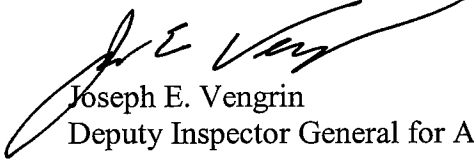




NOV - 5 2008

TO: Kerry Weems
Acting Administrator
Centers for Medicare & Medicaid Services

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

SUBJECT: Review of Thomas Jefferson University Hospital's Reported Fiscal Year 2006 Wage Data (A-03-07-00024)

Attached is an advance copy of our final report on Thomas Jefferson University Hospital's (the Hospital) reported fiscal year (FY) 2006 wage data. We will issue this report to the Hospital within 5 business days. This review is one in a series of reviews of the accuracy of hospitals' wage data, which the Centers for Medicare & Medicaid Services (CMS) uses in developing its wage indexes.

Under the inpatient prospective payment system for acute-care hospitals, Medicare Part A pays hospitals at predetermined, diagnosis-related rates for patient discharges. The payment system base rate includes a labor-related share. CMS adjusts the labor-related share by the wage index applicable to the area in which a hospital is located.

Our objective was to determine whether the Hospital complied with Medicare requirements for reporting wage data in its FY 2006 Medicare cost report.

The Hospital did not fully comply with Medicare requirements for reporting wage data in its FY 2006 Medicare cost report. Specifically, the Hospital overstated its wage data by \$12,248,742 and 412,397 hours. Our correction of the Hospital's errors increased the average hourly wage rate approximately 0.6 percent. The errors in reported wage data occurred because the Hospital did not sufficiently review and reconcile wage data to ensure that all amounts reported were accurate, supportable, and in compliance with Medicare requirements. If the Hospital had not revised the wage data in its FY 2006 cost report, the FY 2009 wage index for the Hospital's statistical area would have been understated, which would have resulted in underpayments to all of the hospitals that use this wage index.

We recommend that the Hospital implement review and reconciliation procedures to ensure that the wage data reported in future Medicare cost reports are accurate, supportable, and in compliance with Medicare requirements.

In its comments on our draft report, the Hospital disagreed with our first recommendation to submit a revised FY 2006 cost report to correct the wage data overstatements, stating that the adjustments had already been submitted to the fiscal intermediary. The Hospital also said that it would work to strengthen its review and reconciliation procedures. After reviewing the Hospital's comments and information provided by the intermediary, we deleted our first recommendation from this final report.

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 through e-mail at George.Reeb@oig.hhs.gov or Stephen Virbitsky, Regional Inspector General for Audit Services, Region III, at (215) 861-4470 or through e-mail at Stephen.Virbitsky@oig.hhs.gov. Please refer to report number A-03-07-00024.

Attachment



Office of Audit Services, Region III
Public Ledger Building, Suite 316
150 S. Independence Mall West
Philadelphia, PA 19106-3499

NOV 12 2008

Report Number: A-03-07-00024

Mr. Thomas Lewis
President and Chief Executive Officer
Thomas Jefferson University Hospital
111 South 11th Street
Philadelphia, Pennsylvania 19107

Dear Mr. Lewis:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Review of Thomas Jefferson University Hospital's Reported Fiscal Year 2006 Wage Data." We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

The HHS action official will make final determination as to actions taken on all matters reported. We request that you respond to this 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.

Pursuant to the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, OIG reports generally are made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5). Accordingly, this report will be posted on the Internet at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at (215) 861-4470, or contact Bernard Siegel, Audit Manager, at (215) 861-4484 or through e-mail at Bernard.Siegel@oig.hhs.gov. Please refer to report number A-03-07-00024 in all correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Virbitsky".

Stephen Virbitsky
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Ms. Nanette Foster Reilly
Consortium Administrator
Consortium for Financial Management and Fee for Service Operations
Centers for Medicare & Medicaid Services
601 East 12th Street, Room 235
Kansas City, Missouri 64106

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF THOMAS JEFFERSON
UNIVERSITY HOSPITAL'S
REPORTED FISCAL YEAR 2006
WAGE DATA**



Daniel R. Levinson
Inspector General

November 2008
A-03-07-00024

Office of Inspector General

<http://oig.hhs.gov>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

Office of Evaluation and Inspections

The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. These evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness of departmental programs. To promote impact, OEI reports also present practical recommendations for improving program operations.

Office of Investigations

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs, operations, and beneficiaries. With investigators working in all 50 States and the District of Columbia, OI utilizes its resources by actively coordinating with the Department of Justice and other Federal, State, and local law enforcement authorities. The investigative efforts of OI often lead to criminal convictions, administrative sanctions, and/or civil monetary penalties.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC
at <http://oig.hhs.gov>

Pursuant to the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, Office of Inspector General reports generally are made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5).

OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

EXECUTIVE SUMMARY

BACKGROUND

Under the inpatient prospective payment system for acute-care hospitals, Medicare Part A pays hospital costs at predetermined, diagnosis-related rates for patient discharges. The Centers for Medicare & Medicaid Services (CMS) adjusts prospective payments by the wage index applicable to the area in which each hospital is located. CMS calculates a wage index for each metropolitan area, known as a core-based statistical area (CBSA), as well as a statewide rural wage index for each State. These calculations use hospital wage data (which include wages, salaries, and related hours) collected 4 years earlier to allow time for the collection of complete cost report data from all inpatient prospective payment system hospitals and for reviews of hospital wage data by CMS's fiscal intermediaries. For example, CMS based the fiscal year (FY) 2009 wage indexes on wage data collected from hospitals' Medicare cost reports for their FYs that began during Federal FY 2005 (October 1, 2004, through September 30, 2005).

CMS bases each wage index on the average hourly wage rate of the applicable hospitals divided by the national average rate. A hospital's wage rate is the quotient of dividing total dollars (numerator) by total hours (denominator). Arriving at the final numerator and denominator in this rate computation involves a series of calculations.

CMS is required to update wage indexes annually in a manner that ensures that aggregate payments to hospitals are not affected by changes in the indexes. CMS is also required to update payments to hospitals by an applicable percentage based on the market basket index, which measures the inflationary increases in hospital costs. Hospitals must accurately report wage data for CMS to determine the equitable distribution of payments and ensure the appropriate level of funding to cover hospital costs.

Thomas Jefferson University Hospital (the Hospital) is a 911-bed hospital in Philadelphia, Pennsylvania. The Hospital is 1 of 46 hospitals in a Philadelphia CBSA. The Hospital reported wage data of \$407.9 million and 11.6 million hours in its FY 2006 (July 1, 2005, through June 30, 2006) Medicare cost report, which resulted in an average hourly wage rate of \$35.25.

OBJECTIVE

Our objective was to determine whether the Hospital complied with Medicare requirements for reporting wage data in its FY 2006 Medicare cost report.

SUMMARY OF FINDINGS

The Hospital did not fully comply with Medicare requirements for reporting wage data in its FY 2006 Medicare cost report. Specifically, the Hospital reported the following inaccurate wage data, which affected the numerator and/or denominator of its wage rate calculation:

- unallowable wage-related benefit costs, which overstated wage data by \$6,567,833;

- misstated salaries and hours, which overstated wage data by \$5,158,973 and 423,166 hours;
- understated excluded salaries, which overstated wage data by \$342,938 and 4,715 hours;
- unallowable costs for Medicare Part B services, which overstated wage data by \$298,815 and understated 4,951 hours; and
- misstated contract service costs, which understated wage data by \$119,817 and 10,533 hours.

These errors occurred because the Hospital did not sufficiently review and reconcile its reported wage data to supporting documentation to ensure that the data were accurate, supportable, and in compliance with Medicare requirements. As a result, the Hospital overstated its wage data by a total of \$12,248,742 (numerator) and 412,397 hours (denominator) for the FY 2006 Medicare cost report period. Our correction of the Hospital's errors increased the average hourly wage rate approximately 0.6 percent from \$35.25 to \$35.45. If the Hospital had not revised the wage data in its cost report, the FY 2009 wage index for the Hospital's CBSA would have been understated, which would have resulted in underpayments to all of the hospitals that use this wage index.

RECOMMENDATION

We recommend that the Hospital implement review and reconciliation procedures to ensure that the wage data reported in future Medicare cost reports are accurate, supportable, and in compliance with Medicare requirements.

THOMAS JEFFERSON UNIVERSITY HOSPITAL COMMENTS

In its comments on our draft report, the Hospital agreed with or understood and accepted most of our findings. However, the Hospital disagreed in part with our finding regarding pension benefit costs, surmising that we based the finding on CMS guidance that became effective after the audit period. Specifically, the Hospital stated that, although disallowance of \$4,240,513 of normal costs would be consistent with CMS guidance as amended in March 2008, the normal costs were allowable based on a plain-language interpretation of CMS guidance available for the Hospital's FY 2006 cost report period.

In addition, the Hospital disagreed with our first recommendation to submit a revised FY 2006 cost report to correct the wage data overstatements. The Hospital stated that the adjustments had already been submitted to the fiscal intermediary; therefore, it was not necessary to submit a revised FY 2006 cost report. The Hospital objected that all of our findings had been reported to the fiscal intermediary and incorporated in the Public Use File prior to release of the report and the full and fair consideration of the Hospital's comments. The Hospital added that it had submitted a "Request for Correction to Public Use Files" related to the pension benefit cost adjustment. The Hospital also said that it would work to strengthen its review and reconciliation procedures. The Hospital's comments are included as Appendix B.

OFFICE OF INSPECTOR GENERAL RESPONSE

With respect to our finding regarding pension benefit costs, in March 2008, CMS clarified, but did not change the original intent of, its manual provisions on how to report pension costs. CMS guidance in effect for the Hospital's FY 2006 cost report period (earlier guidance) required hospitals to make payments of their current liability for both normal costs and actuarial accrued liability costs. In this case, because the plan's assets exceeded its normal costs plus its actuarial accrued liability, there was no current liability to be funded, and the Hospital was not obligated to make payments. Therefore, any payments that the Hospital made during the period were excessive payments that could not be claimed for the audit period. Accordingly, our conclusion regarding these costs remains unchanged.

After reviewing the Hospital's comments and information provided by the fiscal intermediary, we deleted our first recommendation from this final report.

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
BACKGROUND	1
Medicare Inpatient Prospective Payment System	1
Wage Indexes.....	1
Thomas Jefferson University Hospital.....	2
OBJECTIVE, SCOPE, AND METHODOLOGY	2
Objective	2
Scope.....	2
Methodology	2
FINDINGS AND RECOMMENDATION	3
ERRORS IN REPORTED WAGE DATA	4
Unallowable Wage-Related Benefit Costs.....	4
Misstated Salaries and Hours.....	5
Understated Excluded Salaries and Hours	6
Unallowable Costs for Part B Services	6
Misstated Contract Service Costs	6
CAUSES OF WAGE DATA REPORTING ERRORS	7
MISSTATED WAGE DATA AND POTENTIAL UNDERPAYMENTS	7
RECOMMENDATION	7
THOMAS JEFFERSON UNIVERSITY HOSPITAL COMMENTS	7
OFFICE OF INSPECTOR GENERAL RESPONSE	8
APPENDIXES	
A – CUMULATIVE EFFECT OF FINDINGS	
B – THOMAS JEFFERSON UNIVERSITY HOSPITAL COMMENTS	

INTRODUCTION

BACKGROUND

Medicare Inpatient Prospective Payment System

Under the inpatient prospective payment system for acute-care hospitals, Medicare Part A pays hospital costs at predetermined, diagnosis-related rates for patient discharges. In fiscal year (FY) 2008, the Centers for Medicare & Medicaid Services (CMS) expected Medicare Part A to pay inpatient hospitals approximately \$120.5 billion.

Wage Indexes

The geographic designation of hospitals influences their Medicare payments. Under the inpatient prospective payment system, CMS adjusts payments through wage indexes to reflect labor cost variations among localities.¹ CMS uses the Office of Management and Budget (OMB) metropolitan area designations to identify labor markets and to calculate and assign wage indexes to hospitals. In 2003, OMB revised its metropolitan statistical area definitions and announced new core-based statistical areas (CBSA). CMS calculates a wage index for each CBSA and a statewide rural wage index for each State for areas that lie outside CBSAs. The wage index for each CBSA and statewide rural area is based on the average hourly wage rate of the hospitals in those areas divided by the national average hourly wage rate. All hospitals within a CBSA or within a statewide rural area receive the same labor payment adjustment.

To calculate wage indexes, CMS uses hospital wage data (which include wages, salaries, and related hours) collected 4 years earlier to allow time for CMS to collect complete cost report data from all inpatient prospective payment system hospitals and for CMS's fiscal intermediaries to review these data. For example, CMS based the wage indexes for FY 2009, which began October 1, 2008, on wage data collected from hospitals' Medicare cost reports for their FYs that began during Federal FY 2005 (October 1, 2004, through September 30, 2005). A hospital's wage rate is the quotient of dividing total dollars (numerator) by total hours (denominator). Arriving at the final numerator and denominator in this rate computation involves a series of calculations. Inaccuracies in either the dollar amounts or hours reported can have varying effects on the final rate computation.

Section 1886(d)(3)(E) of the Social Security Act (the Act) requires that CMS update wage indexes annually in a manner that ensures that aggregate payments to hospitals are not affected by changes in the indexes. Hospitals must accurately report wage data for CMS to determine the equitable distribution of payments. Further, section 1886(d)(3)(A)(iv) of the Act requires CMS to update labor and nonlabor average standardized amounts by an applicable percentage increase specified in section 1886(b)(3)(B)(i). The percentage increase is based on the market basket index, which measures inflationary increases in hospital costs. The inclusion of unallowable costs in wage data could produce an inaccurate market basket index for updating prospective payments to hospitals.

¹The inpatient prospective payment system wage index or a modified version also applies to other providers, such as outpatient hospitals, long term care hospitals, inpatient rehabilitation facilities, inpatient psychiatric facilities, skilled nursing facilities, home health agencies, and hospices.

Thomas Jefferson University Hospital

Thomas Jefferson University Hospital (the Hospital) is a 911-bed hospital with three locations in Philadelphia, Pennsylvania: Thomas Jefferson University Hospital, Methodist Hospital, and the Jefferson Hospital for Neurosciences. The Hospital is 1 of 46 hospitals in a Pennsylvania CBSA. The Hospital submitted to CMS a consolidated FY 2006 Medicare cost report covering the period July 1, 2005, through June 30, 2006.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the Hospital complied with Medicare requirements for reporting wage data in its FY 2006 Medicare cost report.

Scope

Our review covered the \$407,915,284 in salaries and 11,573,626 in hours that the Hospital reported to CMS on Worksheet S-3, part II, of its FY 2006 Medicare cost report, which resulted in an average hourly wage rate of \$35.25. We limited our review of the Hospital's internal controls to the procedures that the Hospital used to accumulate and report wage data for its cost report.

We performed our fieldwork at the Hospital in Philadelphia, Pennsylvania, from June through December 2007.

Methodology

To accomplish our objective, we:

- reviewed applicable Medicare laws, regulations, and guidance;
- obtained an understanding of the Hospital's procedures for reporting wage data;
- verified that wage data on the Hospital's trial balance reconciled to its audited financial statements;
- reconciled the total reported wages on the Hospital's FY 2006 Medicare cost report to its trial balance;
- reconciled the wage data from selected cost centers to detailed support, such as payroll registers or accounts payable invoices;
- selected for testing wage data in the FY 2006 Medicare cost report from cost centers that accounted for at least 2 percent of the total Hospital wages;

- tested a sample of transactions from these cost centers and reconciled wage data to payroll records;
- interviewed Hospital staff regarding the nature of services that employees and contracted labor provided to the Hospital; and
- determined the effect of the reporting errors by recalculating, as shown in Appendix A, the Hospital's average hourly wage rate using the CMS methodology for calculating the wage index, which includes an hourly overhead factor, in accordance with instructions published in the Federal Register.

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 objective.

FINDINGS AND RECOMMENDATION

The Hospital did not fully comply with Medicare requirements for reporting wage data in its FY 2006 Medicare cost report. Specifically, the Hospital reported the following inaccurate wage data, which affected the numerator and/or denominator of its wage rate calculation:

- unallowable wage-related benefit costs, which overstated wage data by \$6,567,833;
- misstated salaries and hours, which overstated wage data by \$5,158,973 and 423,166 hours;
- understated excluded salaries, which overstated wage data by \$342,938 and 4,715 hours;
- unallowable costs for Medicare Part B services, which overstated wage data by \$298,815 and understated 4,951 hours; and
- misstated contract service costs, which understated wage data by \$119,817 and 10,533 hours.

These errors occurred because the Hospital did not sufficiently review and reconcile its reported wage data to supporting documentation to ensure that the data were accurate, supportable, and in compliance with Medicare requirements. As a result, the Hospital overstated its wage data by a total of \$12,248,742 (numerator) and 412,397 hours (denominator) for the FY 2006 Medicare cost report period. Our correction of the Hospital's errors increased the average hourly wage rate approximately 0.6 percent from \$35.25 to \$35.45. If the Hospital had not revised the wage data in its cost report, the FY 2009 wage index for the Hospital's CBSA would have been understated, which would have resulted in underpayments to all of the hospitals that use this wage index.

ERRORS IN REPORTED WAGE DATA

The errors in reported wage data are discussed in detail below, and the cumulative effect of the findings is presented in Appendix A.

Unallowable Wage-Related Benefit Costs

The Hospital reported \$6,668,612 in unallowable wage-related benefit costs. This amount included \$6,009,948 in unallowable pension benefit costs, \$348,983 in overstated fringe benefit costs that were related to other adjustment amounts identified during our review, and \$309,681 in unallowable dependent education costs.

Unallowable Pension Benefit Costs

Pursuant to Federal regulations (42 CFR § 413.100(c)(2)(vii)(B)), “[a]ccrued liability related to contributions to a funded deferred compensation plan must be liquidated within 1 year after the end of the cost reporting period in which the liability is incurred.” The regulations further state that “Postretirement benefit plans . . . are deferred compensation arrangements and thus are subject to provisions of this section regarding deferred compensation and to applicable program instructions . . .” (42 CFR § 413.100(c)(2)(vii)(C)). The “Medicare Provider Reimbursement Manual” (the Manual), part I, section 2142.5, allows for reimbursement of certain pension plan costs, including normal costs, provided that certain requirements are met. A hospital must “make payment of its current liability for both normal costs and actuarial accrued liability costs to the fund established for the pension plan” (section 2142.6(A)). When the payment made is “more than the lesser of the tax deductible maximum or the total normal cost plus ratable amortization of the unfunded actuarial accrued liability, the excess may be carried forward and considered as payment against the liability to the fund of the future period” (section 2142.6(C); emphasis added).

The Hospital’s cost report included \$6,009,948 in pension benefit costs for its funded deferred compensation plan. The value of the plan’s assets exceeded the value of the actuarial accrued liability and the normal costs for the audit period. Therefore, the Hospital was not obligated to make payments to the plan. Accordingly, the Hospital’s payments were excessive payments that could be carried forward and applied to future costs but could not be claimed for the audit period. Because the Hospital claimed these pension costs, it overstated its wage data by \$6,009,948.

Overstated Fringe Benefit Costs

The Manual, part I, section 2144.1, defines fringe benefits and requires that “[i]n order to be allowable, such amounts must be properly classified on the Medicare cost report, i.e., included in the costs of the cost center(s) in which the employee renders services to which the fringe benefit relates” Hospitals are required to report wage-related benefit costs—both core costs and costs for allowable exceptions—on Exhibit 7 of Form CMS-339. Part I of Exhibit 7 is a standardized core list of wage-related benefit costs.

The Hospital properly did not include salaries related to nurse anesthetists in its reporting of Part A costs; however, the Hospital improperly included \$348,983 in associated fringe benefits and reported them on Exhibit 7. The Hospital should have reported these fringe benefits in the cost

centers to which the associated salaries related. Because the Hospital included these overstated wage-related benefit costs, it overstated its wage data by \$348,983.

Unallowable Dependent Education Costs

The Manual, part I, section 2105.11, states: “Costs incurred by providers related to the education of spouses or other dependents of owners or officers of providers of services, provider employees and provider contractors are not allowable when they are not active employees of the provider or contractor.”

The Hospital incorrectly included education costs for employee dependents in wage-related benefit costs, which overstated its wage data by \$309,681.

Overstated Wage-Related Benefit Costs

In reporting pension, fringe benefit, and education costs, the Hospital overstated its wage data by \$6,668,612 (\$6,009,948 plus \$348,983 plus \$309,681) in salaries. As a result, after overhead was factored in, the Hospital overstated its wage data by a total of \$6,567,833, which overstated its average hourly wage rate by \$0.58.

Misstated Salaries and Hours

The Manual, part II, section 3605.2, states that hospitals should ensure that the wage data reported on their Medicare cost reports are accurate and exclude wages incurred for skilled nursing facility services; direct personnel costs for interns and residents; and costs for equipment, supplies, travel, and overhead items. Further, it limits services paid under contract to those directly related to patient care, including nursing, diagnostic, therapeutic, and rehabilitative services and certain management services related to the personnel costs of a hospital’s executive officers and nursing administrators. The Manual, part I, section 2102.3, states that costs not related to patient care are those that are not appropriate or necessary in the operation of patient care facilities and activities and are not reimbursable Medicare costs. The Manual, part II, section 3605.2, also states: “Paid hours include regular hours (including paid lunch hours), overtime hours, paid holiday, vacation and sick leave hours, paid time-off hours, and hours associated with severance pay If the hours cannot be determined, then the associated salaries must not be included”

The Hospital reported a total of \$5,129,574 in overstated salaries and 422,157 overstated hours, as follows:

- The Hospital overstated salary costs, including costs for services provided for non-Hospital entities and duplicated costs, by \$4,309,642 and 130,284 hours.
- The Hospital reported salaries for yearend accruals, including salaries and vacation pay, without related hours, which overstated wage data by \$644,337. Because the Hospital was unable to identify the related hours, we disallowed the reported salaries and vacation pay.

- The Hospital misstated salaries and hours because of various data input and calculation errors, which overstated wage data by \$175,595 and 291,873 hours.

As a result, after overhead was factored in, the Hospital overstated its wage data by \$5,158,973 and 423,166 hours, which understated its average hourly wage rate by \$0.87.

Understated Excluded Salaries and Hours

The Manual, part II, section 3605.2, requires hospitals to report direct personnel costs for intern and resident services as excluded salaries.

The Hospital did not report \$289,913 for direct personnel costs associated with excluded salaries for services provided by interns and residents. Also, the Hospital understated excluded hours by 3,094 because it misstated total hours related to interns and residents and other excluded areas. As a result, after overhead was factored in, the Hospital overstated its wage data by \$342,938 and 4,715 hours, which overstated its average hourly wage rate by \$0.02.

Unallowable Costs for Part B Services

The Act and Medicare regulations provide that, as a general matter, the costs of services provided by nurse practitioners are covered by Part B, not Part A.² The Manual, part II, section 3605, requires hospitals to exclude from their reported wage index information nurse practitioner and other services that are related to patient care and billed separately under Part B.

The Hospital considered all salaries for nurse practitioners to be Part A services but did not maintain records that specifically identified these services as unrelated to patient care and therefore not billable under Part B. Consequently, we allowed services performed by nurse practitioners who did not hold national provider identification numbers because the services could not be billed separately as Part B services. However, we did not allow those services performed by nurse practitioners who had national provider identification numbers because those services could, if related to patient care, be billed as Part B services. Also, the reported wage data included various input and calculation errors. These errors overstated wage data by \$307,586 and understated 5,165 hours. As a result, after overhead was factored in, the Hospital overstated its wage data by \$298,815 and understated 4,951 hours, which overstated its average hourly wage rate by \$0.05.

Misstated Contract Service Costs

The Manual, part II, section 3605.2, requires that hospitals report direct personnel costs for contract laboratory services as contract labor costs. Section 3605.2 also states that hospitals may not include salaries for certain Part A physician contract services, such as psychiatric and rehabilitative services.

²Section 1861(s)(2)(K)(ii) of the Act and 42 CFR § 410.75 include care by nurse practitioners as covered Part B services; section 1861(b)(4) of the Act and 42 CFR § 409.10(b)(5) exclude nurse practitioner services from Part A inpatient hospital services.

The Hospital misstated contract service costs by a total of \$775,193 and 15,525 hours by:

- excluding contract laboratory services (understated by \$378,255 and 11,778 hours),
- including unallowable costs for contract physicians working in the excluded Hospital units of psychiatry and rehabilitative services (overstated by \$327,688 and 2,496 hours), and
- making calculation errors (understated by \$69,250 and 1,251 hours).

As a result, the Hospital understated its wage data by a net of \$119,817 and 10,533 hours, which overstated its average hourly wage rate by \$0.02.

CAUSES OF WAGE DATA REPORTING ERRORS

These reporting errors occurred because the Hospital did not sufficiently review and reconcile wage data to supporting documentation to ensure that all amounts included in its Medicare cost report were accurate, supportable, and in compliance with Medicare requirements.

MISSTATED WAGE DATA AND POTENTIAL UNDERPAYMENTS

As a result of the reporting errors, the Hospital overstated its Part A wage data by \$12,248,742 (numerator) and 412,397 hours (denominator) for the FY 2006 Medicare cost report period. Our correction of the Hospital's errors increased the average hourly wage rate approximately 0.6 percent from \$35.25 to \$35.45. If the Hospital had not revised the wage data in its cost report, the FY 2009 wage index for the Hospital's CBSA would have been understated, which would have resulted in underpayments to all of the hospitals that use this wage index.

RECOMMENDATION

We recommend that the Hospital implement review and reconciliation procedures to ensure that the wage data reported in future Medicare cost reports are accurate, supportable, and in compliance with Medicare requirements.

THOMAS JEFFERSON UNIVERSITY HOSPITAL COMMENTS

In its comments on our draft report, the Hospital agreed with or understood and accepted most of our findings. However, the Hospital disagreed in part with our finding regarding pension benefit costs, surmising that we based the finding on CMS guidance that became effective after the audit period. Specifically, the Hospital stated that, although disallowance of \$4,240,513 of normal costs would be consistent with CMS guidance as amended in March 2008, the normal costs were allowable based on a plain-language interpretation of CMS guidance available for the Hospital's FY 2006 cost report period.

In addition, the Hospital disagreed with our first recommendation to submit a revised FY 2006 cost report to correct the wage data overstatements. The Hospital stated that the adjustments had already been submitted to the fiscal intermediary; therefore, it was not necessary to submit a

revised FY 2006 cost report. The Hospital objected that all of our findings had been reported to the fiscal intermediary and incorporated in the Public Use File prior to release of the report and the full and fair consideration of the Hospital's comments. The Hospital added that it had submitted a "Request for Correction to Public Use Files" related to the pension benefit cost adjustment. The Hospital also said that it would work to strengthen its review and reconciliation procedures. The Hospital's comments are included as Appendix B.

OFFICE OF INSPECTOR GENERAL RESPONSE

With respect to our finding regarding pension benefit costs, in March 2008, CMS clarified, but did not change the original intent of, its manual provisions on how to report pension costs. CMS guidance in effect for the Hospital's FY 2006 cost report period (earlier guidance) required hospitals to make payments of their current liability for both normal costs and actuarial accrued liability costs. In this case, because the plan's assets exceeded its normal costs plus its actuarial accrued liability, there was no current liability to be funded, and the Hospital was not obligated to make payments. Therefore, any payments that the Hospital made during the period were excessive payments that could not be claimed for the audit period. Accordingly, our conclusion regarding these costs remains unchanged.

After reviewing the Hospital's comments and information provided by the fiscal intermediary, we deleted our first recommendation from this final report.

APPENDIXES

**CUMULATIVE EFFECT OF FINDINGS
THOMAS JEFFERSON UNIVERSITY HOSPITAL**

	Reported FY 2006 Wage Data	Unallowable Wage Related Costs	Misstated Salaries and Hours	Understated Excluded Salaries and Hours	Unallowable Salary and Part B	Unallowable Contract Labor Costs	Audited FY 2006 Wage Data
Total Salaries	\$355,031,118	\$0	(\$5,129,574)	\$0	(\$307,586)	\$0	\$349,593,958
Excluded Salaries							
Interns and Residents Excluded Area	\$26,235,562	\$0	\$0	\$289,913	\$0	\$0	\$26,525,475
	\$9,587,115	\$0	\$0	\$0	\$0	\$0	\$9,587,115
Total Excluded Salaries	\$35,822,677	\$0	\$0	\$289,913	\$0	\$0	\$36,112,590
Additional Salaries							
Contract Labor	\$3,111,995	\$0	\$0	\$0	\$0	\$378,255	\$3,490,250
Contract labor - Physician Part A	\$10,157,921	\$0	\$0	\$0	\$0	(\$258,438)	\$9,899,483
Home Office Salaries and Wages	\$2,221,100	\$0	\$0	\$0	\$0	\$0	\$2,221,100
Wage-Related Cost (CORE)	\$78,848,564	(\$6,668,612)	\$0	\$0	\$0	\$0	\$72,179,952
Total Additional Salaries	\$94,339,580	(\$6,668,612)	\$0	\$0	\$0	\$119,817	\$87,790,785
Adjusted Salaries	\$413,548,021	(\$6,668,612)	(\$5,129,574)	(\$289,913)	(\$307,586)	\$119,817	\$401,272,153
Total Hours	13,116,106	0	(422,157)	0	5,165	0	12,699,114
Excluded Hours							
Interns and Residents Excluded Area	1,202,127	0	0	67	0	0	1,202,194
	319,595	0	0	3,027	0	0	322,622
Total Excluded Hours	1,521,722	0	0	3,094	0	0	1,524,816
Additional Hours							
Contract Labor	61,616	0	0	0	0	11,778	73,394
Contract Labor - Physician Part A	66,261	0	0	0	0	(1,245)	65,016
Home Office Hours	21,212	0	0	0	0	0	21,212
Total Additional Hours	149,089	0	0	0	0	10,533	159,622
Adjusted Hours	11,743,473	0	(422,157)	(3,094)	5,165	10,533	11,333,920

Overhead Allocation	Reported FY 2006 Wage Data	Unallowable Wage Related Costs	Misstated Salaries and Hours	Understated Excluded Salaries and Hours	Unallowable Salary and Part B	Unallowable Contract Labor Costs	Audited FY 2006 Wage Data
A & G Overhead	\$45,263,574	\$0	(\$4,540,010)	\$0	(\$233,270)	\$0	\$40,490,294
All Other Overhead	\$63,731,830	\$0	\$0	\$0	\$0	\$0	\$63,731,830
Total Overhead Wages	\$108,995,404	\$0	(\$4,540,010)	\$0	(\$233,270)	\$0	\$104,222,124
A & G Overhead Hours	1,467,620	0	(131,175)	0	5,165	0	1,341,610
All Other Overhead Hours	2,666,792	0	0	0	0	0	2,666,792
Total Overhead Hours	4,134,412	0	(131,175)	0	5,165	0	4,008,402
Total Hours	13,116,106	0	(422,157)	0	5,165	0	12,699,114
Less:							
Intern and Resident Hours	1,202,127	0	0	67	0	0	1,202,194
Total Overhead Hours	4,134,412	0	(131,175)	0	5,165	0	4,008,402
Total Excluded Overhead Hours	5,336,539	0	(131,175)	67	5,165	0	5,210,596
Revised Overhead Hours	7,779,567	0	(290,982)	(67)	0	0	7,488,518
Overhead Reduction for Excluded Areas							
Excluded Area Hours	319,595	0	0	3,027	0	0	322,622
Total Excluded Area Hours	319,595	0	0	3,027	0	0	322,622
Excluded Overhead Rate	0.04108						0.04308
Excluded Overhead Wages	\$4,477,677	\$0	(\$19,949)	\$42,063	(\$9,670)	\$0	\$4,490,121
Excluded Overhead Hours	169,847	0	1,009	1,621	214	0	172,691
Overhead Rate	0.35659						0.35872
Wage Related Cost (CORE)	\$78,848,564	(\$6,668,612)	\$0	\$0	\$0	\$0	\$72,179,952
Overhead Work Wage-Related Cost	\$78,848,564	(\$6,668,612)	\$0	\$0	\$0	\$0	\$72,179,952
Excluded Work Wage-Related Cost	\$28,116,410	(\$2,390,167)	\$135,938	\$7,466	\$22,473	\$0	\$25,892,120
Adjusted Salaries	\$1,155,060	(\$100,779)	\$49,348	\$10,962	\$899	\$0	\$1,115,490
Less: Excluded Overhead Salaries	\$413,548,021	(\$6,668,612)	(\$5,129,574)	(\$289,913)	(\$307,586)	\$119,817	\$401,272,153
Less: Excluded Work-Related Cost	\$4,477,677	\$0	(\$19,949)	\$42,063	(\$9,670)	\$0	\$4,490,121
Revised Wages	\$1,155,060	(\$100,779)	\$49,348	\$10,962	\$899	\$0	\$1,115,490
Inflation Factor	\$407,915,284	(\$6,567,833)	(\$5,158,973)	(\$342,938)	(\$298,815)	\$119,817	\$395,666,542
Inflated Wages	\$407,915,284	(\$6,567,833)	(\$5,158,973)	(\$342,938)	(\$298,815)	\$119,817	\$395,666,542
Revised Hours	11,573,626	0	(423,166)	(4,715)	4,951	10,533	11,161,229
Average Hourly Wage	\$35.25						\$35.45

> > > > > Increase of 0.6 Percent > > > > >



Financial Administration

August 12, 2008

Mr. Stephen Virbitsky
Regional Inspector General for Audit Services
Department of Health & Human Services
Office of Inspector General, Office of Audit Services
150 S. Independence Mall West, Suite 316
Philadelphia, PA 19106-3499

RE: Office of Inspector General (OIG) Report Number: A-03-07-00024

Dear Mr. Virbitsky:

Per your request, we are submitting our written comments as to our concurrence or non-concurrence with the facts as presented in each of the findings and recommendations of your draft report dated June 19, 2008 entitled "Review of Thomas Jefferson University Hospital's Reported Fiscal Year 2006 Wage Data."

According to this draft report, Thomas Jefferson University Hospital (TJUH) reported inaccurate wage data, which affected the numerator and denominator of its wage rate calculation. The results of the review indicated TJUH overstated its wage data by \$12,248,742 and 412,397 hours and, upon correction, TJUH's wage data would *increase* by \$.20 cents, from \$35.25 to \$35.45 per hour. Based on OIG's finding, it suggested that TJUH both 1) Submit to its intermediary a revised 2006 cost report incorporating OIG's corrections; and 2) Implement review and reconciliation procedures to ensure that the wage data reported in the future Medicare cost reports are accurate, supportable, and in compliance with Medicare requirements.

The following are TJUH's comments to OIG's specific "Findings and Recommendations":

ERRORS IN REPORTED WAGE DATA

Unallowable Wage-Related Benefit Costs:

1.) Unallowable Pension Benefit Costs

The OIG indicated that TJUH reported \$6,668,612 in unallowable wage-related benefit costs. TJUH disagrees in part with this adjustment. Specifically, of the \$6,668,612 reduction in allowable wage-related costs, TJUH maintains that \$4,240,513 of the reduction is improper. In its FY 2006 cost report, TJUH included \$6,009,948 of pension costs relating to its employee pension plan. That amount is comprised of \$4,240,513 in normal costs, *i.e.*, the portion of the total costs of the pension plan relating to the current year, and \$1,769,435 of actuarial accrued liability, which are additional costs that are not associated with current and future normal costs. TJUH does not dispute the reduction of \$1,769,435 from its pension costs, relating to the Provider's actuarial accrued liability, as recommended by OIG. However, TJUH is nevertheless entitled to the \$4,240,513 in normal costs.

To the extent TJUH understands the substance of OIG's position, it considers that position in error. As implied in its report, the OIG's apparent position is that normal costs associated with a pension plan are not allowable if the pension plan has surplus assets exceeding the normal costs. Such a position would be consistent with the current version of Sections 2142.5 and 2142.6 of the Provider Reimbursement Manual I ("PRM I"), as amended in March, 2008. See Transmittal 436 to PRM I (dated March, 2008). Pursuant to this amendment, the text pertaining to allowable normal costs now states: "[t]he normal cost for the current period liability is limited to the portion of the normal cost not liquidated by surplus assets." However, this policy change was not in effect during the cost reporting period at issue and therefore can not be applied to it. See, e.g., Bowen v. Georgetown Univ. Hosp., 488 U.S. 204 (1988) (stating that retroactive rulemaking is generally impermissible). The adjustments reflecting OIG's position represent the retrospective application of a new policy. Thus, the OIG (and CMS) cannot take its newly issued policy into account when determining the propriety of TJUH's pension cost claim.

Inclusion of TJUH's normal costs as an allowable cost in its FY 2006 cost report complies squarely with the policies that were in effect at that time. Specifically, the PRM defined "normal costs" as follows:

Normal (current service) cost is that portion of pension costs, actuarially determined, which is allocated to the current year, exclusive of any payment toward the unfunded actuarial accrued liability. Provider payments of a pension plan liability for normal costs are allowable in the year accrued, provided the payment requirements in §2142.6A are met.

PRM I, § 2142.5 (2006 version). As is evidenced by the above, there was no limit on normal costs resulting from surplus assets in effect in 2006.

TJUH complied with Section 2142.6(A) of PRM. This provision requires liquidation of the liability within one year after the end of the cost reporting period in which the liability is incurred. TJUH has previously furnished OIG with evidence of payment within nine months of the end of the cost reporting period, evidencing compliance with this provision.

Also of note is the provision with respect to "excessive payments" in the 2006 version of the PRM. As stated in the 2006 version, which is also quoted by OIG:

Where the payment made is more than the lesser of the tax deductible maximum or the total normal cost plus ratable amortization of the unfunded actuarial accrued liability, the excess may be carried forward and considered as payment against the liability to the fund of the future period.

PRM I, § 2142.6(C) (2006 version). Although OIG has suggested that there are excessive payments that need to be carried forward to future cost reporting years, such a position is inconsistent with this PRM provision. According to TJUH's 2006 Actuarial Report, the tax deductible maximum was \$7,650,736, and its total normal cost was \$4,240,513. TJUH is thus entitled the lesser of those two amount, *i.e.*, \$4,240,513, as the amount of payment includible as an allowable cost in its FY 2006 cost report.

To the extent that OIG believes that the changes made in 2008 simply codify a longstanding interpretation of CMS' policy, TJUH disagrees with such a position. Without citation, OIG states in its report that TJUH's payments were "excessive payments" because its "plan's assets exceeded the

value of the actuarial accrued liability and normal costs for the audit period.” OIG Report, p. 4. TJUH is aware of no regulation or Manual provision in effect in 2006 that supports this position. To the contrary, the plain meaning of Sections 2142.5 and 2142.6 of the PRM, as quoted above, allows for the inclusion of normal costs, if less than tax deductible maximum. Whether or not surplus assets exceed normal costs is simply irrelevant to this regulatory scheme, as discerned from the plain meaning of these provisions. Since OIG’s interpretation contravenes the clear, plain meaning of these provisions, it cannot be sustained. *See, .e.g., Thomas Jefferson University v. Shalala*, 512 U.S. 504, 512 (1994) (stating that an agency cannot interpret its regulatory guidance in a manner inconsistent with its plain language).

2.) Overstated Fringe Benefit Costs

We agree with the OIG that TJUH should have made a corresponding offset to our fringe benefits listing on Exhibit 7 when we offset our CRNA costs. We will work with our Fiscal Intermediary (FI) during the normal review process in 2008 to correct our submitted FY 2007 cost report as well as incorporate this adjustment when filing all future cost reports.

3.) Unallowable Dependent Education Costs

Although a previous independent consultant’s review of our wage related benefit costs listing did not identify these costs as being non-allowable, we understand why OIG states that TJUH should have offset these dependent education costs on our Exhibit 7 fringe benefits listing and will work with our FI during the normal review process in 2008 to correct our submitted FY 2007 cost report as well as incorporate this adjustment when filing all future cost reports.

Misstated Salaries and Hours:

The OIG indicated that TJUH reported a total of \$5,129,574 in overstated salaries and 422,157 overstated hours. Although we agree that these overstated dollars and hours were in the initially submitted cost report, these were corrected during our normal review process and submitted to our FI prior to the December 7, 2007 deadline for hospitals to request revisions to their Worksheet S-3 wage data. These changes were a combination of TJUH easily identifying and correcting two data input errors and the OIG’s identification of reimbursed salaries from non-hospital entities that were recorded as a reduction to “Other” expense in Column 2 of Worksheet A on the Medicare cost report. TJUH has since created additional natural expense accounts to properly report reimbursed salary and benefits in our general ledger.

Understated Excluded Salaries and Hours:

We understand why the OIG states that TJUH should have reported these additional resident on-call salaries with excluded salaries and will work with our FI during the normal review process in 2008 to correct our submitted FY 2007 cost report as well as incorporate this adjustment when filing all future cost reports. Note, however, that TJUH had included as an allowable cost only salaries associated with on-call services. The vast majority of interns and resident compensation has always been reported as excluded salaries on the cost report.

Unallowable Costs for Part B Services:

The OIG indicated that TJUH overstated its wage data by \$298,815 and Understated 4,951 hours. TJUH can only agree with the portion that relates to the correction of various input and calculation

errors. TJUH has corrected the formula error found on the worksheet created to complete Worksheet A-8-2 on the Medicare cost report for FY 2007 and will incorporate this adjustment when filing all future cost reports.

TJUH can neither agree nor disagree with the OIG's findings regarding the nurse practitioner costs. The OIG gave TJUH several different opinions during the course of this review, as to how the nurse practitioner costs should be handled. TJUH initially filed the FY'06 cost report with an offset for nurse practitioner costs in our Patient Testing Center of 25% of their salary and benefits, based on an estimate of time spent on Part B activities. Only the estimate of time spent on Part A activities continued to be included as an allowable cost. On September 5, 2007 the OIG indicated to TJUH that all nurse practitioner costs were allowable as Part A costs if no Part B billings were done. Then on November 29, 2007 the OIG changed their opinion stating that none of the nurse practitioner costs were allowable regardless of whether or not they billed for Part B services, at which time TJUH offset all nurse practitioner costs on its FY 2007 cost report. Finally, on March 17, 2008 the OIG gave TJUH their current opinion that the costs of any nurse practitioner who has a National Provider Identification number (NPI) should be offset since they have the ability to bill Part B services regardless of whether they actually did or did not. Given the lack of clear Medicare guidance, TJUH will continue to take the conservative approach and offset all nurse practitioner costs as it did on the FY 2007 cost report until the Medicare reporting requirements are further clarified by CMS.

Misstated Contract Service Costs:

We agree with the OIG that TJUH should have included these contract laboratory costs and hours as contract labor costs and will work with our FI during the normal review process in 2008 to correct our submitted FY 2007 cost report as well as incorporate this adjustment when filing all future cost reports.

OIG RECOMMENDATIONS

Submit a Revised FY 2006 Medicare Cost Report:

OIG's review of our wage index data overlapped with our normal review process, resulting in many of the OIG's recommendations having been previously identified and submitted to our FI for correction in a timely manner, prior to the release of this OIG draft report. Both the corrections identified and submitted to our FI for correction as well as any proposed adjustments from the OIG, regardless of whether we agreed or disagreed with them, were submitted to the FI by the OIG and are reflected in the final Public Use File (PUF). Since these adjustments were already submitted either by the OIG or by TJUH for our FY 2006 cost report, and they have been incorporated into the final PUF for the 2009 wage index calculation, it is not necessary for TJUH to submit a revised FY 2006 cost report. Furthermore, since these OIG adjustments were incorporated into the final PUF prior to both the release of this OIG report and the full and fair consideration of the points raised in TJUH's response, TJUH believes it was denied its due process, and has formally submitted a "Request for Correction to Public Use Files" dated June 6, 2008 as it relates to the Pension Benefit Costs adjustment.

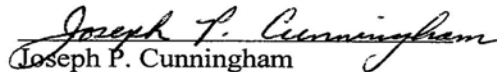
Implement Review and Reconciliation Procedures:


The OIG recommends that TJUH implement review and reconciliation procedures to ensure that the wage data reported in future Medicare cost reports are accurate, supportable, and in compliance with Medicare requirements. Although TJUH believes we have significant review and reconciliation procedures already in place, we will work to strengthen our review and reconciliation procedures wherever warranted to ensure that the wage data included on our cost report is accurate and complies with Medicare requirements.

CONCLUSION

We appreciate the opportunity afforded to us by the Office of Inspector General to be able to respond to the OIG draft report. The wage index calculation can be complicated, as evidenced by the fact that subsequent to our initial documentation submission in response to OIG's initial request, the OIG needed nearly a full year and 104 additional requests for information to complete this review. TJUH is committed to ensure that future wage related data is submitted in compliance with Medicare regulations and requirements.

Sincerely,


Joseph P. Cunningham
Director of Hospital Reimbursement


Neil G. Lubarsky
Senior Vice President and CFO

cc: Thomas J. Lewis, President and Chief Executive Officer
Jane Hix, Associate Counsel
Ann Powers, Chief Compliance Officer