

Department of Health and Human Services
**OFFICE OF
INSPECTOR GENERAL**

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

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Deputy Inspector General
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September 2019
A-07-18-00551

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: September 2019
Report No. A-07-18-00551

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



Why OIG Did This Review

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

At CMS's request, the HHS, OIG, Office of Audit Services, Region VII pension audit team reviews the cost elements related to qualified defined-benefit, nonqualified defined-benefit, postretirement benefit, and any other pension-related cost elements claimed by Medicare contractors through Final Administrative Cost Proposals (FACPs).

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

Our objective was to determine whether the fiscal years (FYs) 2007 through 2013 SERP costs that National Government Services, Inc. (NGS), claimed for reimbursement under its fiscal intermediary and carrier contracts, and reported on its FACPs, were allowable and correctly claimed.

How OIG Did This Review

We reviewed \$287,457 of Medicare segment SERP costs that NGS claimed for Medicare reimbursement on its FACPs for FYs 2007 through 2013.

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

What OIG Found

NGS claimed SERP costs of \$287,457 for Medicare reimbursement for FYs 2007 through 2013; however, we determined that the allowable SERP costs for this period were \$250,933. The difference, \$36,524, represented unallowable fiscal intermediary and carrier contract SERP costs that NGS claimed on its FACPs for FYs 2007 through 2013. This overclaim occurred primarily because NGS used unallowable compensation when calculating its SERP costs for Medicare reimbursement.

What OIG Recommends and Auditee Comments

We recommend that NGS work with CMS to revise its FACPs for FYs 2007 through 2013 to reduce its claimed Medicare SERP costs by \$36,524.

NGS concurred with our finding and recommendation and described corrective action that it planned to take.

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INTRODUCTION

WHY WE DID THIS REVIEW

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 the Medicare contracts. Previous Office of Inspector General (OIG) reviews found that Medicare contractors did not always correctly identify and claim SERP costs.

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

For this review, we focused on one entity, National Government Services, Inc. (NGS). In particular, we examined the allowable Medicare segment SERP costs that NGS claimed for Medicare reimbursement on its FACPs.

OBJECTIVE

Our objective was to determine whether the fiscal years (FYs) 2007 through 2013 SERP costs that NGS claimed for reimbursement under its fiscal intermediary and carrier contracts, and reported on its FACPs, 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 Anthem, Inc. (formerly WellPoint, Inc.). NGS administered Medicare Parts A and B under cost reimbursement contracts with CMS until its contractual relationships ended on July 13, 2013, and August 20, 2012, respectively. Effective November 17, 2006, WellPoint consolidated its Government contracting segments into one segment, AdminaStar Federal, Inc. (AdminaStar), which included the following Government contracting segments: AdminaStar; Anthem Maine; Anthem Health Plans of New Hampshire, Inc.; United Government Services, LLC (UGS); and WellChoice, Inc. (formerly Empire). As of that same date, AdminaStar changed its corporate name to NGS.

With the implementation of Medicare contracting reform,¹ NGS continued to perform Medicare work as a MAC. NGS was awarded the MAC contracts for Medicare Durable Medical Equipment (DME) and Medicare Parts A and B, Jurisdiction B and Jurisdiction 13, effective January 1, 2006, and March 18, 2008, respectively.^{2, 3} NGS continued its MAC work after again being awarded the DME contract, Jurisdiction B, on September 7, 2010. NGS was also awarded the Medicare Parts A and B contracts (which include home health and hospice services) for Jurisdiction 6 and Jurisdiction K, effective September 27, 2012, and February 22, 2013, respectively.^{4, 5}

National Government Services, Inc., Supplemental Executive Retirement Plan

During our audit period, some NGS employees participated in the Anthem SERPs. 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. The EVP plan'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 UGS qualified defined-benefit plans because of the Internal Revenue Code, sections 401(a) and 415, limits.^{7, 8}

¹ Section 911 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, P.L. No. 108-173, required CMS to transfer the functions of fiscal intermediaries and carriers to MACs between October 2005 and October 2011. Most, but not all, of the MACs are fully operational; for jurisdictions where the MACs are not fully operational, the fiscal intermediaries and carriers continue to process claims. For purposes of this report, the term "Medicare contractor" means the fiscal intermediary, carrier, or MAC, whichever is applicable.

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

³ Medicare Parts A and B Jurisdiction 13 consists of the States of Connecticut and New York.

⁴ 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, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands.

⁵ 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.

⁶ Anthem acquired Cobalt Corporation, of which UGS was a subsidiary, in calendar year 2003.

⁷ The 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.

This report addresses the SERP costs that NGS claimed under the provisions of its fiscal intermediary and carrier contracts. We are addressing the SERP costs that NGS claimed under the provisions of its MAC contracts and CAS- and FAR-covered contracts in a separate review.

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.

HOW WE CONDUCTED THIS REVIEW

We reviewed \$287,457 of Medicare segment SERP costs that NGS claimed for Medicare reimbursement on its FACP for FYs 2007 through 2013.

In accordance with the FAR and the CAS, we calculated the allowable SERP pension 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 component in the amortization installment; to calculate the component, we used the interest rate identified in the qualified defined-benefit pension plan actuarial valuation reports.

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 finding and conclusions based on our audit objective.

Appendix A contains details of our audit scope and methodology.

FINDING

NGS claimed SERP costs of \$287,457 for Medicare reimbursement for FYs 2007 through 2013; however, we determined that the allowable SERP costs for this period were \$250,933. The difference, \$36,524, represented unallowable fiscal intermediary and carrier contract SERP costs that NGS claimed on its FACP for FYs 2007 through 2013. This overclaim occurred primarily because NGS used unallowable compensation when calculating its SERP costs for Medicare reimbursement.

SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN COSTS CLAIMED

NGS claimed SERP costs of \$287,457 for Medicare reimbursement on its FACPs for FYs 2007 through 2013. We calculated the allowable Medicare SERP costs in accordance with the FAR and the CAS. For details on the Federal requirements, see Appendix B.

UNALLOWABLE SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN COSTS CLAIMED

We determined that the allowable SERP costs for FYs 2007 through 2013 were \$250,933. Thus, NGS claimed \$36,524 of unallowable SERP costs on its FACPs for this time period. This overclaim occurred because NGS used unallowable compensation when calculating its SERP costs for Medicare reimbursement.

In our review of the benefit payment calculations, we determined that NGS based its claimed SERP costs on unallowable compensation. We obtained and recalculated five benefit payments using the compensation limits described in FAR 31.205-6(p) (Appendix B). These five payments were made on behalf of one of the five most highly compensated employees in management positions at each of Anthem's home offices and in management positions over each of the SERPs' Medicare segments. The benefit payments should have been limited to the compensation benchmarks determined by the Office of Federal Procurement Policy (OFPP).

In our recalculation of these five benefit payments, we limited each participant's compensation for the year in which he or she was considered one of the five most highly compensated employees in accordance with FAR 31.205-6(p). After recalculating these payments, we calculated the allowable SERP costs for FYs 2007 through 2013 to be \$250,933. Therefore, NGS overstated the allowable SERP costs by \$36,524 because it did not limit executive compensation in accordance with FAR 31.205-6(p) when requesting Medicare reimbursement.

The table below compares the allowable SERP pension costs that we calculated with the costs claimed on NGS's FACPs.

Table: Comparison of Supplemental Executive Retirement Plan Pension Costs

FY	Per Audit	Per NGS	Difference
2007	\$27,537	\$1,297	\$26,240
2008	53,820	7,213	46,607
2009	32,751	8,142	24,609
2010	43,010	12,136	30,874
2011	43,060	156,349	(113,289)
2012	34,238	77,825	(43,587)
2013	16,517	24,495	(7,978)
Total	\$250,933	\$287,457	(\$36,524)

Because NGS did not calculate its SERP costs in accordance with Federal regulations and the Medicare contracts' requirements, it claimed \$36,524 in unallowable SERP costs.

RECOMMENDATION

We recommend that NGS work with CMS to revise its FACP's for FYs 2007 through 2013 to reduce its claimed Medicare SERP costs by \$36,524.

AUDITEE COMMENTS

In written comments on our draft report, NGS concurred with the finding and recommendation. NGS added that it would establish processes to ensure that the compensation benchmarks, if applicable, are applied when determining the benefit payments.

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

OTHER MATTERS

CMS requested that, during our review, we separately identify the costs associated with EVP payments for any cases in which any participant's salary exceeded the executive compensation limit as determined by OFPP. In addition to the benefit payments to the five most highly compensated managers as described in the findings section, we identified eight EVP benefit payments that were based on compensation in excess of the compensation limits prescribed in FAR 31.205-6(p). Although none of these participants was considered one of the five most highly compensated executives at NGS, the salaries used in their benefit payment calculations exceeded the compensation limits determined by OFPP. We identified these EVP benefit payments based on the benchmark for reasonable compensation that is provided by FAR 31.205-6(p) (Appendix B).

We recalculated the eight EVP benefit payments that we had identified, using the OFPP compensation limits as a benchmark for reasonableness. We determined that the EVP costs associated with these eight payments, which NGS made to participants for FYs 2007 through 2013, would have been \$67,107 lower had NGS limited compensation to the OFPP limits.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed \$287,457 of Medicare segment SERP costs that NGS claimed for Medicare reimbursement on its FACP's for FYs 2007 through 2013.

Achieving our objective did not require that we review NGS's overall internal control structure. We reviewed controls related to the SERP costs claimed for Medicare reimbursement to ensure that those costs were allowable in accordance with the FAR and the CAS.

We performed 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 Cobalt's and EVP SERP documents;
- reviewed accounting records and information provided by NGS to identify the amount of SERP costs claimed for Medicare reimbursement for FYs 2007 through 2013;
- calculated the allowable SERP pension 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; and
- provided the results of our review to NGS officials on May 15, 2019.

We performed this review in conjunction with the following audit and used the information obtained during this audit: *National Government Services, Inc., Claimed Some Unallowable Medicare Nonqualified Plans Costs Through Its Final Administrative Cost Proposals* (A-07-19-00563).

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 finding and conclusions based on our audit objective.

APPENDIX B: FEDERAL REQUIREMENTS RELATED TO SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN COSTS

FEDERAL REGULATIONS

Federal regulations (FAR 31.205-6(p)) state that costs incurred after January 1, 1998, for compensation of a senior executive in excess of the benchmark compensation amount determined applicable for the contractor fiscal year by the Administrator, OFPP, are unallowable.

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 amounts 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 for 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 determination and allocation of pension costs are addressed by the Medicare contracts, which state: “The calculation of and accounting for pension costs charged to this agreement/contract are governed by the Federal Acquisition Regulation and Cost Accounting Standards 412 and 413.” To be allowable for Medicare reimbursement, pension costs must be (1) measured, assigned, and allocated in accordance with CAS 412 and 413 and (2) funded as specified by part 31 of the FAR.



MEDICARE

A CMS Medicare Administrative Contractor
<http://www.NGSMedicare.com>

August 8, 2019

Sent via Email

Mr. Patrick J. Cogley
Regional Inspector General for Audit Services
Office of Audit Services, Region VII
601 East 12th Street, Room 0429
Kansas City, Missouri 64106

Reference: Report Number A-07-18-00551

Dear Mr. Cogley:

We are in receipt of the draft audit entitled "National Government Services, Inc. Claimed Some Unallowable Supplemental Executive Retirement Plan Costs Through Its Final Administrative Cost Proposals". Thank you for the opportunity to respond to the facts and reasonableness of the recommendation presented in the report.

We concur with the finding and recommendation outlined in the report. NGS will establish processes to ensure that when applicable, the compensation benchmarks are applied to compensation used in determining benefit payments. As NGS' legacy fee-for-service Medicare contracts have concluded, no specific corrective action is planned for those contracts.

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

Sincerely,

/s/Todd W. Reiger

Todd W. Reiger, CPA
Medicare Chief Financial Officer
National Government Services, Inc.

CC: Andrew Conn – NGS
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Tom Healy – FGS
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