claim 1							**$2,615.93**

	A	B	C	D	E	F	G
Paid Claim 2 with dates of service of September 2-6, 2002	$4,500	1.088	0.981956	$4,807.66	$818.20	$2,863.70	$971.98
Office of Inspector General revised payment	$4,500	0.644	0.981956	$2,845.71	$818.20	$2,863.70	$-0-
Overpayment Claim 2							**$971.98**

[1]TrailBlazer uses a CCR conversion factor of 0.981956 in the outlier calculation in accordance with the Medicare Claims Processing Manual (CMS Pub. 100-04) section 50.5.

MEDICARE

Part A Intermediary
Part B Carrier

February 11, 2005

Mr. James P. Aasmundstad
Regional Inspector General for Audit Services
Department of Health & Human Services, Region VII
601 East 12th Street, Room 284A
Kansas City, MO 64106

RE: Medicare Intermediary Response to Draft Report Entitled
"Audit of Outlier Payments to Foundation Behavioral Health Center for Partial Hospitalization Services for the Period of August 1, 2000 through December 31, 2003"
Report Number A-07-04-04035

Dear Mr. Aasmundstad:

In response to the Department of Health and Human Services, Office of Inspector General (OIG), draft report entitled, "Audit of Outlier Payments to Foundation Behavioral Health Center for Partial Hospitalization Services for the Period of August 1, 2000 through December 31, 2003" (OIG report), we submit the following comments.

Establishment of Cost-to-Charge Ratio and Calculation of Outlier Payments to Foundation

We agree with the finding that an error was made in determining the cost-to-charge ratio (CCR) used to compute outlier payments made to The Foundation Community Mental Health Center (Foundation) effective for services furnished between August 1, 2000 and April 30, 2003. As stated in the OIG report, TrailBlazer incorrectly used the short period cost report for the period ending December 31, 1997 to determine the CCR. This was contrary to CMS instructions given in Program Memorandum A-00-63, which requires the use of the latest full year cost report available as of September 8, 2000, the issue date and implementation date of this program memorandum. The OIG report indicates that the CCR of 0.644, based on the cost reporting period ending December 31, 1998, should be used. However, based on our analysis, the latest full year cost report available (i.e., received from the provider and accepted by TrailBlazer), at the time the CMS instructions were published, was the initial cost report for the period ending December 31, 1999. This cost report was received from the provider on June 20, 2000, and was accepted by TrailBlazer on August 23, 2000. Using the initial cost report filed by the provider for the period ending December 31, 1999, we have calculated the CCR as follows:

Total Medicare Cost [CMS Form 2088-92, Wkst. C, Col. 3, Line 39.01]	$1,652,382 (A)
Total Medicare Charges [CMS Form 2088-92, Wkst. C, Col. 3, Line 39.02]	$2,114,500 (B)
Cost-to-Charge Ratio [(A)/(B)]	0.781

The OIG report also states that Foundation received improper outlier payments totaling $2,049,749 and recommends that this amount be recovered from the provider. The OIG report does not specify how this amount was computed, but does reference Outlier Computation Examples included in the appendix.

From review of this information, we believe that the outlier computation methodology, reflected in the appendix, has been inaccurately presented for services provided on or after April 1, 2002. CMS published Program Memorandum A-02-026, on March 28, 2002, changing the manner in which outlier payments are calculated. Based on this program memorandum, effective April 1, 2002, outlier payments are calculated based on each individual Outpatient Prospective Payment System (OPPS) service that appears on a claim. Prior to April 1, 2002, outlier payments were calculated in aggregate for all OPPS services that appeared on the claim. Based on the difference in the method utilized in calculating the outlier payment and correction of the CCR utilized in the OIG report, we believe the improper outlier payments cited in the OIG report are not accurately presented.

Additionally, current CMS instructions do not make provision for retroactive corrections for changes in the CCR due to errors. Beginning with the implementation of the OPPS, changes in the CCR have only been applied on a prospective basis. In Program Memorandum A-03-004, CMS instructions state "revised CCRs will be applied prospectively for purposes of calculating outlier payments". In order to determine the correct outlier payments Foundation should receive, it will be necessary to reprocess the claims paid for the period between August 1, 2000 and April 30, 2003. Therefore, we will seek guidance from CMS regarding the issue of reprocessing claims and recovery of any subsequently determined overpayment. We will reprocess these claims and take steps to recoup the funds if CMS gives us specific authority to do so. However, as noted in the "Other Matters" section of this response, the provider declared bankruptcy on October 1, 2004, which may preclude collection of any additional overpayment.

Internal Controls

The OIG report also recommends that TrailBlazer implement internal controls to ensure that the correct CCRs are used for future outlier payments. We agree that adequate internal controls were not in place in September 2000 to identify and correct the error in determining the CCR for this provider. However, on or about the time this error occurred, TrailBlazer initiated several organizational and operational changes to improve quality and strengthen internal controls. These changes included the following:

1. Beginning in October 2000, the Provider Audit and Reimbursement Division was reorganized, changing from a function-based organizational structure to a provider based organizational structure. This reorganization eliminated function-based departments, such as the Administrative Controls Department responsible for determining the CCRs, and transitioned these functions into Home Office Teams (HOTs). In so doing, the oversight responsibility for functions such as determining CCRs shifted from a single Department Director, to a combination of HOT Directors, Senior Review Specialists, and Reimbursement Support Supervisors. These individuals are responsible for reviewing and verifying the accuracy of the CCR determinations and ensuring the CCR is properly posted to the Fiscal Intermediary Shared System (FISS) to see that claims are properly paid. This increased supervision, oversight and review have assisted in reducing the likelihood that errors will go undetected.

2. Beginning in August 2000, our Training and Quality Support (TQS) Department staff was assigned to re-write and/or develop procedures and policies relating to the functional activities undertaken within the Provider Audit and Reimbursement Division. The Division policies and procedures are available electronically for access by all staff. They are reviewed and updated, as necessary, on an ongoing basis.

3. Since our Division reorganization and revision or development of new Division policies and procedures, extensive staff training has taken place. This training helps ensure that Division policies and procedures are understood and followed.

4. Testing of internal controls has been enhanced. Trailblazer TQS staff perform periodic reviews of the various functional activities performed by the HOTs. Where deficiencies are identified, corrective action, including further refinement of policies and procedures, are implemented.

5. Division oversight of the CMS Change Management publications has also been assigned to the TQS staff. This includes ensuring that CMS promulgated memoranda, transmittals, and regulations have been properly implemented in a timely and accurate manner.

With the above changes, we believe TrailBlazer currently has adequate internal controls in place to ensure that the CCRs used to determine outlier payments under OPPS are properly made. As evidence of the improvements made, the most recent SAS 70 Audit, covering the period October 1, 2003 to June 4, 2004, resulted in no deficiencies relating to the operating effectiveness of controls in the Provider Audit and Reimbursement Division. Furthermore, the OIG has noted in their report that TrailBlazer properly implemented the revision to the CCR mandated by CMS in Program Memorandum A-03-004 by stating:

> "TrailBlazer computed a new CCR for Foundation as of April 30, 2003, and subsequent outlier payments were calculated and paid with the correct CCR."

Consequently, we do not believe that additional internal controls are required at the current time.

Other Matters
In addition to the issue regarding the incorrect calculation of the CCR for this provider, the OIG also identified other issues relating to the accuracy of certain costs and charges reported by the provider on the cost reports they submitted to TrailBlazer. These matters were communicated separately by the OIG in a letter dated December 17, 2003. In response to these additional concerns, TrailBlazer performed an on-site Focused Review of the Foundation cost reports for the periods ending December 31, 1997, December 31, 1998, and December 31, 2002 as part of our fiscal year 2004 audit workload. Following CMS approval, final settlements for these cost reports were issued on November 24, 2004, resulting in a combined overpayment owed to the Medicare program of $952,248. Additionally, a Tentative Settlement for the cost reporting period ending December 31, 2003 was issued on August 4, 2004, based on the audit findings for the previous years. This tentative settlement resulted in an overpayment owed to the Medicare program of $200,963. Following the issuance of the Tentative Settlement of the December 31, 2003 cost report, Foundation filed Chapter 11 Bankruptcy on October 1, 2004. TrailBlazer received notice of the bankruptcy from CMS on October 6, 2004. The current outstanding balance owed by the provider for all cost report settlements is $1,149,211. Due to the bankruptcy proceedings, specific instructions are required from CMS prior to the release or collection of any funds to the provider. In light of the bankruptcy, reopening of the December 31, 1999, the December 31, 2000, and the December 31, 2001 cost reports is still under consideration.

Please feel free to contact me regarding any questions or comments associated with our response to the OIG report findings and recommendations.

Sincerely,

Neil Milbrandt
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