Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

CMS OVERSIGHT MUST CONTINUE BECAUSE ALL REMAINING CONSUMER OPERATED AND ORIENTED PLANS WERE NOT PROFITABLE AND MAY NOT BE VIABLE AND SUSTAINABLE

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Office of Inspector General

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Report in Brief
Date: August 2017
Report No. A-05-16-00027

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL

CMS Oversight Must Continue Because All Remaining Consumer Operated and Oriented Plans Were Not Profitable and May Not Be Viable and Sustainable

Why OIG Did This Review

The Patient Protection and Affordable Care Act authorized the Secretary of HHS to make startup and solvency loans to new consumer-governed, nonprofit health insurance issuers, known as Consumer Operated and Oriented Plans (CO-OPs). Prior OIG reviews identified problems with the CO-OP program that may have affected CO-OPs' long-term financial viability.

Our objectives were to examine the viability and sustainability of CO-OPs that were operating as of January 1, 2016, and to evaluate the Centers for Medicare & Medicaid Services' (CMS's) oversight of the CO-OP program.

How OIG Did This Review

We reviewed the financial status of the 11 CO-OPs that were operational as of January 1, 2016. We reviewed the CO-OPs' financial statements and examined factors that may affect the CO-OPs' ability to repay the loans, such as enrollment, revenue, medical claims costs, general administrative expenses, and capital and surplus. We also reviewed CMS's oversight of the CO-OP program and obtained the status of CMS's implementation of our prior recommendations.

What OIG Found

Several of the CO-OPs that were operating at the beginning of 2016 are no longer viable or sustainable. Specifically, 5 of the 11 CO-OPs operating on January 1, 2016, had ceased or planned to cease operations by the end of the 2016 plan year, and each of the remaining 6 CO-OPs reported net losses and had drawn down nearly all available CO-OP loan amounts as of December 31, 2016. These six operational CO-OPs did not appear to be financially viable and sustainable based on the reported net income and available capital and surplus. When a CO-OP ceases operations during the plan year, health plan participants can be significantly affected.

In 2015 and 2016, CMS placed 10 of the 11 CO-OPs on a corrective action plan or an enhanced oversight plan because of financial, operational, or market strategy concerns. CMS conducted the required oversight of the CO-OP program, but this did not prevent the CO-OPs from ceasing or planning to cease operations. Although oversight of CO-OPs is primarily a State responsibility, CMS continued to monitor the closed CO-OPs in an effort to help State regulators manage the wind-down and liquidation process and to help the U.S. Department of Justice recover any funds that may be available to repay startup and solvency loan debt.

What OIG Recommends and CMS Comments

We recommend that CMS (1) continue to work with operational CO-OPs to improve their financial condition; (2) continue the use of corrective action and enhanced oversight plans, especially for those CO-OPs with net losses and no remaining CO-OP loan funds to be drawn down; and (3) continue to work with States to ensure that CO-OP plan participants receive continuous coverage and access to plan providers and services.

CMS agreed with our recommendations and listed actions it would continue to take to address our recommendations.

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INTRODUCTION

WHY WE DID THIS REVIEW

The Patient Protection and Affordable Care Act[1] (ACA) authorized the Secretary of Health and Human Services (the Secretary) to make startup and solvency loans to new consumer-governed, nonprofit health insurance issuers, known as Consumer Operated and Oriented Plans (CO-OPs). The ACA established health insurance exchanges (commonly referred to as "marketplaces") to allow individuals and small businesses to shop for health insurance in all 50 States and the District of Columbia. To expand the number of health plans available in the marketplaces, the ACA established the CO-OP program. The ACA authorized the Secretary to provide startup and solvency loans to help establish CO-OPs in every State. The Secretary delegated this responsibility to the Centers for Medicare & Medicaid Services (CMS).

CMS awarded $2.4 billion to 23 CO-OPs, $358 million for startup loans and $2.1 billion for solvency loans. Eleven CO-OPs were operational as of January 1, 2016.[2] Only six CO-OPs remained in operation at the end of the 2016 plan year.[3]

Prior Office of Inspector General (OIG) reviews[4] showed that CO-OPs had limited private monetary support and budgeted startup expenditures that exceeded available funding; member enrollment and profitability for most CO-OPs were considerably lower than initially projected and could limit the CO-OPs' ability to repay Government loans; and converting startup loans into capital and surplus rather than debt did not prevent some CO-OPs from ceasing operations, and the conversions likely reduced the Federal Government's ability to recover loan debt.

OBJECTIVES

Our objectives were to examine the viability and sustainability of CO-OPs that were operating as of January 1, 2016, and to evaluate CMS's oversight of the CO-OP program.

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[1] P.L. No. 111-148 (Mar. 23, 2010), as amended by the Health Care and Education Reconciliation Act of 2010, P.L. No. 111-152 (Mar. 30, 2010).

[2] The Connecticut, Illinois, Massachusetts, Maine, Maryland, Montana, New Jersey, New Mexico, Ohio, Oregon, and Wisconsin CO-OPs were operational as of January 1, 2016. Oregon's Health CO-OP (OR/OHC) is one of two CO-OPs that offered health insurance in Oregon. Oregon's second CO-OP, Health Republic Insurance of Oregon, ceased operations in 2015.

[3] The Massachusetts, Maryland, Maine, Montana, New Mexico, and Wisconsin CO-OPs remained in operation at the end of the 2016 plan year.

[4] See Appendix A for related OIG reports.

BACKGROUND

Loans and Capital and Surplus Requirements

CMS established loan agreements with the CO-OPs to provide startup and solvency loan funding. Startup loans were intended to help CO-OPs cover approved costs for beginning operations. Solvency loans were intended to assist CO-OPs with meeting the capital and surplus requirements of States in which the CO-OPs were licensed to issue health insurance. Startup and solvency loans must be repaid no later than 5 years and 15 years, respectively, from the disbursement date of the loan. CMS required CO-OPs to meet all terms, conditions, and provisions included in the loan agreements and applicable Federal requirements.

State insurance regulators require health insurance issuers to maintain specified levels of capital and surplus to conduct business. Capital and surplus is intended to help ensure that issuers maintain funds sufficient to pay policyholder claims while remaining solvent and fully operational. Specific capital and surplus requirements vary by State.

Consumer Operated and Oriented Plans Continued To Cease Operations

CMS awarded startup and solvency loans to 23 CO-OPs. Only 11 CO-OPs remained in operation as of January 1, 2016, and 5 of the 11 CO-OPs had ceased or planned to cease operations by the end of the 2016 plan year.[5] Sufficient levels of capital are required for insurance companies to remain operational. State insurance regulators may order an insurance company into liquidation when it no longer has the necessary assets or capital to meet its financial obligations.

We previously found that these five CO-OPs reported net losses and had medical claims costs that exceeded premiums.[6] These factors contributed to the CO-OPs' ceasing of operations as loans were fully drawn down and capital was limited.

Centers for Medicare & Medicaid Services Oversight

CMS oversight of the CO-OP program includes establishing and updating CO-OP program policies and procedures and other guidance; approving the disbursement of loan funds to CO-OPs; and monitoring the CO-OPs' overall financial condition by reviewing the CO-OPs' quarterly, semiannual, and annual financial statements and semiannual statements of compliance with relevant State licensure requirements. CMS also monitors the CO-OPs' compliance with the terms and conditions of the loan agreements. CMS uses an escalation plan to monitor the

[5] The Connecticut, Illinois, Ohio, and OR/OHC CO-OPs had ceased operations by December 31, 2016. The New Jersey CO-OP announced that it would cease operations at the end of 2016 but was not court-ordered into liquidation until February 2017.

[6] See report number A-05-14-00055.

CO-OPs' viability. The escalation plan allows CMS to follow up with enforcement actions, such as corrective action plans or enhanced oversight plans, to resolve the identified issues.

HOW WE CONDUCTED THIS REVIEW

Our review covered the financial status of the 11 CO-OPs operating on January 1, 2016. We reviewed the CO-OPs' financial statements, including the annual report, dated December 31, 2016. In addition, we examined factors that may affect the CO-OPs' ability to repay the loans, such as enrollment, revenue, medical claims costs, general administrative expenses, and capital and surplus. This audit was a followup to previous audits of the CO-OP program. We also reviewed CMS's oversight of the CO-OP program and obtained the status of CMS's implementation of our prior recommendations. (See Appendix B.)

We did not review the overall internal control structure of CMS or each CO-OP. Rather, we limited our review to determining whether the CO-OPs complied with the loan agreements and Federal requirements and to CMS's oversight of the CO-OP program.

The details of our audit scope and methodology are included as Appendix C.

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

FINDINGS

Several of the CO-OPs that were operating at the beginning of 2016 are no longer viable or sustainable. Specifically, 5 of the 11 CO-OPs operating on January 1, 2016, had ceased or planned to cease operations by the end of the 2016 plan year, and each of the remaining 6 CO-OPs reported net losses and had drawn down nearly all available CO-OP loan amounts as of December 31, 2016.[7] These six operational CO-OPs did not appear to be financially viable and sustainable based on the reported net income and available capital and surplus. When a CO-OP ceases operations during the plan year, health plan participants can be significantly affected. For example, plan participants may have to select a new health plan, resulting in possible changes of providers, medications, and medical services and possibly higher premiums and other cost-sharing expenses. Additionally, participants may not receive credit for money already spent toward their deductibles and out-of-pocket limits when forced to switch to a new health plan.

[7] The Maine, Maryland, Montana, New Mexico, and Wisconsin CO-OPs reported net losses and had drawn down all CO-OP loan funds. The Massachusetts CO-OP reported a net loss and had $2.5 million in CO-OP loan funds available to draw down as of December 31, 2016.

In 2015 and 2016, CMS placed 10 of the 11 CO-OPs on a corrective action plan or an enhanced oversight plan because of financial, operational, or market strategy concerns.[8] CMS conducted the required oversight of the CO-OP program, but this did not prevent the CO-OPs from ceasing or planning to cease operations. State insurance regulators have primary regulatory oversight authority over the CO-OPs, which generally includes issuing and revoking licenses to offer health plans and monitoring issuers' financial solvency and market conduct. CMS has limited control over the wind-down and liquidation process for CO-OPs that cease operations; State insurance regulators oversee the wind-down and liquidation process, and the U.S. Department of Justice oversees the collections process. Although oversight of CO-OPs is primarily a State responsibility, CMS continued to monitor the closed CO-OPs in an effort to help State regulators manage the wind-down and liquidation process in a way that minimizes negative effects on consumers and to help the U.S. Department of Justice recover any funds that may be available to repay startup and solvency loan debt.

VIABILITY AND SUSTAINABILITY OF THE CONSUMER OPERATED AND ORIENTED PLANS

Consumer Operated and Oriented Plans Generally Incurred Net Losses

We found that five of the six CO-OPs that remained in operation at the end of the 2016 plan year reported net losses in 2014, and three of the six CO-OPs had medical claims costs that exceeded premiums. For 2015, all six CO-OPs reported net losses, and five of the six CO-OPs had medical claims costs that exceeded premiums.

In examining financial data as of December 31, 2016, we found that each of the six remaining CO-OPs reported net losses. (See Table 1 on the next page.) Medical claims costs exceeded premiums for three of the six CO-OPs.[9]

[8] Market strategy concerns generally relate to a CO-OP not achieving sustainable enrollment levels.

[9] Medical claims costs exceeding premiums can be attributed to many factors, including an enrollment of more members with more expensive health conditions than was expected, an enrollment of fewer young and healthy members than was expected, and health plan premiums that were inaccurately priced.

Table 1: CO-OPs' Net Income From January 1 Through December 31, 2016[10]

CO-OP	Premiums	Medical Claims Costs	General Administrative Expenses	Other Revenues and Adjustments	Net Income[11]
CO-OPs That Were Operational Throughout 2016					
MA	$61,120,455	($81,533,806)	($24,956,939)	$6,386,452	($38,983,839)
MD[12]	$157,203,546	($148,671,338)	($24,835,005)	($15,147,431)	($31,450,228)
ME	$377,296,166	($416,377,471)	($42,679,506)	$67,774,364	($13,986,447)
MT[13]	$136,127,723	($131,675,870)	($17,213,884)	($6,933,351)	($19,695,381)
NM	$152,886,390	($144,988,776)	($32,149,981)	$6,370,662	($17,881,705)
WI	$88,751,332	($124,877,073)	($18,555,730)	$18,672,080	($36,009,391)
CO-OPs That Ceased or Planned To Cease Operations in 2016[14]					
CT	N/A	N/A	N/A	N/A	N/A
IL	N/A	N/A	N/A	N/A	N/A
NJ	N/A	N/A	N/A	N/A	N/A
OH	N/A	N/A	N/A	N/A	N/A
OR/OHC	N/A	N/A	N/A	N/A	N/A

Consumer Operated and Oriented Plans Generally Had Drawn Down All Available Loan Funds

CMS awarded startup and solvency loans totaling $1.2 billion to the 11 CO-OPs. As of December 31, 2016, CMS had disbursed 99 percent of the loan funds. CO-OP loan fund amounts awarded and undisbursed are shown in Table 2 on the next page.

[10] From annual statement data submitted by the CO-OPs to the National Association of Insurance Commissioners (NAIC) as of December 31, 2016 (unaudited).

[11] Net income may include estimated risk adjustment costs. Risk adjustment estimates are based on a statistical process that takes into account the underlying health status and health spending of the enrollees in an insurance plan when looking at their health care outcomes or health care costs.

[12] In December 2016, the Maryland Insurance Administration announced that the Maryland CO-OP would not offer individual health plans for the 2017 plan year.

[13] After December 22, 2016, the Montana CO-OP did not accept new enrollments for the 2017 plan year.

[14] As of March 22, 2017, the Connecticut, Illinois, New Jersey, Ohio, and Oregon CO-OPs had not filed a December 31, 2016, NAIC annual statement.

Table 2: Loan Funds Awarded and Undisbursed for 11 CO-OPs That Operated in 2016

CO-OP	Federal CO-OP Loan Funds Awarded	Federal CO-OP Loan Funds Undisbursed as of 12/31/2014	Federal CO-OP Loan Funds Undisbursed as of 12/31/2015	Federal CO-OP Loan Funds Undisbursed as of 12/31/2016
CO-OPs That Were Operational Throughout 2016				
MA	$156,442,995	$89,862,643	$35,450,842	$2,522,405
MD	$65,450,900	$24,643,796	$7,034,340	$0
ME	$132,316,124	$89,807,286	$0	$0
MT	$85,019,688	$40,775,087	$0	$0
NM	$77,317,782	$19,463,489	$0	$0
WI	$107,739,354	$39,906,344	$0	$0
CO-OPs That Ceased or Planned To Cease Operations in 2016				
CT	$127,980,768	$0	$0	$0
IL	$160,154,812	$106,703,399	$22,335,457	$0
NJ	$109,074,550	$57,761,368	$10,300,299	$0
OH	$129,225,604	$49,370,996	$2,816,687	$2,816,687
OR/OHC	$56,656,900	$29,753,000	$0	$0

The loan funds are a major component of the CO-OPs' capital and surplus because most CO-OPs have incurred continuous net losses and provided little or no initial capital of their own. Tables 2 and 3 show the pattern of loan draw downs, net income, and changes in capital and surplus. Data from the tables show that loan funds can be drawn down to support capital and surplus levels when net losses are incurred. However, when all loan funds are disbursed and other sources of funds are not available, the net loss generally results in a corresponding decrease in capital and surplus. For example, New Mexico had drawn down all remaining Federal loan funds in 2015. During 2016, New Mexico incurred a net loss of $17.9 million, and its capital and surplus had a corresponding decrease of $19.3 million.

The numerous quarters of net losses and limited infusion of capital outside of the loans resulted in low levels of capital and surplus. (See Table 3 on the next page.)

Table 3: Net Income and Capital and Surplus for 11 CO-OPs That Operated in 2016[15]

CO-OP	Net Income as of 12/31/2014	Capital and Surplus as of 12/31/2014	Net Income as of 12/31/2015	Capital and Surplus as of 12/31/2015	Net Income as of 12/31/2016	Capital and Surplus as of 12/31/2016
CO-OPs That Were Operational Throughout 2016						
MA	($20,238,329)	$9,256,909	($42,746,420)	$11,412,230	($38,983,839)	$5,064,164
MD	($16,279,513)	$8,037,213	($10,833,616)	$17,180,223	($31,450,228)	($10,552,598)
ME	$7,336,187	$27,377,122	($74,016,344)	$49,783,794	($13,986,447)	$38,617,293
MT	($3,529,402)	$25,889,982	($40,665,491)	$33,041,904	($19,695,381)	$24,005,612
NM	($4,291,274)	$23,184,052	($22,999,537)	$31,383,538	($17,881,705)	$12,113,003
WI	($36,544,666)	$36,881,076	($28,249,077)	$24,589,376	($36,009,391)	$24,609,117
CO-OPs That Ceased or Planned To Cease Operations in 2016						
CT	($28,006,855)	$58,216,950	($27,169,309)	$45,132,544	N/A	N/A
IL	($17,669,335)	$34,533,163	($90,800,169)	$31,479,713	N/A	N/A
NJ	($16,452,229)	$7,665,595	($17,560,987)	$33,697,215	N/A	N/A
OH	($5,916,854)	$49,189,633	($79,125,128)	$31,659,709	N/A	N/A
OR/OHC	($6,781,274)	$4,358,080	($18,437,082)	$20,972,125	N/A	N/A

The Impact of Closures on Plan Participants

There can be a significant negative effect on plan participants when a CO-OP ceases operations, particularly when operations cease during the plan year. Participants selecting new health plans may be subject to changes in providers, medications, and medical services and could pay higher premiums and other cost-sharing expenses. Additionally, participants may not receive credit for money already spent toward deductibles and out-of-pocket limits when forced to switch to a new health plan.

Plan participants experienced the negative effects of a midyear closure when the Ohio CO-OP, Coordinated Health Mutual, Inc., was determined to be in a hazardous financial condition and was ordered by a court to liquidate on May 26, 2016.[16] Plan participants could have stayed with the CO-OP's health plan through December 31, 2016, but coverage would have been capped at $500,000 per person, and any financial assistance for premiums and out-of-pocket costs would have ended after June 30, 2016. Alternatively, plan participants could have

[15] From annual statement data submitted by the CO-OPs to NAIC as of December 31, 2014; December 31, 2015; and December 31, 2016 (unaudited).

[16] Ohio Department of Insurance. "Coordinated Health Mutual, Inc. ("InHealth") Frequently Asked Questions." Available online at: https://insurance.ohio.gov/liq/Pages/InHealth-Frequently-Asked-Questions.aspx. Accessed on March 1, 2017.

obtained healthcare coverage with another insurer, but they would have lost credit for deductibles and out-of-pocket expenses already paid in 2016.

CENTERS FOR MEDICARE & MEDICAID SERVICES OVERSIGHT OF THE CONSUMER OPERATED AND ORIENTED PLANS PROGRAM

CMS provided oversight of the 11 CO-OPs. CMS's oversight of the CO-OP program included establishing and updating CO-OP program policies, procedures, and other guidance; approving the disbursement of loan funds to CO-OPs; and monitoring the CO-OPs' overall financial condition by reviewing the CO-OPs' quarterly, semiannual, and annual financial statements, as well as semiannual statements of compliance with relevant State licensure requirements. CMS also monitors the CO-OPs' compliance with the terms and conditions of the loan agreements. Although CMS staff conduct day-to-day monitoring and oversight of CO-OPs, CMS contracted with independent auditors to conduct various operational and financial audits to verify that the CO-OPs used Government loan funds appropriately and were in compliance with applicable Federal and State laws and program guidance.

CMS uses an escalation plan to monitor the CO-OPs' viability. The escalation plan helps to identify issues of potential concern using direct analysis and risk assessment tools. The escalation plan allows CMS to follow up with enforcement actions, such as corrective action plans or enhanced oversight plans, to resolve the identified issues. In 2015 and 2016, CMS placed 10 of the 11 CO-OPs on a corrective action plan or enhanced oversight plan because of financial, operational, or market strategy concerns. (See Table 4 below and on the next page.)

Table 4: CO-OPs' Corrective Action Plans and Enhanced Oversight Plans in 2015 and 2016

CO-OP	Types of Issues CMS Identified	Action and Oversight Plans Established	Date of Action	Implementation Status as of December 31, 2016
CO-OPs That Were Operational Throughout 2016				
MD	Financial and Operational	Corrective Action Plan and Enhanced Oversight Plan	6/14/2016	Active
MD	Financial, Operational, and Market Strategy	Corrective Action Plan and Enhanced Oversight Plan	9/23/2015	Active
ME	Financial and Operational	Corrective Action Plan and Enhanced Oversight Plan	6/15/2016	Active
ME	Financial and Operational	Corrective Action Plan and Enhanced Oversight Plan	2/17/2016	Active

CO-OP	Types of Issues CMS Identified	Action and Oversight Plans Established	Date of Action	Implementation Status as of December 31, 2016
CO-OPs That Were Operational Throughout 2016 – Continued				
MT	Financial	Enhanced Oversight Plan	5/20/2016	Active
NM	Financial	Enhanced Oversight Plan	9/13/2016	Active
WI	Financial and Operational	Corrective Action Plan and Enhanced Oversight Plan	6/17/2016	Active
WI	Financial, Operational, and Market Strategy	Corrective Action Plan and Enhanced Oversight Plan	9/22/2015	Active
CO-OPs That Ceased or Planned To Cease Operations in 2016				
CT	Financial	Corrective Action Plan and Enhanced Oversight Plan	6/17/2016	N/A
CT	Operational and Market Strategy	Corrective Action Plan and Enhanced Oversight Plan	10/5/2015	N/A
IL	Financial and Market Strategy	Corrective Action Plan and Enhanced Oversight Plan	5/24/2016	N/A
IL	Financial, Operational, and Market Strategy	Corrective Action Plan and Enhanced Oversight Plan	9/25/2015	N/A
NJ	Financial and Operational	Corrective Action Plan and Enhanced Oversight Plan	5/24/2016	N/A
NJ	Financial and Operational	Corrective Action Plan	5/7/2015	N/A
OH	Financial and Market Strategy	Corrective Action Plan and Enhanced Oversight Plan	5/24/2016	N/A
OH	Financial, Operational, and Market Strategy	Corrective Action Plan and Enhanced Oversight Plan	9/22/2015	N/A
OR/OHC	Financial	Corrective Action Plan and Enhanced Oversight Plan	6/14/2016	N/A

Despite CMS's oversight and ongoing discussions with State insurance regulators, CO-OPs continued to cease operations. Although oversight of CO-OPs is primarily a State responsibility, CMS continued to monitor the closed CO-OPs in an effort to help State regulators manage the wind-down and liquidation process and to help the U.S. Department of Justice recover any funds that may be available to repay startup and solvency loan debt.

CONCLUSION

State insurance officials took significant actions to liquidate several CO-OPs and conclude their business operations. However, many of the remaining operational CO-OPs have financial issues similar to those of the CO-OPs that were liquidated. The majority of the operational CO-OPs reported net losses, had medical claims costs that exceeded premiums, and had drawn down nearly all CO-OP loan funds. Although CMS continues to monitor the CO-OPs, the December 31, 2016, annual financial statements combined with the results of recent mid-year closures suggest that each of the remaining six CO-OPs may not be financially viable and sustainable. Additionally, mid-year closures could significantly affect the plan participants' costs and medical services, as shown by the recent closing of the Ohio CO-OP.

RECOMMENDATIONS

We recommend that CMS:

- continue to work with operational CO-OPs to improve their financial condition;
- continue the use of corrective action and enhanced oversight plans, especially for those CO-OPs with net losses and no remaining CO-OP loan funds to be drawn down; and
- continue to work with States to ensure that CO-OP plan participants receive continuous coverage and access to plan providers and services.

CENTERS FOR MEDICARE & MEDICAID SERVICES COMMENTS

In written comments on our draft report, CMS concurred with our recommendations. CMS stated that it would continue to work with CO-OPs to help acquire outside capital or enter into new business relationships and that it would continue to use corrective action and enhanced oversight plans when necessary. CMS stated that it would continue to work with State insurance regulators to monitor and support existing CO-OPs; help, when necessary, wind-down the operations of a CO-OP; and help ensure that continuous coverage and access is available for affected consumers. CMS also provided technical comments on our draft report, which we addressed as appropriate. CMS's comments, excluding the technical comments, are included as Appendix D.

APPENDIX A: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
Conversions of Startup Loans Into Surplus Notes by Consumer Operated and Oriented Plans Were Allowable but Not Always Effective	A-05-16-00019	8/04/16
Actual Enrollment and Profitability Was Lower Than Projections Made by the Consumer Operated and Oriented Plans and Might Affect Their Ability To Repay Loans Provided Under the Affordable Care Act	A-05-14-00055	7/29/15
The Centers for Medicare & Medicaid Services Awarded Consumer Operated and Oriented Plan Program Loans in Accordance With Federal Requirements, and Continued Oversight Is Needed	A-05-12-00043	7/30/13
Early Implementation of the Consumer Operated and Oriented Plan Loan Program	OEI-01-12-00290	6/16/13

APPENDIX B: PRIOR OFFICE OF INSPECTOR GENERAL REPORT RECOMMENDATIONS

OIG Report	Recommendations to CMS	Actions Taken by CMS
A-05-12-00043[17]	Monitor CO-OPs to ensure that startup funds are not exhausted before the CO-OPs become fully operational and monitor the solicitation of additional private monetary support.	CMS concurred with the recommendations and was actively monitoring the CO-OPs' overall financial condition, compliance with relevant State licensure requirements, and compliance with the terms and conditions of the loan agreements.
A-05-14-00055[18]	Continue to place underperforming CO-OPs on enhanced oversight or corrective action plans in accordance with Federal requirements. Work with State insurance regulators to identify and correct underperforming CO-OPs. Provide guidance or establish criteria to determine when a CO-OP is no longer viable or sustainable. Pursue available remedies for recovery of funds from terminated CO-OPs in accordance with the loan agreements.	CMS concurred with the recommendations. CMS had placed 10 of the 11 CO-OPs on a corrective action plan or enhanced oversight plan in 2015 and 2016. CMS worked with State insurance regulators to identify and correct underperforming CO-OPs. CMS provided guidance on evaluating the financial viability and sustainability of a CO-OP. CMS stated that it was pursuing available remedies for the recovery of funds from terminated CO-OPs.

[17] CMS concurred with this report's recommendations and provided actions to address them on February 11, 2014. OIG agreed with the CMS actions and closed the recommendations.

[18] As of May 15, 2017, CMS had not provided the OIG clearance document to address the recommendations for this report. Once the OIG clearance document is received, we will reassess the status of the recommendations.

APPENDIX C: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our review covered the financial status of 11 CO-OPs operating on January 1, 2016. We reviewed the CO-OPs' financial statements, including their annual reports, dated December 31, 2016. In addition, we examined factors that may affect the CO-OPs' ability to repay the loans, such as enrollment, revenue, medical claims costs, general administrative expenses, and capital and surplus. This audit was a followup to previous audits of the CO-OP program. We also reviewed CMS's oversight of the CO-OP program and obtained the status of CMS's implementation of our prior recommendations.

We did not review the overall internal control structure of CMS or each CO-OP. Rather, we limited our review to determining whether the CO-OPs complied with the loan agreements and Federal requirements and to CMS's oversight of the CO-OP program.

We conducted the audit from January 2016 through April 2017.

METHODOLOGY

To accomplish our objectives, we:

- reviewed applicable Federal regulations and CMS guidance;
- reviewed the loan agreement for each of the 11 CO-OPs;
- reviewed the CO-OPs' 2015 and 2016 corrective action plans and enhanced oversight plans;
- reviewed the available NAIC annual financial statements dated December 31, 2014, December 31, 2015, and December 31, 2016, for each of the 11 CO-OPs;
- determined the net income as of December 31, 2014, December 31, 2015, and December 31, 2016, for each of the 11 CO-OPs;
- determined the capital and surplus as of December 31, 2014, December 31, 2015, and December 31, 2016, for each of the 11 CO-OPs;
- determined the amount of loan funds drawn down as of December 31, 2014, December 31, 2015, and December 31, 2016, for each of the 11 CO-OPs;
- verified which CO-OPs ceased or planned to cease operations by the end of the 2016 plan year;

- reviewed CMS's oversight of the CO-OP program and interviewed CMS officials regarding actions taken to implement our prior recommendations; and

- discussed the results of our review with CMS officials.

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

APPENDIX D: CENTERS FOR MEDICARE & MEDICAID SERVICES COMMENTS

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

200 Independence Avenue SW
Washington, DC 20201

DATE: JUL 14 2017

TO: Daniel R. Levinson
Inspector General

FROM: Seema Verma S.V.
Administrator

SUBJECT: Office of Inspector General Draft Report: CMS Oversight Must Continue Because All Remaining Consumer Operated and Oriented Plans Were Not Profitable and May Not Be Viable and Sustainable (A-05-16-00027)

The Centers for Medicare & Medicaid Services (CMS) appreciates the opportunity to review and comment on the Office of Inspector General's (OIG) draft report on CMS' oversight of Consumer Operated and Oriented Plans (CO-OP). CMS takes its commitment to both the CO-OPs' consumers and to taxpayers seriously throughout the management of the program.

Section 1322 of the Patient Protection and Affordable Care Act authorized the Secretary of Health and Human Services to make startup and solvency loans to new consumer-governed, nonprofit health insurance issuers, known as Consumer Operated and Oriented Plans, also known as CO-OPs. To that end, the law provided loan funding to eligible entities to help establish and maintain these new Consumer Operated and Oriented Plans. The funding initially provided by the law was intended to provide capital to support start-up costs, such as establishing provider network relationships, claims and financial operations, developing products, and meeting regulatory surplus requirements through the initial phase of operations. In implementing the CO-OP Program as required by statute and with the funds available, CMS evaluated loan applications, monitors financial performance, conducts financial and operational oversight, and supports state departments of insurance (DOIs), which are the primary regulators of insurance issuers, including CO-OPs, in the states.

CMS oversight of the CO-OP program includes establishing and updating program policy and procedures and other guidance, approving the disbursement of loan funds, and monitoring the plans' overall financial condition by reviewing their quarterly, semiannual, and annual financial statements as well as semiannual statements of compliance with relevant State licensure requirements. CMS also uses an escalation plan to monitor the CO-OPs' viability. The escalation plan allows CMS to follow up with enforcement actions as necessary, such as corrective action plans or enhanced oversight plans, to resolve the identified issues.

While CO-OPs are primarily responsible for their own success, and state DOIs remain the primary regulators of these companies, CMS will continue to provide technical assistance to operational CO-OPs to identify and correct issues and make improvements. The OIG's recommendations and CMS' responses are below.

OIG Recommendation
The OIG recommends that CMS continue to work with operational CO-OPs to improve their financial condition.

CMS Response
CMS concurs with the OIG's recommendation. CMS continues to work CO-OPs to help them acquire outside capital or enter into new business relationships, when permitted by law. CMS also continues to conduct general and financial oversight and review of these issuers.

OIG Recommendation
The OIG recommends that CMS continue the use of corrective action and enhanced oversight plans, especially for those CO-OPs with net losses and no remaining CO-OP loan funds to be drawn down.

CMS Response
CMS concurs with the OIG's recommendation. CMS continues the use of corrective action and enhanced oversight plans for CO-OPs when necessary.

OIG Recommendation
The OIG recommends that CMS continue to work with States to ensure that CO-OP plan participants receive continuous coverage and access to plan providers and services.

CMS Response
CMS concurs with OIG's recommendation. CMS continues to work with state departments of insurance, the primary regulators of these plans, both to monitor and support existing CO-OPs and, when necessary, to help wind down operations of a CO-OP to attempt to see that affected consumers receive continuous coverage and access to new issuers and services.