



**Department of Veterans Affairs
Office of Inspector General**

**AUDIT OF ALLEGATIONS
REGARDING PAYMENTS FOR FEE
BASIS CARE IN VETERANS
INTEGRATED SERVICE NETWORK 2**

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Contents

	Page
Executive Summary	i
Introduction	1
Results and Conclusions	3
Appendixes	
A. Under Secretary for Health Comments.....	9
B. OIG Contact and Staff Acknowledgments	11
C. Report Distribution	12

Executive Summary

Introduction

The Office of Inspector General (OIG) conducted an audit of payments for fee basis care in Veterans Integrated Service Network (VISN) 2 (the Upstate New York VA Healthcare Network) in response to allegations made to the OIG Hotline. The complainant contacted the OIG Hotline on three separate occasions, August 4, 2005, October 10, 2005, and November 7, 2005, alleging gross mismanagement and waste in the VISN 2 Fee Basis Program. During the course of our audit, the complainant made an additional allegation of waste in the VISN's Fee Basis Program.

Results

Our audit did not substantiate any of the allegations made by the complainant. The results of our audit are summarized below.

- **Allegation 1: Was there gross mismanagement and waste in VISN 2's Fee Basis Program?**

No. We concluded that there was not gross mismanagement and waste in VISN 2's Fee Basis Program, as we found that VISN staff did not overpay for renal dialysis facility charges or for fee basis care, make duplicate payments, or pay inappropriately for certain eye surgery procedures.

Although we concluded that VISN 2 did not overpay for renal dialysis facility charges, we found that VA policy is inconsistent with the Code of Federal Regulations (CFR) with regard to paying for facility charges. The VA Health Administration Center (HAC)¹ was taking action prior to our audit to reconcile the inconsistency and develop VA policy to address how VA should pay for facility charges.

- **Allegation 2: Did VISN 2 staff inappropriately cancel bills of collection established by VAMC Syracuse staff?**

No. We concluded VISN 2 staff appropriately cancelled bills of collection established by VA Medical Center (VAMC) Syracuse staff.

¹The HAC is part of the Veterans Health Administration's Chief Business Office.

- **Allegation 3: Was there mismanagement by VAMC Albany staff by not utilizing an established renal dialysis contract?**

No. We found no evidence of mismanagement by VAMC Albany staff in not using an established renal dialysis contract for identified patients receiving fee basis care.

- **Allegation 4: Did VISN 2 overpay for syringes used for fee basis care?**

No. We found VISN 2 did not overpay for syringes used for fee basis care.

Recommendation

Based on our review, we recommended that the Under Secretary for Health work with the VA HAC Director to ensure the inconsistency between the CFR and VA policy regarding what to pay for fee basis facility charges is reconciled and the new policy is implemented at all facilities.

Under Secretary for Health Comments

The Under Secretary for Health agreed with the findings and recommendation and provided an acceptable implementation plan. (See Appendix A, pages 9–10 for the full text of the Under Secretary’s comments.) We will follow up on the implementation of planned improvement actions until they are completed.

(original signed by:)
MICHAEL L. STALEY
Assistant Inspector General
for Auditing

Introduction

Purpose

The purpose of our audit was to review allegations related to the VISN 2 Fee Basis Program based on complaints made to the OIG between August and November 2005. The audit was conducted to determine whether the allegations had merit.

Background

The complainant alleged: (1) gross mismanagement and waste in the VISN's Fee Basis Program based on specific complaints that VISN staff overpaid for renal dialysis facility charges, overpaid for fee basis care, made duplicate payments for the same procedures, and paid inappropriately for certain eye surgery procedures; (2) VISN staff inappropriately cancelled bills of collection established by VAMC Syracuse staff; (3) VAMC Albany staff did not use an established contract for fee basis renal dialysis; and (4) VISN staff overpaid for syringes used during fee basis care.

When VA determines that certain medical services are unavailable or cannot be economically provided due to geographic inaccessibility, a veteran with special eligibility may be authorized non-VA care at VA expense, commonly referred to as fee basis care. VA pays for pre-authorized hospital care based on the Centers for Medicare and Medicaid Services' (CMS) Pricer. Emergency hospital care is paid using the Millennium Bill rate, which is the lesser of the amount for which the veteran is personally liable or a maximum amount that is established by the Secretary of Veterans Affairs. VA pays for fee basis outpatient care using a hierarchy described in the CFR. The hierarchy requires that payments must first be made at a contract rate if a contract is in place. If there is no contract, VA pays using the CMS Participating Physician Fee Schedule rate. If there is no amount assigned by CMS for a procedure, then VA must pay either the lesser of the actual amount billed or the amount calculated using the "75th Percentile" methodology as provided in Title 38, Subsection 17.56(c) of the CFR. The 75th Percentile calculated amount is known as the VA Fee Schedule.

VISN 2 has a consolidated fee basis program. Providers at the VISN's six VAMCs, which are located in Albany, Batavia, Bath, Buffalo, Canandaigua, and Syracuse, New York, document the medical need for fee basis care. All requests for fee basis care are then forwarded to the VISN's Network Authorization Office at VAMC Canandaigua for administrative authorization. Once the fee basis care is provided, the non-VA facilities and physicians submit documentation of the care provided and invoices for payment to the VISN's Network Fee Payment Center at VAMC Albany, where all payments for fee basis care are processed.

Scope and Methodology

We reviewed payments made in fiscal years 2003, 2004, and 2005 through June 2005 for fee basis care provided to veterans in VISN 2. Specifically, we assessed all payments made for fee basis care provided to all of the veterans identified in the hotline complaints. We also reviewed samples of payments for fee basis inpatient and ancillary care, outpatient care, payments for syringes, and potential duplicate payments. We reviewed all payments greater than the VA Fee Schedule rate for renal dialysis facility charges, Current Procedure Terminology (CPT) code 90999. Lastly, we conducted interviews with VISN 2 employees, including Network Fee Payment Center staff and the complainant, and VA HAC staff, including employees from the VA National Fee Office.

This audit was conducted from September–November 2005 in accordance with Generally Accepted Government Auditing Standards.

Results and Conclusions

Allegation 1: Was there gross mismanagement and waste in VISN 2's Fee Basis Program?

No. We did not substantiate the complainant's allegation of gross mismanagement and waste in VISN 2's Fee Basis Program. We based our conclusion on the results of our review of samples of fee basis care payments and specific examples of alleged overpayments detailed in the first hotline complaint. The results of our review follow.

Did the VISN overpay for renal dialysis facility charges? No. Our audit did not substantiate the complainant's allegation that VISN 2 made significant overpayments for renal dialysis facility charges. In our review of payments for fee basis renal dialysis facility charges, we found VISN 2 appropriately applied the CFR's payment hierarchy.

The complainant provided documentation regarding what he believed were significant overpayments for fee basis renal dialysis facility charges. The CFR's payment hierarchy instructs VA to pay the lower of the VA Fee Schedule rate or the amount billed. During the review period, VISN 2 paid 48 claims for renal dialysis facility charges at amounts that appeared to be greater than the VA Fee Schedule rate. Upon review, we found that the 48 payments were for multiple treatments and that VISN 2 paid the lower of the VA Fee Schedule rate or the amount billed per treatment for these 48 claims.

The complainant also alleged that VISN 2 paid too much for fee basis renal dialysis facility charges because it paid more than the Medicare rate. CMS annually establishes a reimbursement rate, called the Medicare composite rate, for renal dialysis facility charges. The Medicare composite rate is not payable under the fee basis payment hierarchy as defined in the CFR because it is not a Medicare Participating Physician rate. As noted above, VA should pay the lower of the VA Fee Schedule rate or the amount billed for renal dialysis facility charges. Our review found that VISN 2 paid all claims at the lower of the VA Fee Schedule rate or the amount billed.

Although VISN 2 paid all claims for renal dialysis facility charges appropriately per the CFR's payment hierarchy for fee basis care, the complaint underscored the apparent inconsistency between the CFR and VA policy. The CFR's payment hierarchy calls for payments for facility charges to be made at the lower of the VA Fee Schedule rate or the amount billed. However, VA Manual M-1, Part I, Chapter 15 instructs VA facilities to obtain and use the Medicare composite rate from non-VA facilities when paying for fee basis renal dialysis. If VISN 2 had paid per VA policy and not the CFR, they could have paid the average Medicare composite rate for upstate New York, which is \$143.59, for all renal dialysis facility charges during the review period. By paying per the CFR's payment hierarchy, VISN 2 paid \$1,735,862 for 5,433 treatments at rates higher than the Medicare composite rate, which equated to an average cost of \$319.50. The VISN could

have saved about \$956,000 during the review period if they had paid the Medicare composite rate as required by VA policy [(\$319.50 x 5,433) – (\$143.59 x 5,433)]. This would equate to annual savings of approximately \$348,000.

Shortly before we conducted our audit, VISN 2 management brought the issue of inconsistency between the CFR and VA policy to the attention of the VA HAC, which oversees the VA National Fee Office. The VA HAC reported that it is in the process of developing recommendations for updates to VA policy to correct the inconsistency between the CFR and VA policy and provide instructions to VA facilities on what to pay for fee basis facility charges.

Did the VISN overpay for fee basis care? No. Our audit or samples of fee basis inpatient and ancillary care and outpatient care did not substantiate the allegation that the VISN overpaid for fee basis care.

VISN 2 paid 35,537 claims, at a cost of \$38,414,043, for fee basis inpatient and ancillary care during the 33-month review period. We reviewed a sample of 137 claims, valued at \$136,064, and found no inappropriate payments. VISN 2 appropriately paid 92 of 137 claims using the Medicare provider rate, 22 claims using the CMS Pricer, and 12 claims using the Millennium Bill rate. The remaining 11 claims were appropriately paid at the rate the vendor billed; 7 of 11 claims were paid as billed because the billed amounts were lower than the Medicare provider or VA Fee Schedule amounts, 1 claim was paid as billed because there was not a Medicare provider or VA Fee Schedule amount for the Healthcare Common Procedure Coding System (HCPCS) code, and 3 claims were paid as billed because the claims were for medications not included in contract community nursing home services.

VISN 2 paid 371,224 claims, at a cost of \$33,603,381, for fee basis outpatient care during the 33-month review period. We reviewed a sample of 138 claims, valued at \$12,615, and found no inappropriate payments. VISN 2 appropriately paid 17 of 138 claims using a contracted rate, 35 claims using the Medicare provider rate, and 6 claims using the VA Fee Schedule rate. The remaining 80 claims were appropriately paid at the rate the vendor billed; 69 of 80 claims were paid as billed because the billed amounts were lower than the Medicare provider or VA Fee Schedule rates, and 11 claims were paid as billed because there were no Medicare provider or VA Fee Schedule amounts calculated for the HCPCS or CPT codes.

Did the VISN make duplicate payments for the same procedures? No. Our audit did not substantiate the allegation that the VISN made duplicate payments for the same fee basis medical procedures.

The complainant identified two veterans for whom it appeared VISN 2 staff paid for the same hyperbaric oxygen therapy treatments multiple times. Hyperbaric oxygen treatments can be billed for both facility and professional charges, which are for the

equipment and staff costs and for the physician's supervision costs, respectively. In our review of the 133 payments totaling \$36,159 for these 2 veterans, we found that VISN 2 staff appropriately paid the facility and professional charges. We also found no duplicate payments for hyperbaric oxygen therapy treatments that occurred between April 2003 and November 2004.

The OIG Data Analysis Section identified potential duplicate payments made by VISN staff during the review period. Our review of 208 payments, which included 104 potential duplicate payments, revealed that 200 payments were appropriate. However, the remaining 8 payments were duplicate payments. The duplicate payments resulted from incomplete data entry by VISN 2 Fee Basis Payment staff into the fee payment software. Five duplicate payments occurred because the two-digit modifier to identify the exact facility where the treatment took place was omitted when processing the payments, resulting in a total overpayment of \$5,625. For the other three duplicate payments, the CPT code modifier was omitted when entering the payments into the fee payment software, resulting in a total overpayment of \$1,800. The Veterans Health Information Systems Technology and Architecture Fee Package, the software used to issue payments, will detect duplicates during data entry for payments, provided that vendor information and CPT codes are entered completely. After we identified these duplicate payments, the VISN issued bills of collection totaling \$7,425 to recover the overpayments. We do not believe these duplicate payments are indicative of a systemic deficiency that would lead to repeated duplicate payments.

Were certain eye procedures paid inappropriately? No. Our audit did not substantiate the allegation that VISN 2 made inappropriate payments for two eye surgeries and related visits.

Our review of a fee basis pre-operative visit and retina surgery in March and April 2005, respectively, found that VISN 2 appropriately paid Medicare provider rates for 9 of 10 HCPCS and CPT codes, for a total of \$1,009. The remaining HCPCS code was for a medication administered during the surgery. There is neither a Medicare physician rate nor a VA Fee Schedule rate for this HCPCS code; therefore, VISN 2 paid the actual amount billed, \$1,750, which is in accordance with the CFR payment hierarchy.

A pre-operative visit and a surgery to treat corneal degeneration in March 2005 were also paid appropriately. VISN 2 paid the Medicare participating provider rates for 11 of the 27 CPT and HCPCS codes associated with the surgery and pre-operative visit, a total of \$1,767. One code was paid using a contracted rate of \$460. The remaining 15 CPT and HCPCS codes were paid at the amount billed. Four codes paid at the amount billed, \$9,546, had neither a Medicare physician rate nor a VA Fee Schedule rate. Eleven codes were paid at the amount billed, \$3,958, because the rates billed by the non-VA providers were lower than VA Fee Schedule rates.

Conclusion

We concluded that there was no gross mismanagement and waste in VISN 2's Fee Basis Program, as we found that VISN staff were not overpaying for renal dialysis facility charges, overpaying for fee basis care, making duplicate payments, or paying inappropriately for certain eye surgery procedures.

However, we believe the complainant raised legitimate concerns regarding payments for facility charges for fee basis care. We recommend the VA HAC continue their efforts to revise VA policy to correct the inconsistency between the CFR and VA policy regarding what to pay for fee basis facility charges.

Recommended Improvement Action 1. We recommended that the Under Secretary for Health work with the VA HAC Director to ensure the inconsistency between the CFR and VA policy regarding what to pay for fee basis facility charges is reconciled and the new policy is implemented at all facilities.

The Under Secretary for Health agreed with the finding and recommendation. He reported the VA HAC is working to correct the inconsistency between the CFR and VA policy by developing recommended regulatory changes and VA policy changes as well as fee basis payment software modifications. The HAC is focusing on preparing a directive on fee basis policy for dialysis care and payment. The improvement actions are acceptable, and we will follow up on the completion of planned actions.

Allegation 2: Did VISN 2 staff inappropriately cancel bills of collection established by VAMC Syracuse staff?

No. Our audit did not substantiate the complainant's allegation that VISN 2 staff inappropriately cancelled bills of collection that were established by VAMC Syracuse staff.

VAMC Syracuse staff established bills of collection for what they deemed were overpayments by VISN 2 staff for inpatient stays, hyperbaric oxygen therapy treatments, and renal dialysis facility charges. As discussed above in Allegation 1, payments made by VISN 2 staff were made in accordance with fee basis payment guidelines; therefore, VA did not overpay for the treatments covered by the bills of collection. VISN 2 staff appropriately cancelled the bills of collection.

Conclusion

We concluded VISN 2 staff appropriately cancelled bills of collection established by VAMC Syracuse staff because payments made by VISN 2 staff were made in accordance with fee basis payment guidelines.

Allegation 3: Was there mismanagement by VAMC Albany staff by not utilizing an established renal dialysis contract?

No. Our audit did not substantiate the complainant's allegation of mismanagement by not using an established contract for renal dialysis services for VAMC Albany patients.

The allegation specifically identified three VAMC Albany patients who were receiving renal dialysis treatments from two vendors other than the contracted vendor. The contract vendor agreed to provide renal dialysis services for up to 45 patients beginning September 1, 2003.

Through review of medical record documentation and the renal dialysis contract and interviews with VAMC Albany staff, we found that two of the patients identified by the complainant were referred to a non-contract vendor prior to the contract start date of September 1, 2003, and that the veterans live more than 30 miles from the contract vendor. VAMC Albany staff elected to not use the contract vendor for these veterans in order to maintain continuity of care and for the convenience of the veterans. We found VAMC Albany staff's actions in these two cases appropriate.

The third VAMC Albany patient was sent to a non-contract vendor because he is blind and cannot provide his own transportation to the contract vendor, which is more than 30 miles from his home. In addition to the allegation regarding not using the contract for this patient, the complainant also alleged that VISN 2 did not appropriately pay for laboratory services and payments for facility charges were above the VA Fee Schedule rates. We found that payments for 157 laboratory services provided to this patient, valued at \$10,466, were appropriately paid using the lower of the amount billed or the VA Fee Schedule rates. We also found that payments for facility charges totaling \$69,388 for 145 renal dialysis treatments were below the VA Fee Schedule rates. We found VAMC Albany staff's actions in this case appropriate.

Additionally, the allegation stated that nephrology services were being paid separately for those patients who were being treated at the contract facility in violation of the contract terms. In the two cases submitted by the complainant, patients were receiving outpatient fee basis renal dialysis treatments from the contract vendor. However, both patients also had inpatient admissions to VAMC Albany while on the contract, and both patients were seen by a contract nephrologist during their inpatient stays. The inpatient nephrology services were not related to VAMC Albany's outpatient renal dialysis contract, and thus were not subject to its terms for payment.

Conclusion

We found no evidence of mismanagement by VAMC Albany staff in not using an established contract for certain patients receiving fee basis renal dialysis care.

Allegation 4: Did VISN 2 overpay for syringes used for fee basis care?

No. Our audit did not substantiate the complainant's allegation that VISN 2 made inappropriate payments for syringes. In our review of a sample of fee basis payments for syringes, we found that, in all cases, VISN 2 payment staff appropriately paid the lower of the VA Fee Schedule rate or the amount billed, as there is no Medicare provider rate for syringes.

VISN 2 made 4,798 payments totaling \$14,488 for syringes during the review period. We sampled the 17 payments greater than \$100, with a total value of \$3,685, and determined that all were appropriate. Payments were greater than \$100 because payments were for multiple syringes or because the payments included laboratory tests or medications.

Conclusion

We concluded VISN 2 did not overpay for syringes.

Under Secretary for Health Comments

**Department of
Veterans Affairs**

Memorandum

Date: March 6, 2006

From: Under Secretary for Health

Subject: **Audit of Allegations Regarding Payments for Fee Basis
Care in Veterans Integrated Service Network 2**

To: Assistant Inspector General for Audit (52)

1. I have reviewed the draft report, and I concur with the report and recommendations. I agree that consistency is needed between the Code of Federal Regulations (CFR) and VA's policy on facility fee basis charges.

2. As outlined in the attached action plan, the Health Administration Center (HAC) is preparing a Directive to address this issue. I anticipate the Directive will be published in November 2006.

3. Thank you for the opportunity to review the draft report. If you have any questions, please contact Margaret M. Seleski, Director, Management Review Service (10B5) at (202) 565-7638.

(original signed by)

Jonathan B. Perlin, MD, PhD, MSHA, FACP

Attachment

Under Secretary for Health Comments to Office of Inspector General's Report

The following comments are submitted in response to the recommendation in the Office of Inspector General's Report:

Recommended Improvement Action 1: We recommend that the Under Secretary for Health work with the VA HAC Director to ensure the inconsistency between the CFR and VA policy regarding what to pay for fee basis facility charges is reconciled and the new policy is implemented at all facilities.

Concur

Target Completion Date: October 1, 2007

There should be consistency between VA's policy regarding payment for fee basis facility charges. Currently, the VA Health Administration Center (HAC) is working to correct the inconsistencies between the CFR and VA policy by developing recommended regulatory changes and VA policy changes as well as fee basis payment software modifications. The HAC is focusing on preparing a Directive on Fee Basis Policy for dialysis care and payment. Preliminary coordination of the HAC Fee Support Office and VA central office will take 4-8 months to complete, before the Directive is published in November 2006. Regulatory changes to the CFR will be completed by October 2007.

In addition, the HAC Fee Support Office began to address the issue of Fee Dialysis claims pricing and CFR pricing guidance on the national fee conference call in February 2006. The HAC Fee Support Office will also present fee claims pricing information, regulation, policy and guidance to the VISN 2 Compliance Advisory Board in May 2006. The HAC Training Office has begun development of a new fee training initiative called "How to Read a Claim", which includes training material on Fee Dialysis claims information. The new policy will be integrated into the national fee training programs sponsored by the HAC/CBO. New training classes will include the new policy.

OIG Contact and Staff Acknowledgments

OIG Contact	Thomas L. Cargill, Jr. 781-687-3120
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Acknowledgments	Nicholas Dahl Carl Looby Amy Mosman
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Report Distribution

VA Distribution

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This report will be available in the near future on the OIG's Web site at <http://www.va.gov/oig/52/reports/mainlist.htm>. This report will remain on the OIG Web site for at least 2 fiscal years after it is issued.