

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**PALMETTO GBA, LLC, ACCURATELY
CALCULATED HOSPICE CAP AMOUNTS
BUT DID NOT COLLECT ALL CAP
OVERPAYMENTS**

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Amy J. Frontz
Deputy Inspector General
for Audit Services

July 2021
A-06-19-08003

Office of Inspector General

<https://oig.hhs.gov>

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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: July 2021

Report No. A-06-19-08003

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



Why OIG Did This Audit

To ensure that hospice care does not exceed the cost of conventional care at the end of life, there are two annual limits (called caps) to payments made to hospices. Hospices that receive claim payments exceeding the cap amounts must repay the difference (overpayment) to Medicare. The Centers for Medicare & Medicaid Services (CMS) contracts with four Medicare administrative contractors (MACs) to calculate cap amounts and recover associated overpayments. We selected Palmetto GBA, LLC (Palmetto), one of the four MACs, for our audit because it had the highest number of hospices in its jurisdiction during our audit period of cap year 2017. OIG has not performed previous work related to the hospice caps.

Our objective was to determine whether Palmetto accurately calculated cap amounts and collected cap overpayments.

How OIG Did This Audit

Our audit covered the cap calculation process for all 1,943 hospices in Palmetto's jurisdiction, 195 of which had cap overpayments totaling \$49.1 million for cap year 2017. We reviewed and performed testing related to Palmetto's cap calculation and overpayment collection process.

Palmetto GBA, LLC, Accurately Calculated Hospice Cap Amounts but Did Not Collect All Cap Overpayments

What OIG Found

Palmetto accurately calculated cap amounts but did not collect all cap overpayments or pay refunds associated with lookback years due to two internal policies. As a result, Palmetto did not collect lookback overpayments totaling \$545,639 or send refunds to hospices totaling \$17,513.

Additionally, Palmetto departments did not effectively communicate about issues that affect hospice cap oversight because it did not require such communication. While Palmetto followed CMS debt collection timing requirements for processing ERS requests and referring balances to the Department of the Treasury, \$9.8 million of the \$49.1 million (20 percent) in total overpayments for cap year 2017 was uncollected as of August 2020. Better communication might have resulted in less uncollected debt.

What OIG Recommends and Palmetto's Comments

We recommend that Palmetto GBA (1) collect \$545,639 in lookback overpayments and return \$17,513 in lookback refunds resulting from 2017 hospice cap calculations for lookback years, (2) discontinue using its internal policies of waiving certain overpayment collections related to lookback years and start collecting all hospice cap overpayments and paying refunds in accordance with CMS requirements, and (3) develop processes for communication between the departments directly and indirectly involved in hospice cap oversight.

In written comments on our draft report, Palmetto concurred with our recommendations and described actions it has taken or plans to take to address our findings and recommendations.

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INTRODUCTION

WHY WE DID THIS AUDIT

The use of hospice care has grown steadily in recent years, with Medicare paying approximately \$19.3 billion for hospice services to nearly 1.6 million hospice beneficiaries in 2018. To ensure that hospice care does not exceed the cost of conventional care at the end of life, there are two annual limits (called caps) to payments made to hospices. Hospices that receive claim payments exceeding the cap amounts must repay the difference (overpayment) to Medicare. The Centers for Medicare & Medicaid Services (CMS) contracts with four Medicare administrative contractors (MACs) to calculate cap amounts and recover associated overpayments. We selected Palmetto GBA, LLC (Palmetto), one of the four MACs, for our audit because it had the highest number of hospices in its jurisdiction during our audit period of cap year 2017.¹ Palmetto processed hospice claims and oversaw the hospice cap calculation and overpayment collection process for 1,943 hospices. The Office of Inspector General (OIG) has not performed previous work related to the hospice caps.

OBJECTIVE

Our objective was to determine whether Palmetto accurately calculated cap amounts and collected cap overpayments.

BACKGROUND

Medicare Part A Hospice Benefit

Title XVIII of the Social Security Act (the Act) established the Medicare program, which provides health insurance coverage to people aged 65 and over, people with disabilities, and people with end-stage renal disease. Medicare Part A, also known as hospital insurance, provides for the coverage of various types of services, including hospice services. The Medicare hospice benefit can provide great comfort to beneficiaries, families, and caregivers at the end of a beneficiary's life. To be eligible for Medicare hospice care, a beneficiary must be certified as terminally ill (i.e., having a medical prognosis that life expectancy is 6 months or less if the disease runs its normal course). The Medicare hospice benefit has four levels of care (routine home care, continuous home care, inpatient respite care, and general inpatient care), and Medicare provides an all-inclusive payment based on the level of care.

Hospice Inpatient Cap and Aggregate Cap

Payments made to hospices are limited by inpatient cap and aggregate cap amounts. The cap

¹ 2017 was a transition year for changing the cap year timeframes. For 2017, the cap year was from November 1, 2016, through September 30, 2017. Subsequent cap years are from October 1 through the following September 30.

amounts are calculated annually, and any amount paid to a hospice in excess of either cap amount is an overpayment and must be repaid to Medicare (42 CFR §§ 418.302(f)(4) and 418.308(d)).

For calculating both types of caps, MACs use beneficiary count² and claim payment information that is queried from the Provider Statistical and Reimbursement System (PS&R) for each hospice. The PS&R system is a web-based, centralized system that is housed at CMS and accumulates statistical and reimbursement data for Medicare Part A claims (e.g., hospice claims).

Inpatient Cap

The hospice inpatient cap limits the total number of Medicare inpatient days for general inpatient care and inpatient respite care to no more than 20 percent of a hospice's total Medicare hospice days.³ An example of how inpatient days are calculated is in Table 1.

Table 1: Inpatient Day Calculation

Total Hospice Care Days per the PS&R	1,000
Allowable Medicare Inpatient Days (20 percent of total days)	200
Actual Inpatient Days per the PS&R	250
Excess Inpatient Days	50

When a hospice's total inpatient days are less than or equal to the allowable inpatient days, there is no overpayment. Conversely, when a hospice's total inpatient days are more than the allowable inpatient days, Palmetto calculates an overpayment for the excess days. Per CMS policy, the hospice is paid the routine home care rate for the excess days and the overpayment is based upon the difference between the inpatient payment rate and the routine home care rate for the excess days.

Aggregate Cap

The aggregate cap amount represents the maximum amount of Medicare payments a hospice could have received for a cap year.⁴ To calculate this amount for a hospice, Palmetto multiplies the number of Medicare beneficiaries a hospice served by the statutory cap amount. The cap amount is not applied individually to the payments received for each beneficiary, but rather to the total payments across all Medicare beneficiaries served by the hospice in the cap year. The cap amount is adjusted every year, and the intent of the cap is to ensure that payments for

² The beneficiary count represents the number of beneficiaries who receive hospice care during the cap year.

³ 42 CFR § 418.302(f)

⁴ 42 CFR § 418.309

hospice care would not be higher than what Medicare would have paid for a patient if the patient had been treated in a conventional setting. An example of an aggregate cap calculation for one hospice is in Table 2 (next page).

Table 2: Aggregate Cap Calculation

Medicare Beneficiary Count per the PS&R	50
Statutory Cap Amount for Cap Year 2017	\$28,405
Aggregate Cap Amount for Cap Year 2017 (beneficiary count multiplied by cap amount)	\$1,420,250

In the above example, if payments made to the hospice were less than the aggregate cap amount, there is no overpayment. Conversely, if payments made to the hospice exceeded the aggregate cap amount, the difference is considered an overpayment.

When a beneficiary receives hospice services in more than one cap year, the beneficiary count is allocated to each cap year based on the percentage of total hospice days that occurred in each cap year. For the second cap year, Palmetto must adjust the previous year's (i.e., the first cap year that hospice service was provided) cap calculation if the beneficiary count has changed. If a beneficiary continues to receive hospice care into a third cap year, Palmetto must adjust the cap calculations again for both previous cap years so that each beneficiary is counted only one time for his or her total hospice days.

The following example and Tables 3 and 4 demonstrate how a beneficiary count can change. A beneficiary elected hospice on July 20, 2017 (cap year 2017), and received hospice care until January 16, 2018 (cap year 2018). The beneficiary received hospice care for 180 total days, 72 days in cap year 2017 and 108 days in cap year 2018. Table 3 shows the initial 2017 cap year beneficiary count for the 72 days of care provided during cap year 2017. Table 4 shows the beneficiary count for the 2018 cap year and the adjusted count for the 2017 cap year.

Table 3: Beneficiary Count for Cap Year 2017

Cap Year	Number of Days	Total Days	Beneficiary Count (cap year days divided by total days)
2017 Cap Year (July 20 – September 30, 2017)	72 days	72	1.00

Table 4: Beneficiary Count for Cap Years 2017 and 2018

Cap Year	Number of Days	Total Days	Beneficiary Count (cap year days divided by total days)
2017 Cap Year (July 20 – September 30, 2017)	72 days	180	.4
2018 Cap Year (October 1 – January 16, 2018)	108 days	180	.6
Total	180 days		1.00

The process of redetermining the cap calculations based on the change in beneficiary counts for previous years is referred to as a “lookback.” Palmetto calculates each hospice’s aggregate cap amount for a specific cap year a total of four times, consisting of the initial cap calculation year and three lookback years. For example, the initial cap calculation for 2014 was performed after the 2014 cap year had ended. For cap year 2015, Palmetto performed a lookback of 2014. For cap year 2016, Palmetto performed lookbacks of 2015 and 2014. For cap year 2017, Palmetto performed lookbacks of 2016, 2015, and 2014. After the third lookback, Palmetto will not review the cap calculation for the initial cap year again. As a result, the 2017 cap calculation was the final lookback at 2014.

Extended Repayment Schedule Process

A hospice is expected to repay cap overpayments promptly. If a hospice cannot repay a cap overpayment immediately, it may submit an Extended Repayment Schedule (ERS) request to Palmetto. If approved, a hospice may receive up to 60 months to repay an overpayment. Palmetto may approve ERS requests up to 36 months, but CMS must approve ERS requests for 37 to 60 months. If a hospice does not make ERS payments, Palmetto classifies the debt as currently not collectible and refers the debt to the Department of the Treasury. According to CMS, debt that is currently not collectible is unlikely to be collected.

HOW WE CONDUCTED THIS AUDIT

Our audit covered the cap calculation process for all 1,943 hospices in Palmetto’s jurisdiction, 195 of which had cap overpayments totaling \$49.1 million, for cap year 2017. Palmetto calculated 189 aggregate cap overpayments totaling \$47 million and 6 inpatient cap overpayments totaling \$2.1 million.

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.

The Appendix contains the details of our audit scope and methodology.

FINDINGS

Palmetto accurately calculated cap amounts but did not collect all cap overpayments or pay refunds associated with lookback years due to two internal policies.⁵ As a result, Palmetto did not collect lookback overpayments totaling \$545,639 or send refunds to hospices totaling \$17,513.

Additionally, Palmetto departments did not effectively communicate about issues that affect hospice cap oversight because it did not require such communication. While Palmetto followed CMS debt collection timing requirements for processing ERS requests and referring balances to the Department of the Treasury, \$9.8 million of the \$49.1 million (20 percent) in total overpayments for cap year 2017 was uncollected as of August 2020.⁶ Better communication might have resulted in less uncollected debt.

PALMETTO DID NOT COLLECT ALL OVERPAYMENTS FROM LOOKBACK YEARS

Payments made to a hospice that exceed the cap amount are overpayments and must be repaid to the Medicare program.⁷ Palmetto's policy was to waive collection or payment when the cap calculation for a lookback year resulted in an overpayment or refund of less than \$5,000. As a result, Palmetto did not collect \$362,175 from hospices or refund \$17,513 to hospices. Table 5 identifies the uncollected and non-refunded amounts associated with this policy for the 3 lookback years associated with the 2017 cap year.

**Table 5: Yearly Totals of Uncollected Overpayments and Amounts Not Refunded
Resulting from Cap Year 2017 Lookback Calculations**

Lookback Year	Number of Hospices With Overpayments Less Than \$5,000	Total Amount of Uncollected Overpayments	Number of Hospices With Amounts Not Refunded	Total Amount Not Refunded
2016	19	\$39,766	3	\$2,800
2015	42	117,443	3	6,113
2014	82	204,966	3	8,600
Total	143	\$362,175	9	\$17,513

⁵ A refund can occur for a lookback year if Palmetto has previously collected an overpayment for that year and the beneficiary count increases due to such things as claim disallowances or adjustments due to a post-payment audit.

⁶ The actual amounts were \$9,788,948 and \$49,144,594, respectively.

⁷ 42 CFR § 418.308(d).

Additionally, Palmetto had a policy to waive overpayment collection for the third lookback year if (1) the total beneficiary count changed by less than one beneficiary from the lookback calculation performed in the previous year and (2) there were no overpayments when the initial cap amount for the 3 subsequent years were originally calculated (i.e., payments made to the hospices were less than the aggregate cap amount when those years were first calculated.) For example, if the 2017 lookback at the 2014 cap year had a beneficiary count of 49.6 and the 2016 lookback at the 2014 cap year had a beneficiary count of 50.2 (a 0.6 change in beneficiaries), Palmetto would have waived the associated overpayment collection of \$16,036 as long as the original 2015, 2016, and 2017 cap year calculations did not result in overpayments.⁸ As a result of this policy, Palmetto did not collect \$183,464 from hospices.

The largest overpayment Palmetto waived for the 2014 lookback year associated with this policy was \$17,729 due to a 0.66 change in beneficiary count. However, it might have waived as much as the 2014 cap amount of \$26,726 because it allows for a change of up to 1.0 in beneficiary count. Because the cap amount has increased every year since 2014, under this policy the maximum waiver amount per hospice will continue to increase (e.g., the 2021 cap amount is \$30,684).

In total, Palmetto waived collection of \$545,639 in overpayments and did not refund \$17,513 for the cap year 2017 lookback years.

PALMETTO DEPARTMENTS DID NOT EFFECTIVELY COMMUNICATE ABOUT ISSUES THAT AFFECT HOSPICE CAP OVERSIGHT

Palmetto did not effectively communicate between departments that were directly and indirectly involved in the hospice cap oversight process and does not require communication between these departments. Information should be recorded and communicated to management and others within the entity who need it and, in a form, and within a timeframe that enables them to carry out their internal control and other responsibilities. Additionally, effective communication must flow down, across, and up an organization.⁹ Although Palmetto followed CMS debt collection timing requirements for processing ERS requests and referring balances to the Department of the Treasury, \$9.8 million of the \$49.1 million (20 percent) in total cap overpayments for 2017 was uncollected as of August 2020.

The provider reimbursement and finance departments within Palmetto are directly involved in hospice cap oversight. The provider reimbursement department is responsible for calculating the hospice cap and overpayment amounts, if any, while the finance department manages the overpayment collection process. The provider outreach and education department is indirectly involved in hospice cap oversight by educating hospices about Medicare issues. The results of

⁸ Overpayment amount calculated by multiplying the 0.6 change in beneficiaries by the 2014 cap amount of \$26,726.

⁹ Chapter 7 of the *Medicare Financial Management Manual* § 10.2.3.4.

one hospice over a 4-year period illustrate the importance of effective communication between these Palmetto departments. Table 6 shows this hospice’s cap overpayment amounts and debt balances for cap years 2015 through 2018.

Table 6: Example Hospice’s Cap Overpayments and Balances

Cap Year	Overpayments	Amount Repaid	Balance
2018	\$1,695,731	\$0	\$1,695,731
2017	1,490,018	246,551	1,243,467
2016	1,634,700	530,344	1,104,356
2015	1,920,063	956,252	963,811
Total	\$6,740,512	\$1,733,147	\$5,007,365*
* It is unlikely that these debts will be collected because the hospice went out of business in 2019.			

The hospice requested and received 60-month ERSs for 2015, 2016, and 2017; it did not respond to Palmetto about the 2018 inpatient cap overpayment because it went out of business shortly after Palmetto calculated the overpayment. All the above balances are classified as currently not collectible and were referred to the Department of the Treasury; they are unlikely to be collected. We reviewed this hospice’s claims and noted that it almost exclusively billed for the higher paying inpatient level of care for these 4 years, which is very unusual and would unsurprisingly result in large inpatient cap overpayments every year. If the provider reimbursement or finance departments had identified and communicated this unusual billing pattern with the provider outreach and education department, hospice personnel could have been educated about the predictable consequence of large cap overpayments resulting from the hospice’s focus on inpatient services. As a result, the hospice might have changed its services and billing patterns to effectively reduce or dispose of subsequent large cap overpayments. Similarly, if the provider reimbursement and finance departments had communicated about this unusual billing pattern, the information might have prompted Palmetto to recommend that CMS not approve the ERS each year. Such communication and action by Palmetto might have resulted in the Medicare program not losing the entire \$5,007,365.

RECOMMENDATIONS

We recommend that Palmetto GBA, LLC:

- collect \$545,639 in lookback overpayments and return \$17,513 in lookback refunds resulting from 2017 hospice cap calculations for lookback years,
- discontinue using its internal policies of waiving certain overpayment collections related to lookback years and start collecting all hospice cap overpayments and paying refunds in accordance with CMS requirements, and

- develop processes for communication between the departments directly and indirectly involved in hospice cap oversight.

PALMETTO COMMENTS

In written comments on our draft report, Palmetto concurred with our recommendations and described actions it has taken or plans to take to address our findings and recommendations. Palmetto's comments are included in their entirety as Appendix B.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit covered the cap calculation process for all 1,943 hospices in Palmetto's jurisdiction, 195 of which had cap overpayments totaling \$49,144,594 for cap year 2017.

We assessed the design, implementation, and operating effectiveness of Palmetto's internal controls over its hospice cap calculation and overpayment collection processes and tested cap and overpayment calculations for accuracy.

We performed testing of the beneficiary counts obtained from the PS&R, and while we identified an issue affecting an immaterial number of beneficiaries, we ultimately determined that the beneficiary counts were reliable.

We conducted our fieldwork at Palmetto in Columbia, South Carolina.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal laws, regulations, and CMS guidance;
- met with CMS officials to discuss its oversight of the hospice cap process;
- gained an understanding of the hospice cap calculation and debt collection requirements;
- met with Palmetto officials to gain an understanding of and obtain its policies and procedures related to the hospice cap calculation and debt collection process;
- requested a hospice listing from CMS and reconciled it to Palmetto's list of hospices in their jurisdiction to ensure the completeness of the hospice population for cap year 2017;
- obtained and tested the beneficiary counts from PS&R reports;
- selected a judgmental sample of 36 hospices (15 with aggregate cap overpayments, 15 without overpayments, and all 6 hospices with inpatient cap overpayments), requested financial documentation for those with overpayments, and analyzed their cap calculations and overpayments, if any, to determine whether Palmetto followed its processes and the calculations were accurate;

- reviewed electronic templates Palmetto and hospices use to calculate cap amounts to ensure the formulas were functioning appropriately and resulted in complete and accurate calculations;
- reviewed spreadsheets Palmetto used to calculate cap amounts and overpayments to ensure the information used for the inpatient and aggregate cap calculations flowed similarly to our judgmental sample work and the cap calculations and overpayments were accurate;
- requested and reviewed financial documentation for all 195 hospices with overpayments for cap year 2017, including the 21 sampled hospices listed above (15 with aggregate cap overpayments and all 6 inpatient cap overpayments) to ensure overpayment balances were correct and documented appropriately;
- determined the total amount of uncollected overpayments for cap year 2017 and associated lookback years; and
- discussed the results of our audit with Palmetto 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 B: PALMETTO COMMENTS

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A/B MAC JURISDICTION M
North Carolina, South Carolina, Virginia, West Virginia, Home Health and Hospice



June 25, 2021

Ms. Patricia M. Wheeler
Regional Inspector General for Audit Services
Office of Audit Services, Region VI
1100 Commerce Street, Room 632
Dallas, TX 75242

Subject: Report Number A-06-19-08003

Dear Ms. Wheeler:

Thank you for the opportunity to review the OIG draft report dated May 13, 2021, report number A-06-19-08003. As requested, we are responding to the recommendations listed in the report.

- 1) Recommendation #1 - Collect \$545,639 in the lookback overpayments and return \$17,513 in lookback refunds resulting from 2017 hospice cap calculations for lookback years

Palmetto GBA Response: Concurrence. Palmetto GBA will attempt to collect the overpayments and issue the refunds resulting from the 2017 hospice cap calculations for the lookback years following CMS regulations and requirements.

- 2) Recommendation #2 - Discontinue its internal policies of waiving certain overpayment collections related to lookback years and start collecting all hospice cap overpayments and paying refunds in accordance with CMS requirements

Palmetto GBA Response: Concurrence. Palmetto GBA has discontinued waiving certain overpayment collections related to lookback years. The threshold previously applied has been withdrawn from the process. All overpayments and refunds are issued to the provider regardless of the computed amount. This practice was implemented April 29, 2021.

- 3) Recommendation #3 - Develop processes for communication between the departments directly and indirectly involved in hospice oversight.

Palmetto GBA Response: Concurrence. Palmetto GBA Reimbursement is reviewing opportunities to collaborate with the Provider Outreach and Education and Medical Review departments to identify trends that may indicate risk of potential hospice cap overpayments.

If you have any follow-up questions, please contact me at 803-763-6603 or email me at donna.salais@palmettogba.com.

Sincerely,

Donna D. Salais
Director, Medicare Reimbursement – Palmetto GBA, LLC.

A CMS-Contracted Medicare Administrative Contractor

