

**Memorandum**

Date JUN 14 1995

From June Gibbs Brown  
Inspector General *June G Brown*

Subject Follow-up to Review of Medical Necessity for Ambulance Services (A-01-94-00528)

To Bruce C. Vladeck  
Administrator  
Health Care Financing Administration

Attached are two copies of our final report on the follow-up review to our audit report entitled, "Review of Medical Necessity for Ambulance Services" (A-01-91-00513). The objective of our follow-up review was to determine whether the Health Care Financing Administration (HCFA) had taken appropriate action to implement the recommendations from our prior audit report.

Our prior report was issued on October 21, 1992 and disclosed that advanced life support (ALS) ambulances were being used in nonemergency situations when, based on the patient's medical condition, basic life support (BLS) ambulances could have satisfied the transportation need of the patient. We concluded that the excessive use of ALS ambulances was due to HCFA's policies which based payment on the mode of transportation provided rather than the medical necessity for the level of service. We estimated that \$15.95 million would be saved annually, (\$12.76 million by the Medicare Part B program and \$3.19 million by beneficiaries) if payments for nonemergency ALS ambulance services were based on the medical need of the beneficiary. Our review also noted significant differences among carriers in allowed charges for the ALS level of service. These variances occurred, in part, because HCFA's guidelines did not establish a uniform listing of items for carriers to use when establishing ALS rates.

The prior report recommended that HCFA: (1) revise the Medicare Carriers Manual (MCM) to require that payment for nonemergency ambulance services at the ALS level be allowed only when medically necessary; (2) require carriers to establish controls to ensure that reimbursement for ALS services is based on medical need; and (3) revise guidelines to specify the items to be included in the all-inclusive ALS rate. The HCFA expressed general agreement with all three recommendations in our prior report. However, HCFA replied that both the regulations and the MCM instructions should be refined to make more explicit the conditions under which a patient is to be appropriately transported by ambulance for both ALS and BLS services.

Our analysis of Medicare data indicates that Medicare allowed charges for ALS ambulance services have nearly tripled since we completed our prior review, i.e.,

increased from \$170 million in 1989 to \$507 million in 1993. This substantial increase in allowed charges emphasizes the need for prompt corrective action on our prior findings.

Our current review disclosed that HCFA has been working on ambulance issues but has yet to draft proposed regulations, revise payment instructions in the MCM for ALS ambulance services, or require carriers to establish related controls. Subsequent to our review, HCFA officials advised us that they issued a program memorandum in December 1994, specifying the items to be included in an all-inclusive rate.

We are recommending that, as soon as possible, HCFA revise the MCM instructions on payment for nonemergency ALS ambulance services, require carriers to establish controls to ensure that reimbursement for nonemergency ALS ambulance services is based on medical need, and consider publishing a notice in the Federal Register reiterating Medicare policy in this area.

In its written response to our draft report, HCFA advised us that it agrees with our recommendations. However, HCFA believes that current policy needs changes that can only be achieved through new regulations. The HCFA also advised us that a combined HCFA work group is currently working on regulation specifications and necessary MCM changes. In addition, HCFA believes that it should not mandate that carriers review the medical need for all ALS ambulance claims. Rather, the carriers should only review medical need for those claims where the carrier has evidence that a problem exists, i.e., through data analysis, beneficiary complaints, or referrals. The HCFA's written comments to our draft report are presented in the Appendix to the attached report and are addressed on page 6.

The rulemaking process followed by HCFA on nonemergency ALS ambulance services has not provided timely resolution of the audit findings in our 1992 report. As a result, the Medicare program has missed out on more than \$1 million per month in potential program savings. We continue to believe that the quickest way to resolve the nonemergency ALS ambulance service issue is to revise the MCM instructions and establish related controls at the Medicare carriers. Nevertheless, we acknowledge that HCFA's approach to correcting our prior audit findings should also work. Accordingly, we urge HCFA to complete its planned revisions to the Federal regulations and MCM as soon as possible.

If you have any questions, please call me or have your staff contact George M. Reeb, Assistant Inspector General for Health Care Financing Audits, at (410) 966-7104. Please advise us, within 60 days, on actions taken or planned on our recommendations. Copies of this report are being sent to other interested Department officials.

To facilitate identification, please refer to Common Identification Number A-01-94-00528 in all correspondence relating to this report.

Attachments

**Department of Health and Human Services**

**OFFICE OF  
INSPECTOR GENERAL**

**FOLLOW-UP TO REVIEW  
OF MEDICAL NECESSITY FOR  
AMBULANCE SERVICES**



**JUNE GIBBS BROWN**  
**Inspector General**

**JUNE 1995**  
**A-01-94-00528**

**Memorandum**

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Inspector General *June G Brown*

Subject Follow-up to Review of Medical Necessity for Ambulance Services (A-01-94-00528)

To Bruce C. Vladeck  
Administrator  
Health Care Financing Administration

This final report presents the results of our follow-up review of the findings and recommendations contained in our audit report entitled, "Review of Medical Necessity for Ambulance Services" (A-01-91-00513). The objective of our follow-up review was to determine whether the Health Care Financing Administration (HCFA) had taken appropriate action to implement the recommendations from our prior audit report.

Our prior report was issued on October 21, 1992 and disclosed that advanced life support (ALS) ambulances were being used in nonemergency situations when, based on the patient's medical condition, basic life support (BLS) ambulances could have satisfied the transportation need of the patient. We concluded that the excessive use of ALS ambulances was due to HCFA's policies which based payment on the mode of transportation provided rather than the medical necessity for the level of service. We estimated that \$15.95 million would be saved annually, (\$12.76 million by the Medicare Part B program and \$3.19 million by beneficiaries) if payments for nonemergency ALS ambulance services were based on the medical need of the beneficiary. Our review also noted significant differences among carriers in allowed charges for the ALS level of service. These variances occurred, in part, because HCFA's guidelines did not establish a uniform listing of items for carriers to use when establishing ALS rates.

The prior report recommended that HCFA: (1) revise the Medicare Carriers Manual (MCM) to require that payment for nonemergency ambulance services at the ALS level be allowed only when medically necessary; (2) require carriers to establish controls to ensure that reimbursement for ALS services is based on medical need; and (3) revise guidelines to specify the items to be included in the all-inclusive ALS rate. The HCFA expressed general agreement with all three recommendations in our prior report. However, HCFA replied that both the regulations and the MCM instructions should be refined to make more explicit the conditions under which a patient is to be appropriately transported by ambulance for both ALS and BLS services.

Our analysis of Medicare data indicates that Medicare allowed charges for ALS ambulance services have nearly tripled since we completed our prior review. Specifically, the allowed charges for base rate ALS ambulance services increased from \$170 million in 1989 to \$507 million in 1993. This substantial increase in allowed charges emphasizes the need for prompt corrective action on our prior findings.

Our current review disclosed that HCFA has been working on ambulance issues but has yet to draft proposed regulations, revise payment instructions in the MCM for nonemergency ALS ambulance services, or require carriers to establish related controls. Subsequent to our review, HCFA officials advised us that they issued a program memorandum in December 1994, specifying the items to be included in an all-inclusive rate.

We are recommending that, as soon as possible, HCFA revise the MCM instructions on payment for nonemergency ALS ambulance services, require carriers to establish controls to ensure that reimbursement for nonemergency ALS ambulance services is based on medical need, and consider publishing a notice in the Federal Register reiterating Medicare policy in this area.

In its written response to our draft report, HCFA basically agreed with our recommendations. However, HCFA believes that current policy needs changes that can only be achieved through new regulations. In this regard, HCFA would be required to establish uniform medical necessity criteria on which to base coverage and payment. Further, the Office of General Counsel has advised HCFA that changes in long standing Medicare policy are achieved through rulemaking with a public comment period to ensure the reasonableness of the results. The HCFA also advised us that a combined HCFA work group is currently working on regulation specifications and necessary MCM changes. In addition, HCFA believes that it should not mandate that carriers review the medical need for all ALS ambulance claims. Rather, the carriers should only review medical need for those claims where the carrier has evidence that a problem exists, i.e., through data analysis, beneficiary complaints, or referrals. The HCFA's written comments, dated March 30, 1995, are appended to this report (see APPENDIX) and are addressed on page 6.

We believe that the rulemaking process followed by HCFA on nonemergency ALS ambulance services has not provided timely resolution of the audit findings in our 1992 report. However, our follow-up review indicates that HCFA is working on corrective actions and that the approach HCFA is taking will correct the audit findings previously reported. In light of the substantial increase in allowed charges, we urge HCFA to complete its planned revisions to the Federal regulations on payments for nonemergency ALS ambulance services as soon as possible.

Our findings are discussed in detail in the FINDINGS AND RECOMMENDATIONS section of this report.

## INTRODUCTION

### BACKGROUND

The Social Security Act, section 1861(s)(7), provides for coverage of ambulance services where the use of other methods of transportation is contraindicated by the individual's condition. The limitations for coverage of ambulance services are specified in Title 42 of the Code of Federal Regulations (CFR). Section 410.40 of 42 CFR includes the requirement that the ambulance services be medically necessary, specifically that other means of transportation would endanger the beneficiary's health.

Section 2120 of the MCM contains the same requirements regarding medical necessity as published in the aforementioned law and regulations. The requirement for determining medical necessity was established before HCFA allowed separate reimbursement rates for BLS and ALS ambulances. Consequently, the MCM does not contain specific guidelines for carriers to evaluate medical necessity for reimbursement at the ALS level of service.

Section 5116.1 of the MCM permits separate reimbursement rates for BLS and ALS ambulances. Both types of ambulances are equipped for basic services such as control of bleeding, treatment for shock, cardiopulmonary resuscitation, etc. However, ALS ambulances have complex life sustaining equipment and radio/telephone hookups for patient evaluation and monitoring by a physician or hospital emergency staff. As a result, the allowed charges for ALS ambulances are higher than the allowed charges for BLS ambulances. In 1989, the difference between BLS and ALS base rates for the eight carriers reviewed ranged from \$31 to \$226.

While the MCM does not specifically address the evaluation of medical necessity for nonemergency ALS services, section 5246.4 of the MCM requires that Medicare payments be reduced to the lowest level necessary to meet the patient's medical need. This section provides that:

"When the level of service reported on a claim is not reasonable and necessary; i.e., when it has been determined either by you or by a peer review organization pursuant to a contract with the Secretary that a less expensive level of the service would have met the patient's medical need, or when a less expensive level of the service was actually furnished, reimbursement must be based on the reasonable charge for the less expensive level of the service."

This Medicare reimbursement policy is applicable to the nonemergency ALS ambulance services discussed in our prior report.

## **SCOPE**

We conducted our review in accordance with generally accepted government auditing standards. The objective of our follow-up review was to determine whether HCFA had taken appropriate action to implement the recommendations from our prior audit report. Specifically, we determined whether HCFA: (1) revised the MCM to require that payment for nonemergency ambulance services at the ALS level be allowed only when medically necessary and not be impacted by local ordinances mandating ALS services; (2) required carriers to implement controls to ensure that reimbursement for ALS services is based on the medical need of the beneficiary; and (3) revised its carrier guidelines to specify the items included in an all-inclusive ALS rate.

To accomplish our objective, we reviewed HCFA's progress in implementing our prior recommendations through discussions with key HCFA staff and examination of pertinent documents. We also reviewed HCFA's procedures for resolving audit findings and recommendations to obtain an understanding of the process for tracking audit findings through final resolution. We followed our prior audit findings through the tracking system. We did not attempt to update our original estimate of the potential yearly savings available to the Medicare program and beneficiaries.

We conducted our review during October 1994 at HCFA's headquarters in Baltimore, Maryland. The draft report was issued to HCFA on February 10, 1995.

## **FINDINGS AND RECOMMENDATIONS**

Our current review disclosed that, while HCFA expressed general agreement with all three recommendations in our prior report, it has yet to revise MCM payment instructions for nonemergency ALS ambulance services and require carriers to establish related controls. Subsequent to our review, HCFA officials advised us that they issued a program memorandum in December 1994, specifying the items to be included in an all-inclusive rate.

Regarding our recommendation to revise the MCM instructions on payments for nonemergency ALS ambulance services, HCFA does not believe that it should change the MCM instructions prior to publishing proposed regulatory changes in the Federal Register. The HCFA advised us that "...based on current law and regulations, Medicare coverage of ALS services should be dependent upon the patient's medical condition, regardless of the type of vehicle furnishing the service, and not be dependent upon local ordinances mandating ALS services..." However, HCFA is concerned about the financial impact of this policy on ambulance companies who provide services in areas with local ordinances mandating ALS level service. The HCFA believes that the proposed changes to HCFA's ambulance reimbursement policy should be established by regulation, giving the public and the affected ambulance companies the opportunity to comment on the proposed changes.

We understand HCFA's concerns about the financial impact of changes in ALS ambulance reimbursement practices. However, the regulatory process pursued by HCFA has not provided the most timely resolution of the issues disclosed in our prior report. We believe HCFA could issue a notice in the Federal Register reiterating Medicare policy to base payments for nonemergency ALS ambulance services on the medical need of the patient. Specifically, reimbursement should be based on the reasonable charge for the less expensive level of service when it is determined that it would have met the patient's medical need or that it was actually furnished. This notice could be separate from the current regulatory initiative on ambulance issues. We believe that the notice along with the previously recommended changes to the MCM and related controls at the carriers may be the most expedient way to obtain both the public comments that HCFA needs to ensure the reasonableness of the revised instructions and the program savings identified in our prior report.

### **INCREASING ALS SERVICES**

The dramatic increase in Medicare allowed ALS ambulance charges since Calendar Year 1989 suggests that our original \$15.95 million estimate of annual savings would be much higher for current periods. Our current review disclosed that allowed charges for base rate ALS ambulance services have increased by 198 percent, from \$170 million in 1989 to \$507 million in 1993. In contrast, the allowed charges for base rate BLS ambulance services increased only 74 percent during the same 4-year period, from \$387 million to \$673 million. These statistics reflect an increasing use of ALS ambulances. We believe that significant savings continue to be available to the Medicare Part B program and beneficiaries if payments for nonemergency ALS ambulance services are based on the medical need of the beneficiary.

### **CORRECTIVE ACTION PLAN**

The HCFA's April 1993 comments on our prior final audit report reiterated its agreement with our recommendations. Specifically, HCFA stated that it would refine its policies for ALS reimbursement in the regulations and the MCM and require carriers to establish related controls after promulgating such changes in policy through the rulemaking process. Further, HCFA stated that it would develop guidelines for an all-inclusive ALS rate after it addressed issues concerning the (1) standardization of terminology describing various ambulance services and supplies; (2) adjustment of Medicare payment rates; (3) changes in policies; and (4) necessary rulemaking for major policy changes.

In September 1993, the HCFA Management Planning and Analysis staff prepared an Office of Inspector General clearance document indicating that, for each of the three recommendations, "HCFA is currently developing a corrective action plan to address this recommendation." The corrective action plan was completed in April 1994, 18 months after our prior report was issued.



The corrective action plan originally estimated that specifications for new regulations on ambulance services would be delivered to HCFA's Regulations Staff by May 31, 1994. The Regulations Staff would use the specifications to prepare draft regulations and issue the draft for public comment. A combined HCFA work group assigned to ambulance issues is working on the specifications for the new regulations. This work group held its first meeting on October 6, 1994. The work group is determining where changes are needed in both the regulations and MCM policies on ambulance services. The work group plans to request a new regulation to require that payment for nonemergency ambulance services be made at the ALS level only when medically necessary.

The corrective action plan provided that 60 days after the issuance of a final regulation HCFA would require carriers to establish controls to ensure that payments for ALS services are based upon the medical need of beneficiaries. The HCFA still plans to have carriers implement these procedures 60 days after the issuance of a final regulation.

In regard to guidelines for an all-inclusive rate, HCFA has drafted a program memorandum standardizing the procedure codes for ambulance services nationwide. This program memorandum specifies the items included in an all-inclusive ALS rate. After our field work was completed, HCFA officials advised us that they issued the program memorandum in December 1994.

## **RECOMMENDATIONS**

We recommend that, as soon as possible, HCFA:

- consider publishing a notice in the Federal Register reiterating Medicare policy to base payments for nonemergency ALS ambulance services on the medical need of the patient;
- revise the MCM to require that payment for nonemergency ambulance services at the ALS level be allowed only when medically necessary and not be impacted by local ordinances mandating ALS services; and
- require carriers to establish controls to ensure that reimbursement for nonemergency ALS ambulance services is based on the medical need of the patient.

## **HCFA'S COMMENTS TO DRAFT REPORT**

In its written response to our draft report, HCFA agreed that payment for nonemergency ALS ambulance services should be based on the medical need of the patient. However, HCFA believes that current policy needs changes that can only be achieved through rulemaking because (1) basing payments on medical necessity will require HCFA to establish uniform medical necessity criteria and (2) the Office of General Counsel has

advised HCFA that changes in longstanding Medicare policy are achieved through rulemaking with a public comment period to ensure the reasonableness of the results.

Regarding our second recommendation, HCFA stated that a combined work group assigned to ambulance issues is currently working on regulation specifications and necessary MCM changes.

The HCFA concurred with our third recommendation, but indicated that it should not mandate that carriers review all ALS ambulance claims. Rather, the carriers should review medical need only for those claims where the carrier has evidence that a problem exists, i.e., through data analysis, beneficiary complaints, or referrals.

### **OIG RESPONSE**

In our opinion, the rulemaking process being followed by HCFA is not providing timely resolution of the audit findings disclosed in our 1992 report. As a result, the Medicare program is missing out on more than \$1 million per month in potential program savings.

We continue to believe that the quickest way to resolve the nonemergency ALS ambulance issue is to revise the MCM instructions and establish related controls at the Medicare carriers. In this regard, the revisions to the MCM could contain the uniform medical necessity criteria that HCFA and the carriers will require to assess the need for nonemergency ALS ambulance services. The proposed revisions could also be published in the Federal Register to obtain the public comments that HCFA needs to ensure the reasonableness of the revised instructions. Nevertheless, we acknowledge that HCFA's approach to correcting our previously reported audit findings is an alternative that should also work. Accordingly, we urge HCFA to complete its planned revisions to the Federal regulations and the MCM on payments for nonemergency ALS ambulance services as soon as possible.

## OTHER MATTERS

### AUDIT TRACKING SYSTEM

Delays in preparing the corrective action plan prevented HCFA's audit tracking system from identifying the delays in resolving our prior audit findings before September 1994. The HCFA's tracking system prepares quarterly updates on corrective actions for outstanding audit findings. However, the tracking system relies on the information from completed corrective action plans and does not begin to track audit resolution until after the "Target Completion Date" shown on the plan. In this case, the corrective action plan was completed on April 21, 1994 and it showed target completion dates of May, June, and July 1994 for the three recommendations in our original report. As a result, the tracking system did not identify a delay in the resolution of the outstanding findings until the quarterly update in September 1994. We have not made specific recommendations concerning HCFA's tracking system because our analysis of the system was limited to this one prior audit report.

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APPENDIX



DEPARTMENT OF HEALTH & HUMAN SERVICES

**Memorandum**

DATE MAR 30 1995

FROM Bruce C. Vladeck  
Administrator

A handwritten signature in cursive script, appearing to read "Bruce C. Vladeck", written over the typed name.

SUBJECT Office of Inspector General Draft Report: "Follow-Up to Review of  
Medical Necessity for Ambulance Services," (A-01-94-00528)

TO June Gibbs Brown  
Inspector General

We reviewed the subject draft report which examined whether the Health Care Financing Administration had taken appropriate action to implement the recommendations from a prior audit report. Our comments are attached for your consideration.

Thank you for the opportunity to review and comment on this report. Please advise us if you would like to discuss our position on the report's recommendations.

Attachment

Comments of the Health Care Financing Administration (HCFA)  
on Office of Inspector General (OIG) Draft Report:  
"Follow-Up to Review of Medical Necessity for Ambulance Services,"  
(A-01-94-00528)

OIG Recommendation 1

HCFA should publish a notice in the Federal Register reiterating Medicare policy to base payments for nonemergency Advance Life Support (ALS) services on the medical need of the patient.

HCFA Response

We agree with the policy embodied in this recommendation; i.e., payment for nonemergency ALS services be based on medical need, but disagree with how the policy should be communicated.

We believe that current policy needs changes that can only be achieved through rulemaking for two principle reasons: (1) The proposal to base coverage and payment on medical necessity criteria will require HCFA to establish uniform medical necessity criteria, and (2) the Office of the General Counsel advises us that changes in longstanding Medicare policy are achieved through rulemaking with a public comment period to ensure the reasonableness of the results. This work is in process and on an expedited track.

OIG Recommendation 2

HCFA should revise the Medicare Carriers Manual (MCM) to require that payment for nonemergency ambulance services at the ALS level be allowed only when medically necessary and not be impacted by local ordinances mandating ALS services.

HCFA Response

We concur. A combined HCFA work group assigned to ambulance issues is concurrently working on regulation specifications and necessary manual changes. Carrier changes will be implemented once new rules are finalized.

OIG Recommendation 3

HCFA should require carriers to implement controls to ensure that reimbursement for ALS services is based on the medical need of the patient.

HCFA Response

We concur; however, we do not believe that HCFA should mandate review of all ALS ambulance claims. If a carrier has evidence that a problem exists with claims for ALS; i.e., through data analysis, beneficiary complaints, or referrals, then the carrier is instructed to take action to ensure that the claims are based on the medical need of the patient. A Program Memorandum was issued in December 1994 specifying the items to be included in an all-inclusive rate.

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Technical Comment

Page 5, paragraph 3 -- The dates of May 31, 1994, and March 31, 1995, do not represent dates when the proposed regulation would be issued for public comment, but rather the original target date and revised date that we expected the specifications for the proposed regulation to be delivered to our Regulations Staff. We are currently on target to meet the March 31, 1995, date and intend to expedite the completion of a regulation for publication.

Recommendation 2, addressing revision of the MCM, explicitly applies only to payment for nonemergency ambulance services at the ALS level. Recommendation 3, addressing controls to be implemented by carriers, includes no such limitation and thus appears to apply to both emergency and nonemergency services. We note that an uninitiated reader may be confused about whether the third recommendation is intended to be broader than the second recommendation or whether it is intended only to ensure that carriers conform to Medicare policy as stated in the second recommendation regarding nonemergency services.