

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**NATIONAL GOVERNMENT SERVICES,
INC., CLAIMED SOME UNALLOWABLE
MEDICARE SUPPLEMENTAL
EXECUTIVE RETIREMENT PLAN COSTS
THROUGH ITS
INCURRED COST PROPOSALS**

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Deputy Inspector General
for Audit Services

December 2022
A-07-22-00625

Office of Inspector General

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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.

Report in Brief

Date: December 2022

Report No. A-07-22-00625

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



Why OIG Did This Audit

The Centers for Medicare & Medicaid Services (CMS) reimburses a portion of its contractors' Supplemental Executive Retirement Plan (SERP) costs.

The HHS, OIG, Office of Audit Services, Region VII pension audit team reviews the cost elements related to qualified defined-benefit, postretirement benefit, and any other pension-related cost elements claimed by Medicare contractors through Incurred Cost Proposals (ICPs).

Previous OIG audits found that Medicare contractors did not always correctly identify and claim SERP costs.

Our objective was to determine whether the calendar years (CYs) 2015 through 2018 SERP costs that National Government Services, Inc. (NGS), claimed for Medicare reimbursement, and reported on its ICPs, were allowable and correctly claimed.

How OIG Did This Audit

We reviewed \$526,908 of SERP costs that NGS claimed for Medicare reimbursement on its ICPs for CYs 2015 through 2018.

National Government Services, Inc., Claimed Some Unallowable Medicare Supplemental Executive Retirement Plan Costs Through Its Incurred Cost Proposals

What OIG Found

NGS claimed SERP costs of \$526,908 for Medicare reimbursement, through its ICPs, for CYs 2015 through 2018; however, we determined that the allowable SERP costs for CYs 2015 through 2018 were \$317,365. Thus, NGS claimed \$209,543 of unallowable SERP costs on its ICPs for CYs 2015 through 2018. This overclaim occurred because NGS based its claim for Medicare reimbursement on incorrect allocable SERP costs included in the indirect cost rates on the ICPs.

What OIG Recommends and Auditee Comments

We recommend that NGS work with CMS to revise its ICPs for CYs 2015 through 2018 to reduce its claimed SERP costs by \$209,543.

NGS concurred with our recommendation and said that it would work with CMS to reflect the final allocable costs in its ICPs upon final settlement of CYs 2015 through 2018.

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INTRODUCTION

WHY WE DID THIS AUDIT

The Centers for Medicare & Medicaid Services (CMS) reimburses a portion of its contractors' Supplemental Executive Retirement Plan (SERP) costs. In claiming SERP costs, contractors must follow cost reimbursement principles contained in the Federal Acquisition Regulation (FAR), Cost Accounting Standards (CAS), and Medicare contracts. Previous Office of Inspector General (OIG) audits found that Medicare contractors did not always correctly identify and claim SERP costs.

At CMS's request, the Department of Health and Human Services, OIG, Office of Audit Services, Region VII pension audit team reviews the cost elements related to qualified defined-benefit, nonqualified defined-benefit, postretirement benefit (PRB), and any other pension-related cost elements claimed by Medicare fiscal intermediaries and carrier contractors and Medicare administrative contractors (MACs) and CAS- and FAR-covered contracts through Final Administrative Cost Proposals, Incurred Cost Proposals (ICPs), or both.

For this audit, we focused on one Medicare contractor, National Government Services, Inc. (NGS). In particular, we examined the allowable SERP costs that NGS claimed for Medicare reimbursement and reported on its ICPs.

OBJECTIVE

Our objective was to determine whether the calendar years (CYs) 2015 through 2018 SERP costs that NGS claimed for Medicare reimbursement, and reported on its ICPs, were allowable and correctly claimed.

BACKGROUND

National Government Services, Inc., and Medicare

NGS is a wholly owned subsidiary of Federal Government Solutions, which is a holding company created and owned by Elevance Health (formerly Anthem, Inc.).¹ NGS administered Durable Medical Equipment (DME) Jurisdiction B² under MAC contracts until the contract concluded on July 31, 2016. NGS continues to administer Medicare Part A and Medicare Part B contract

¹ Effective June 28, 2022, Anthem Inc., changed its name to Elevance Health.

² DME Jurisdiction B consists of the States of Illinois, Indiana, Kentucky, Michigan, Minnesota, Ohio, and Wisconsin.

operations under MAC contracts for Jurisdictions 6 and K, effective September 27, 2012, and February 22, 2013, respectively.^{3, 4}

The disclosure statement that NGS submits to CMS states that NGS uses pooled cost accounting. Medicare contractors use pooled cost accounting to calculate the indirect cost rates (whose computations include pension, PRB, and SERP costs) that they submit on their ICPs. The indirect cost rates are used to calculate contract costs reported on the ICPs. CMS uses these indirect cost rates in determining the final indirect cost rates for each contract.⁵

Supplemental Executive Retirement Plans

Anthem sponsors two SERPs: the Cobalt Corporation Supplemental Executive Retirement Plan (Cobalt) and the WellPoint Health Networks, Inc., Supplemental Executive Retirement Plan (EVP).⁶ Cobalt's primary purpose is to provide a benefit to a select group of management or highly compensated employees. EVP's primary purpose is to provide deferred compensation for a select group of management or highly compensated employees within the meaning of the Employee Retirement Income Security Act of 1974. Anthem's SERPs are thus designed to restore benefits to participants who lost benefits under the Cobalt Corporation and the United Government Services, LLC (UGS), qualified defined-benefit plans because of the Internal Revenue Code, sections 401(a) and 415, limits.^{7, 8}

This report addresses the SERP costs that NGS claimed under the provisions of its MAC contracts and CAS- and FAR-covered contracts.

³ Medicare Parts A and B Jurisdiction 6 consists of the States of Illinois, Minnesota, and Wisconsin. NGS's jurisdiction for home health and hospice services consists of the States of Alaska, Arizona, California, Hawaii, Idaho, Michigan, Minnesota, Nevada, New Jersey, New York, Oregon, Washington, and Wisconsin, and the U.S. Territories of American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and U.S. Virgin Islands.

⁴ Medicare Parts A and B Jurisdiction K consists of the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont. NGS's jurisdiction for home health and hospice services consists of the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

⁵ For each CY, each Medicare contractor submits to CMS an ICP that reports the Medicare direct and indirect costs that the contractor incurred during that year. The ICP and supporting data provide the basis for the CMS Contracting Officer and the Medicare contractor to determine the final billing rates for allowable Medicare costs.

⁶ Anthem acquired Cobalt Corporation, of which United Government Services, LLC (UGS), was a subsidiary, in CY 2003. Effective November 17, 2006, a consolidation of certain Medicare operations (including UGS) occurred, forming a new subsidiary called NGS.

⁷ The Internal Revenue Code, section 401(a)(17), limit is the maximum annual compensation that can be used to calculate pension benefits.

⁸ Internal Revenue Code section 415 limits the amounts of benefits that may be paid to a participant in a defined-benefit plan. It also limits the amount of contributions that may be made to a participant's account in a defined-contribution plan.

Accounting Methodologies

The Medicare contracts require NGS to calculate SERP costs in accordance with the FAR and CAS 412 and 413. The FAR and the CAS require that the costs for nonqualified defined-benefit plans be measured under either the accrual method or the pay-as-you-go method. Under the accrual method, allowable costs are based on the annual contributions that the employer deposits into its trust fund. For nonqualified defined-benefit plans that are not funded through the use of a funding agency, costs are to be accounted for under the pay-as-you-go method. This method is based on the actual benefits paid to participants, which are comprised of lump-sum payments and annuity payments.

Incurred Cost Proposal Audits

At CMS's request, Kearney & Company, P.C. (Kearney), CohnReznick, LLC (CohnReznick), and CliftonLarsonAllen LLP (CLA) performed audits of the ICPs that NGS submitted for the periods of 2015 through 2018. The objectives of the Kearney, CohnReznick, and CLA ICP audits were to determine whether costs were allowable in accordance with the FAR, the U.S. Department of Health and Human Services Acquisition Regulation, and the CAS.

For our current audit, we relied on the Kearney, CohnReznick, and CLA ICP audit findings and recommendations when computing the allowable SERP costs discussed in this report.

We incorporated the results of the Kearney, CohnReznick, and CLA ICP audits into our computations of the audited indirect cost rates, and ultimately the SERP costs claimed, for the contracts subject to the FAR. CMS will use our report on allowable SERP costs, as well as the Kearney, CohnReznick, and CLA ICP audit reports, to determine the final indirect cost rates and the total allowable contract costs for NGS for CYs 2015 through 2018. The cognizant Contracting Officer will perform a final settlement with NGS to determine the final indirect cost rates. These rates ultimately determine the final costs of each contract.⁹

HOW WE CONDUCTED THIS AUDIT

We reviewed \$526,908 of SERP costs that NGS claimed for Medicare reimbursement on its ICPs for CYs 2015 through 2018.

In accordance with the FAR and the CAS, for the SERP, we calculated the allowable SERP costs based on periodic payments made to SERP recipients, plus a 15-year amortization of lump-sum SERP payments. Our calculation included an allowable interest rate identified in the qualified

⁹ In accordance with FAR 42.705-1(b)(5)(ii) and FAR 42.705-1(b)(5)(iii)(B), the cognizant Contracting Officer shall "[p]repare a written indirect cost rate agreement conforming to the requirements of the contracts" and perform a "[r]econciliation of all costs questioned, with identification of items and amounts allowed or disallowed in the final settlement," respectively.

defined-benefit pension plan actuarial valuation reports. We incorporated the results of the Kearney, CohnReznick, and CLA ICP audits into our calculations of allowable SERP costs.

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 A contains details of our audit scope and methodology.

FINDING

NGS claimed SERP costs of \$526,908 for Medicare reimbursement, through its ICPs, for CYs 2015 through 2018; however, we determined that the allowable SERP costs for CYs 2015 through 2018 were \$317,365. Thus, NGS claimed \$209,543 of unallowable SERP costs on its ICPs for CYs 2015 through 2018. This overclaim occurred because NGS based its claim for Medicare reimbursement on incorrect allocable SERP costs included in the indirect cost rates on the ICPs.

ALLOCABLE SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN COSTS OVERSTATED

During this audit (and before we incorporated the results of the Kearney, CohnReznick, and CLA ICP audits), we calculated the allocable SERP pension costs based on periodic payments made to SERP recipients, plus a 15-year amortization of lump-sum SERP payments, in accordance with the FAR and the CAS. Our calculation included an allowable interest component in the amortization installment; to calculate this component, we used the interest rate identified in the qualified defined-benefit plan actuarial valuation reports (Appendix A). Accordingly, we determined that the allocable pay-as-you-go SERP costs for CYs 2015 through 2018 totaled \$309,959. NGS identified allocable SERP costs of \$522,275 for this period. Therefore, NGS overstated the allocable SERP costs by \$212,316. This overstatement occurred because NGS did not claim the correct allocable SERP costs on its ICPs.

We used these allocable SERP costs to determine the allowable SERP costs for Medicare reimbursement. Table 1 on the following page compares the allocable SERP costs that we determined for CYs 2015 through 2018 with the costs that NGS reported for the same time period.

Table 1: Allocable SERP Costs

CY	Allocable Per Audit	Per NGS	Difference
2015	\$95,065	\$129,734	(\$34,669)
2016	82,214	129,615	(47,401)
2017	71,138	156,593	(85,455)
2018	61,542	106,333	(44,791)
Total	\$309,959	\$522,275	(\$212,316)

After performing the calculations discussed above, we then used the allocable cost information to adjust the indirect cost rates (i.e., the fringe benefit and general and administrative rates) and, in turn, to calculate the information presented in Table 2 later in the report. (Our calculations do not appear in this report because those rate computations that NGS used in its ICPs, and to which we referred as part of our audit, are proprietary information.)

UNALLOWABLE SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN COSTS CLAIMED

NGS claimed SERP costs of \$526,908 for Medicare reimbursement, through its ICPs, for CYs 2015 through 2018. After incorporating the results of the Kearney, CohnReznick, and CLA ICP audits, we determined that the allowable SERP costs for CYs 2015 through 2018 were \$317,365. Thus, NGS claimed \$209,543 of unallowable SERP costs on its ICPs for CYs 2015 through 2018. This overclaim occurred because NGS based its claim for Medicare reimbursement on incorrect allocable SERP costs included in the indirect cost rates on the ICPs.

We calculated the allowable SERP costs in accordance with Federal requirements. For details on the Federal requirements, see Appendix B.

Accordingly, Table 2 compares the SERP costs that we calculated (using our adjusted indirect cost rates) with the SERP costs that NGS claimed for Medicare reimbursement for CYs 2015 through 2018.

Table 2: Comparison of Allowable SERP Costs and Claimed SERP Costs¹⁰

CY	Allowable Per Audit	Per NGS	Difference
2015	\$113,386	\$154,968	(\$41,582)
2016	76,999	121,477	(44,478)
2017	67,245	147,600	(80,355)
2018	59,735	102,863	(43,128)
Total	\$317,365	\$526,908	(\$209,543)

¹⁰ Our calculations of allowable costs do not appear in this report because those indirect cost rate computations that NGS used in its ICPs, and to which we referred as part of our audit, are proprietary information.

Because NGS did not calculate its SERP costs in accordance with Federal regulations and the Medicare contracts' requirements, it claimed \$209,543 of unallowable SERP costs.

RECOMMENDATION

We recommend that National Government Services, Inc., work with CMS to revise its ICPs for CYs 2015 through 2018 to reduce its claimed SERP costs by \$209,543.

AUDITEE COMMENTS

In written comments on our draft report, NGS concurred with our recommendation and said that it would work with CMS to reflect the final allocable costs in its ICPs upon final settlement of CYs 2015 through 2018.

NGS's comments appear in their entirety as Appendix C.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed \$526,908 of SERP costs that NGS claimed for Medicare reimbursement on its ICPs for CYs 2015 through 2018.

Achieving our objective did not require that we review NGS's overall internal control structure. We reviewed the internal controls related to the pension costs that were included in NGS's ICPs and ultimately used as the basis for Medicare reimbursement, to ensure that these costs were allocable in accordance with the CAS and allowable in accordance with the FAR.

We performed our audit work at our office in Jefferson City, Missouri.

METHODOLOGY

To accomplish our objective, we:

- reviewed the portions of the FAR, CAS, and Medicare contracts applicable to this audit;
- reviewed the Cobalt and EVP SERP plan documents;
- reviewed accounting records and information provided by NGS to identify the amount of SERP costs claimed for Medicare reimbursement for CYs 2015 through 2018;
- calculated the allowable SERP costs based on periodic payments made to SERP recipients, plus a 15-year amortization of lump-sum SERP payments, and including an allowable interest component in the amortization installment (which we calculated using the interest rate identified in the qualified defined-benefit plan actuarial valuation reports), in accordance with applicable provisions of the FAR and the CAS;
- reviewed the results of the Kearney, CohnReznick, and CLA ICP audits and incorporated those results into our calculations of allowable SERP costs; and
- provided the results of our audit to NGS officials on August 29, 2022.

We performed this audit in conjunction with the following audits and used the information obtained during these audits:

- *National Government Services, Inc., Claimed Some Unallowable Medicare Pension Costs Through Its Incurred Cost Proposals (A-07-22-00623);*

- *National Government Services, Inc., Claimed Some Unallowable Medicare Postretirement Benefit Plan Costs Through Its Incurred Cost Proposals (A-07-22-00624); and*
- *National Government Services, Inc., Claimed Some Unallowable Medicare Nonqualified Plan Costs Through Its Incurred Cost Proposals (A-07-22-00628).*

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 B: FEDERAL REQUIREMENTS RELATED TO SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN COSTS

FEDERAL REGULATIONS

Federal regulations (FAR 52.216-7(a)(1)) address the invoicing requirements and the allowability of payments as determined by the Contracting Officer in accordance with FAR subpart 31.2.

Federal regulations (CAS 412.40(a)(3)) state that for defined-benefit pension plans accounted for under the pay-as-you-go cost method, the components of pension cost for a cost accounting period are:

- the net amount of periodic benefits paid for the period, and
- an amortization installment, including an interest equivalent on the unamortized settlement amount, attributable to amount paid to irrevocably settle an obligation for periodic benefits due in current and future cost accounting periods.

Federal regulations (CAS 412.50(b)(3)) state that for defined-benefit plans accounted for under the pay-as-you-go cost method, the amount of pension cost assignable to a cost accounting period shall be measured as the sum of:

- the net amount for any periodic benefits paid that period and
- the level annual installment required to amortize over 15 years any lump-sum benefit payments.

Federal regulations (CAS 412.50(c)(3)) state that the cost of a nonqualified defined-benefit pension plan shall be assigned to cost accounting periods in the same manner as the cost of qualified plans under the following conditions:

- the contractor, in disclosing or establishing cost accounting practices, elects to have a plan so accounted for;
- the plan is funded through the use of a funding agency; and
- the right to a pension benefit is nonforfeitable and is communicated to the participants.

Federal regulations (CAS 412.50(c)(4)) state that the cost of a nonqualified defined-benefit pension plan must be assigned using the pay-as-you-go method if the plan does not meet all of the above requirements.

MEDICARE CONTRACTS

The Medicare contracts require NGS to submit invoices in accordance with FAR 52.216-7, “Allowable Cost & Payment.” (See our citation to FAR 52.216-7(a)(1) in “Federal Regulations” above.)



December 5, 2022

Mr. James I. Korn
Regional Inspector General for Audit Services
Office of Audit Services, Region VII
601 East 12th Street, Room 0429
Kansas City, MO 64106

Re: Report Number A-07-22-00625

We are in receipt of the above referenced draft audit report.

NGS concurs with the recommendation made in the report and will work with CMS to reflect the final allocable costs in its Incurred Cost Proposals upon final settlement of years 2015 thru 2018.

If you have any further questions, I can be reached at 414-207-2517 or via email at todd.reiger@elevancehealth.com.

Sincerely,

/Todd W. Reiger/

Todd W. Reiger, CPA
Medicare Chief Financial Officer

Copy: Jane Hite-Syed
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