U.S. OFFICE OF PERSONNEL MANAGEMENT
OFFICE OF THE INSPECTOR GENERAL
OFFICE OF AUDITS

Final Audit Report

AUDIT OF THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM OPERATIONS AT TAKECARE INSURANCE COMPANY, INC.

Report Number 1C-JK-00-18-029
April 25, 2019

EXECUTIVE SUMMARY

Audit of the Federal Employees Health Benefits Program Operations at TakeCare Insurance Company, Inc.

Report No. 1C-JK-00-18-029 ***April 25, 2019***

Why Did We Conduct The Audit?

The primary objective of the audit was to determine if TakeCare Insurance Company, Inc. (Plan) complied with the provisions of its contract and the laws and regulations governing the Federal Employees Health Benefits Program (FEHBP). To accomplish this objective, we verified whether the Plan met the Medical Loss Ratio (MLR) requirements and thresholds established by the U.S. Office of Personnel Management (OPM).

Because of Program changes resulting from OPM's rollout of its MLR methodology, we are no longer performing a review of the FEHBP's rates. Consequently, this change to our audit process only allows us to verify whether the calculated percentage of the premium paid is spent on patient-related health care expenses. It does not allow us to assess the fairness of the premium paid for benefits received, which is a concern we intend to address with OPM in a separate report.

What Did We Audit?

Under Contract CS 2825, the Office of the Inspector General (OIG) performed an audit of the FEHBP MLR submissions to OPM for contract years 2013 through 2016. Our audit fieldwork was conducted from June 11, 2018, through December 6, 2018, at the Plan's office in Tamuning, Guam, and in our OIG offices.

Michael R. Esser
Assistant Inspector General for Audits

What Did We Find?

We determined that portions of the MLR calculations were not prepared in accordance with the laws and regulations governing the FEHBP and the requirements established by OPM. This resulted in MLR penalty underpayments due to OPM totaling [redacted] for contract years 2013 through 2016. Additionally, [redacted] of lost investment income is due on the unpaid penalties, calculated through March 31, 2019. Therefore, OPM is due [redacted] in penalties and lost investment income resulting from the following issues:

- The Plan did not follow OPM's 2014 Community-Rating Guidelines and filed separate MLR forms for plan codes that cover the same area.
- The Plan was not in compliance with OPM's Claims Data Requirements Carrier Letter for contract years 2013 through 2016.
- The Plan included unallowable administrative costs in the incurred claims totals for contract years 2013 through 2016.
- The Plan untimely terminated over-age dependents in contract years 2015 and 2016.
- The Plan did not allocate Quality Health Improvement expenses and tax expenses to the FEHBP accurately and appropriately for all contract years.
- The Plan reported unallowable expenses for both the numerator and denominator of the MLR calculation in all contract years.
- The Plan does not have sufficient internal controls over the FEHBP MLR process.
- The Plan is not in contractual compliance regarding the electronic submission of provider claims.

ABBREVIATIONS

ACA	**Affordable Care Act**
CFR	**Code of Federal Regulation**
Clinic	**FHP Health Center owned by TakeCare Insurance Company, Inc.**
COH	**Cost of Healthcare Report**
Contract	**U.S. Office of Personnel Management Contract CS 2825**
FAR	**Federal Acquisition Regulation**
FEHBAR	**Federal Employees Health Benefits Acquisition Regulations**
FEHBP	**Federal Employees Health Benefits Program**
FWA	**Fraud, Waste, and Abuse**
HIT	**Health Insurer Tax**
MLR	**Medical Loss Ratio**
OIG	**Office of the Inspector General**
OPM	**U.S. Office of Personnel Management**
PCORI	**Patient Centered Outcome Research Institute**
Plan	**TakeCare Insurance Company, Inc.**
QHI	**Quality Health Improvements**
SSSG	**Similarly-Sized Subscriber Group**

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REPORT FRAUD, WASTE, AND MISMANAGEMENT

I. BACKGROUND

This final report details the audit results of the Federal Employees Health Benefits Program (FEHBP) operations at TakeCare Insurance Company, Inc. (Plan). The audit was conducted pursuant to the provisions of Contract CS 2825 (Contract); 5 United States Code Chapter 89; and 5 Code of Federal Regulations (CFR) Chapter 1, Part 890. The audit covered contract years 2013 through 2016, and was conducted at the Plan's office in Tamuning, Guam.

The FEHBP was established by the Federal Employees Health Benefits Act (Public Law 86-382), enacted on September 28, 1959. The FEHBP was created to provide health insurance benefits for Federal employees, annuitants, and dependents, and is administered by the U.S. Office of Personnel Management's (OPM) Healthcare and Insurance Office. The provisions of the Federal Employees Health Benefits Act are implemented by OPM through regulations codified in 5 CFR Chapter 1, Part 890. Health insurance coverage is provided through contracts with health insurance carriers who provide service benefits, indemnity benefits, or comprehensive medical services.

In April 2012, OPM issued a final rule establishing an FEHBP-specific Medical Loss Ratio (MLR) requirement to replace the similarly-sized subscriber group (SSSG) comparison requirement for most community-rated FEHBP carriers (77 FR 19522). MLR is the proportion of FEHBP premiums collected by a carrier that is spent on clinical services and quality health improvements. The MLR for each carrier is calculated by dividing the amount of dollars spent for FEHBP members on clinical services and health care quality improvements by the total amount of FEHBP premiums collected in a calendar year.

The MLR was established to ensure that health plans are meeting specified thresholds for spending on medical care and health care quality improvement measures, and thus limiting spending on administrative costs, such as executive salaries, overhead, and marketing. For example, the threshold of 85 percent requires carriers to spend 85 cents of every premium dollar on patient care and limits the amount that can go to administrative expenses and profit to 15 cents of every dollar. However, the MLR does not provide an assessment of the fairness of the premium paid for benefits received, only that the calculated percentage of the premium paid is spent on patient-related health care expenses. As this continues to be a significant Program concern for us, we will be addressing this issue with OPM in a separate report.

The FEHBP-specific MLR rules are based on the MLR standards established by the Affordable Care Act (P.L. 111-148) and defined by the U.S. Department of Health and Human Services in 45 CFR Part 158. In 2012, community-rated FEHBP carriers could elect to follow the FEHBP-specific MLR requirements, instead of the SSSG requirements. Beginning in 2013, however, the

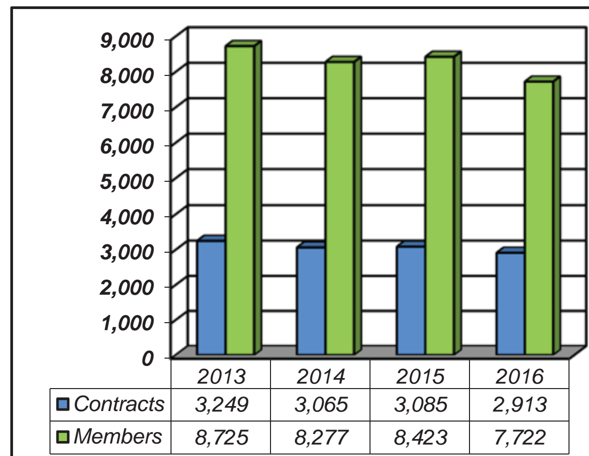
MLR methodology was required for all community-rated carriers, except those that are state-mandated to use traditional community rating. State-mandated traditional community-rated carriers continue to be subject to the SSSG comparison rating methodology.

Starting with the pilot program in 2012 and for all non-traditional community-rated FEHBP carriers in 2013, OPM required the carriers to submit an FEHBP-specific MLR. This FEHBP-specific MLR calculation required carriers to report information related to earned premiums and expenditures in various categories, including reimbursement for clinical services provided to enrollees, activities that improve health care quality, and all other non-claims costs. If a carrier fails to meet the FEHBP-specific MLR threshold, it must make a subsidization penalty payment to OPM within 60 days of notification of amounts due.

Community-rated carriers participating in the FEHBP are subject to various Federal, state and local laws, regulations, and ordinances. In addition, participation in the FEHBP subjects the carriers to the Federal Employees Health Benefits Act and implementing regulations promulgated by OPM.

The number of FEHBP contracts and members reported by the Plan as of March 31 for each contract year audited is shown in the chart to the right.

FEHBP Contracts/Members
March 31



	2013	2014	2015	2016
Contracts	3,249	3,065	3,085	2,913
Members	8,725	8,277	8,423	7,722

The Plan has participated in the FEHBP since 1998 and provides health benefits to FEHBP members on the island of Guam, the commonwealth of the Northern Mariana Islands, and the Republic of Belau (Palau).

There were no previous MLR audits of the Plan. However, a prior SSSG audit of the Plan covered contract years 2009 through 2012. The report questioned [redacted] for defective pricing in 2011 and 2012, including [redacted] for related lost investment income. For contract years 2009 and 2010, it was determined that the Plan's rating of the FEHBP was in accordance with the applicable laws, regulations, and the Office of Personnel Management's Rating Instructions to Community-Rated Carriers. The Plan reimbursed OPM for the total defective pricing questioned in the report, and the audit was closed.

The preliminary results of this audit were discussed with Plan officials at an exit conference. A draft report was also provided to the Plan for review and comment. The Plan’s comments were

considered in preparation of this report and are included, as appropriate, as Appendices to the report.

II. OBJECTIVES, SCOPE, AND METHODOLOGY

OBJECTIVES

The primary objective of this performance audit was to determine whether the Plan complied with the provisions of its Contract and the laws and regulations governing the FEHBP. Specifically, we verified whether the Plan met the MLR requirements and thresholds established by OPM and paid the correct amount to the Subsidization Penalty Account, if applicable. We also performed additional testing to determine whether the Plan complied with the provisions of other applicable laws and regulations. Further, we reviewed the Plan's internal controls; compliance with fraud, waste, and abuse (FWA) requirements; debarment from the FEHBP; and offshore contracting program areas to ensure that the Plan had adequate policies and procedures covering these areas.

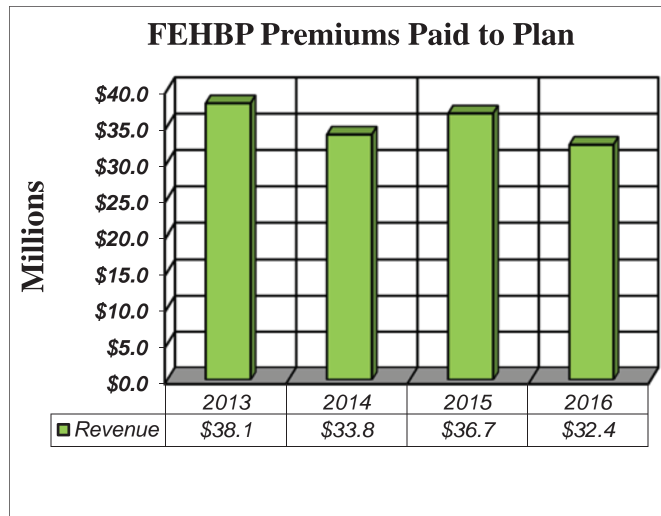
Our audits of the MLR submission filed with OPM are completed in accordance with the criteria expressed in OPM's rating instructions. The MLR audit evaluation includes an assessment of key components of the MLR calculation, including allowable claims, health care expenses, and quality health improvements (numerator), and the premium received, excluding applicable tax expenses (denominator). The result of the MLR calculation must meet OPM's prescribed thresholds. If the calculation falls below the threshold, the health plan must pay a penalty determined by the variance between the actual MLR ratio and the established threshold.

Although the FEHBP premiums used in the MLR calculation are ultimately determined by the premium rates proposed by the Plan and certified and paid by OPM, the OPM rating instructions no longer provide sufficient criteria to evaluate the fairness of those rates against the standard market value of similarly-sized groups. Furthermore, per the OPM rating instructions, health plans can utilize OPM's total reported premium, as the denominator in the MLR calculation, which when utilized is not subject to audit. Since the majority of health plans choose this option, the premiums utilized in the MLR calculation are very frequently not available for audit and the fairness of the FEHBP premium rates cannot be evaluated. As this continues to be a significant Program concern for us, we will be addressing this issue with OPM in a separate report.

SCOPE

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.

This performance audit covered contract years 2013 through 2016. For these years, the FEHBP paid approximately $141 million in premiums to the Plan.



The Office of the Inspector General's (OIG) audits of community-rated carriers are designed to test carrier compliance with the FEHBP contract, applicable laws and regulations, and the rate instructions. These audits are also designed to provide reasonable assurance of detecting errors, irregularities, and illegal acts.

We obtained an understanding of the Plan's internal control structure, but we did not use this information to determine the nature, timing, and extent of our audit procedures. Our review of internal controls was limited to the procedures the Plan has in place to ensure that:

- the FEHBP MLR calculations were accurate, complete, and valid;
- claims were processed accurately;
- appropriate allocation methods were used; and
- any other costs associated with its MLR calculations were appropriate.

In conducting the audit, we relied to varying degrees on computer-generated billing, enrollment, and claims data provided by the Plan. We did not verify the reliability of the data generated by the various information systems involved. However, nothing came to our attention during our audit utilizing the computer-generated data to cause us to doubt its reliability. We believe that the available data was sufficient to achieve our audit objectives. Except as noted above, the audit was conducted in accordance with generally accepted government auditing standards, issued by the Comptroller General of the United States.

The audit fieldwork was performed from June 11, 2018, through December 6, 2018, at the Plan's office in Tamuning, Guam, as well as in our offices in Washington, D.C.; Jacksonville, Florida; and Cranberry Township, Pennsylvania.

METHODOLOGY

We examined the Plan's MLR calculations and related documents as a basis for validating the MLR. Further, we examined claim payments, quality health expenses, taxes and regulatory fees,

and any other applicable costs to verify that the cost data used to develop the MLR was accurate, complete, and valid. We also examined the methodology used by the Plan in determining the premium in the MLR calculations. Finally, we used the Contract, the Federal Employees Health Benefits Acquisition Regulations (FEHBAR), and the rate instructions to determine the propriety of the Plan's MLR calculations.

To gain an understanding of the internal controls over the Plan's MLR process, we reviewed the Plan's MLR policies and procedures and interviewed appropriate Plan officials regarding the controls in place to ensure that MLR calculations were completed accurately and appropriately. Other auditing procedures were performed as necessary to meet our audit objectives.

We also interviewed Plan officials and reviewed the Plan's policies and procedures associated with its internal controls over the claims processing system, FWA, debarment, and offshore contracting programs.

The tests performed for the medical and pharmacy claims, along with the methodology, are detailed in Exhibit G at the end of this report.

III. AUDIT FINDINGS AND RECOMMENDATIONS

A. MEDICAL LOSS RATIO REVIEW

The Certificates of Accurate Medical Loss Ratio (MLR) that the Plan signed for contract years 2013 through 2016 were defective. In accordance with Federal regulations and the OPM Community Rating Guidelines, we determined that the Plan owes a total of in MLR penalties to OPM for contract years 2013 through 2016. Specifically, our audit identified the following penalty adjustments for each audited year:

1. Penalty Underpayments Due OPM

a. Contract Year 2013

During the 2013 MLR filing period, the Plan calculated an MLR ratio below OPM's prescribed lower threshold of 85 percent, resulting in a penalty of $565,625. However, during our review of the Federal Employees Health Benefits Program (FEHBP) MLR submission, we identified issues that resulted in a lower audited MLR than the Plan's calculated MLR, which resulted in a total penalty of . As a result, we determined that the Plan owes OPM an additional penalty adjustment of . The specific issues that led to the additional penalties due, listed in Table I on page 8, are discussed beginning in section A. 2. on page 8.

b. Contract Years 2014 through 2016

During the 2014 through 2016 MLR filing periods, the Plan calculated MLR ratios above OPM's prescribed upper threshold of 89 percent, resulting in credits of , , and respectively. However, during our review of the FEHBP MLR submissions, we identified issues that resulted in lower audited MLRs than those calculated by the Plan. Therefore, we determined that no credits were due the Plan for these years. Instead, we determined that the Plan owes OPM penalties totaling for 2014, for 2015, and for 2016. The specific issues that led to the credit removals and penalties due, listed in Table I on page 8, are discussed beginning in section A. 2. on page 8.

Table I - MLR Penalty Underpayments							
Year	Plan's MLR Ratio	Audited MLR Ratio	Plan's Current Credit	Plan's Current Penalty (A)	Audited Credit	Audited Penalty (B)	Penalty Due to OPM (B) – (A)
2013							
2014							
2015							
2016							
	Total Penalty Amount Due to OPM						

Plan Response:

The Plan did not agree with the penalties due in 2013 through 2016. It contends that the MLRs' claims expenses were substantiated in its draft response exhibits.

OIG Comment:

We reviewed the support and responses provided by the Plan as documented in the OIG Comment sections A.2. through A.6. of this report. The results of our review continue to identify penalties due to OPM for contract years 2013 through 2016.

2. 2014 MLR Submission Error

Per OPM's Rating Guidelines issued for contract year 2014, the Plan must file one MLR for all options offered in a contractually defined area, regardless if one or multiple plan codes are offered in the same area. However, in contract year 2014, the Plan filed two separate medical loss ratios, one each for plan codes JK and KX, which cover the same area and offer different benefit options for FEHBP members. In contract years 2013, 2015, and 2016, the Plan correctly filed one MLR, which was inclusive of both plan codes.

The OPM Actuaries reviewed the Plan's submitted 2014 MLR form for plan code JK. Believing it to be inclusive of both plan codes, the OPM Actuaries accepted plan code JK's MLR form and issued the Plan a letter confirming an MLR credit of . However, since plan code KX had a separate MLR form and its data was not included in the Plan's credit calculation, the credit amount of is inaccurate.

The Plan's non-compliance with OPM's Rating Instructions resulted in an inaccurate credit amount for 2014.

We determined that the Plan submitted separate MLR forms due to a lack of internal controls surrounding the FEHBP MLR submission process. In determining our audited MLR, we included data for both plan codes, JK and KX, and compared it to the Plan's MLR form submitted for plan code JK (See Exhibit C). The overall impact to the MLR will also include other audit findings as noted in this report.

Plan Response:

The Plan agreed with the finding. Additionally, the Plan stated, "this issue was addressed and resolved in succeeding Plan year submission".

3. MLR Claims Data

a. Unallowable Costs Reported in Claims

The Plan included unallowable costs in the incurred claims reported on its FEHBP MLR form. Specifically, the Plan included unallowable administrative costs generated by the Plan-owned clinic in the claims total reported on line 2.1b of the FEHBP MLR Forms. As a result, the Plan overstated its incurred claims by a total of [redacted] in contract years 2013 through 2016. See Table II on page 10 for reported incurred claims by contract year.

The Plan's inability to adequately identify and support its true cost of care resulted in a [redacted] overstatement of claims expense during the scope of the audit.

45 Code of Federal Regulations (CFR) 158.140(a) states that claims reported for the MLR "must include direct claims paid to or received by providers ... for clinical services or supplies covered by the policy." Furthermore, 45 CFR 158.140(b)(3)(ii) and (iii) state that these claims cannot include "Amounts paid to third party vendors" or "Amounts ... for professional or administrative services that do not represent compensation or reimbursement for covered services provided to an enrollee."

[redacted]. Although some of these expenses could potentially be interpreted as cost of care, we cannot identify the extent to which they would be appropriately categorized based on the available support.

In addition, some of the expenses were expressly unallowable. For instance,

. Moreover, some accounts included charges for entertainment and meals, which is not allocable per Federal Acquisition Regulation 31.205-14. As a result, we determined that the Plan's documentation did not clearly differentiate nor support the clinic expenses that were related to the cost of care. Furthermore, as explained in section B starting on page 22 of this report, the claims data, submitted to the OIG per the Claims Data Requirements Carrier Letters, was inaccurate and could not be used to validate the claims reported on line 2.1b.

Therefore, to verify the FEHBP incurred claims, we requested the Plan's Cost of Healthcare (COH) reports. The COH reports are generated from the Plan's Facets claims system and are used by the Plan when calculating contract year premium rates. The COH reports include medical, pharmacy and dental claims by month, as well as the monthly FHP clinic claims. Although the COH reports only include a three month run-out period, we found that the reports were generated after the claims were fully completed and did not include an incurred but not reported (IBNR) factor.

We utilized the incurred claims data from the COH reports as the numerator of our audited MLR calculation, which resulted in a total reduction to incurred claims of . Table II provides a comparison of the reported incurred claims on the Plan's FEHBP MLR form (column (A)), the Plan's incurred claims submitted to OPM OIG (column (B)), and the Plan's incurred claims from the COH report (column (C)).

Table II - Incurred Claims

Year	Plan's Incurred Claims Reported on FEHBP MLR Form, Line 2.1b (A)	Plan's Claims Data Submitted to OPM OIG per Carrier Letter (B)	Plan's COH Claims Data (C)	Variance Ratio 1-(B)/(A)	Variance Ratio 1-(C)/(A)	Audited Variance ($) (A) – (C)
2013						
2014						
2015						
2016						
Total Variance						

Plan Response:

The Plan does not agree with the finding. Specifically, the Plan contends that expenses related to operating the FHP clinics are costs related to providing health care services to FEHBP members. The Plan explained that these expenses "are overhead costs associated in operating the FHP clinic and are necessary in the delivery of health care" to members. The Plan argued that the methodology used is no different than that used for "other contracted facilities where similar expenses were included in the costs of providing services to FEHBP members". Furthermore, the Plan stated that the methodology used in the MLR calculation was consistent with the methodology used to develop FEHBP rates. The fact that the methodology was not questioned by OIG auditors in previous audits, supports the validity of the methodology for MLR purposes.

OIG Comment:

The documentation provided by the Plan in its draft response was previously provided and reviewed by the OIG during the course of the audit. No additional documentation was provided to validate the application of unallowable expenses to the numerator of the FEHBP MLR in contract years 2013 through 2016. Furthermore, the OIG utilized the COH claims reports provided by the Plan as support for the claims reported as the numerator of the MLR for contract years 2013 through 2016. This is the same claims data utilized by the Plan to develop the FEHBP rates in future contract years (2015 through 2018), and includes FHP clinic claims and costs related to providing care.

This is the Plan's first MLR audit conducted by OPM OIG. In prior SSSG audits, the COH claims data was validated by the OIG for use in developing the Plan's premium rates. As stated earlier in this report, the COH reports generated by the Plan include claims data and related costs generated by the FHP clinic. It is not clear why these claim expenses materially vary from the claims expenses reported by the Plan in the numerator of the MLR (See Table II on page 10). During the course of the audit, we met with the Plan to discuss these variances. Additionally, the Plan had an opportunity to respond to this concern in its response to the draft report. However, the Plan's draft report response did not address this issue, nor did it explain or support the claims expense variances.

It is our position that the FEHBP claims cost utilized in the MLR calculation, whether related to fee-for-service (FFS) claims or generated by the FHP clinic, should be consistently reported and tracked. Claims data for the same time period should also not materially vary. Furthermore, only allowable costs should be included in the reported FEHBP claims data and utilized in the MLR numerator. For these reasons and the Plan's

inability to explain or support the material variances, we utilized the FEHBP claims data reported on the Plan's COH reports as the numerator of the MLR in contract years 2013 through 2016.

b. Claims Paid for Ineligible Dependents

According to the FEHBP benefit brochures, dependents are only eligible to be covered after age 26 if the dependent is disabled or incapable of self-support. When a member is no longer eligible for coverage, the brochure states that they will receive an additional 31 days of coverage. For situations in which the dependent may be eligible for continued coverage, the FEHBP Handbook indicates that the subscriber's employment office will provide the insurance carrier with its decision about the dependent's eligibility.

We reviewed a judgmental sample of 33 dependent members who were aged 26 and older during contract years 2013 through 2016. The results of our review showed that the Plan untimely terminated coverage for three members, due to human error. Specifically, one member in 2015 and two members in 2016 were terminated one day late due to an error made when entering the 31-day run-out period in its claims system. Therefore, we reviewed all paid claims related to these three members after the 31-day run-out period was exhausted in 2015 and 2016. Our results showed that one pharmacy claim was paid by the Plan for one of the members in contract year 2016. However, the pharmacy claim had no material impact to the paid claims. Therefore, no monetary adjustment was made to the 2016 MLR calculation.

Plan Response:

The Plan agreed with the finding.

4. Quality Health Improvements (QHI)

The Plan’s QHI expenses were not allocated to the FEHBP accurately and appropriately. Specifically, the allocation methodology was not in compliance with applicable Federal regulations, resulting in inequitable QHI expenses allocated to the FEHBP in contract years 2013 through 2016.

45 CFR 158.170(b)(1) states, “Allocation to each category [quality improvement expenses] should be based on a generally accepted accounting method that is expected to yield the most accurate results” and goes on to require an explanation of the reasoning behind why the Plan believes its allocation yields the most accurate results.

In responding to our requests for support, the Plan noted that the ratio used to allocate QHI expenses to the FEHBP only included hospital claims. However, the Plan customarily includes both hospital and physician claims in their allocation ratio, which produces a more accurate result. Therefore, this methodology should have also been used to allocate QHI expenses to the FEHBP. Although this error did not result in questioned dollars for purposes of the MLR calculation, the Plan did not have adequate policies and procedures in place to ensure that the FEHBP is receiving appropriate expense allocations per Federal regulations.

Plan Response:

The Plan agreed that QHI expenses were not accurately and appropriately allocated to the FEHBP for contract years 2013 through 2016. To address this issue, the Plan implemented new policies and procedures in 2017 to ensure better oversight of and internal controls over the MLR process. Included as part of these policies and procedures were corrective actions to address the deficiencies in the allocation methodology used to calculate the QHI expenses.

OIG Comment:

Though the Plan provided newly implemented MLR policies and procedures as part of its draft report response, these policies and procedures do not specifically address the QHI allocation error, as described in this report. Furthermore, the implementation of the updated MLR policies and procedures occurred outside the scope of our audit. Therefore, we were unable to review or test these policies for effectiveness in addressing the finding.

5. Unallowable Expenses

The Plan included unallowable expenses in its MLR that were not in compliance with applicable Federal regulations. Specifically, the Plan included fraud reduction expenses and network malpractice expenses, which overstated the adjusted incurred claims in the MLR numerator in contract years 2013 through 2016 by a total of [redacted]. Also, the Plan deducted premium reinsurance expenses, which understated the reported premium income for contract years 2013 through 2016 by a total of [redacted]. As a result, we removed these unallowable expenses from our audited MLR calculations in all audit scope years.

The Plan overstated incurred claims by [redacted] and understated premium income by [redacted] during the scope of the audit due to poor internal controls.

a. **Fraud Reduction Expense**

45 CFR 158.140(b)(3) states that the MLR must not include adjustments in incurred claims for amounts paid to third party vendors for secondary network savings. However, the Plan reported third party vendor savings associated with fraud, waste, and abuse (FWA) services, as fraud reduction expenses, which were used to offset incurred claims in each year's MLR form.

The Plan explained that fraud recoveries are not part of the claims total because there were no recoveries. Yet, the Plan reported vendor payments related to FWA services as the fraud reduction expense. However, 45 CFR 158.140(b)(2)(iv) limits the amount of fraud reduction expenses to the amount of FWA recoveries. Furthermore, since the Plan is using a third party vendor to assuage FWA issues prior to claim payment, the Plan is getting the impact of those savings up front, which are reflected in the reported claims in the numerator of the MLR and should not be added back to the claims total.

Therefore, we removed a total of [redacted] in fraud reduction expenses from our audited 2013 through 2016 MLR calculations. Table III outlines the fraud reduction expenses by contract year.

Table III - Fraud Reduction Expense			
Year	**Plan's Fraud Reduction Expense Reported on MLR Form**	**Audited Fraud Reduction Expense**	**Variance ($)**
2013	[redacted]	$0	[redacted]
2014	[redacted]	$0	[redacted]
2015	[redacted]	$0	[redacted]
2016	[redacted]	$0	[redacted]
Total Variance			[redacted]

b. **Malpractice Expense**

45 CFR 158.140(b)(3) (iii) states, "Amounts paid ... for professional or administrative services that do not represent compensation or reimbursement for covered services provided to an enrollee" should not be included as an adjustment to incurred claims. In completing the 2013 through 2016 MLR forms, the Plan included a malpractice insurance expense as part of the total incurred claims reported on the FEHB MLR form. However, we determined malpractice insurance expenses to be an administrative cost incurred by the Plan that does not meet the criteria for inclusion to the incurred claims. Therefore, we removed a total of [redacted], related to malpractice insurance expense, from the

incurred claims used in the MLR calculation. Table IV outlines the malpractice insurance expenses by contract year.

Table IV - Malpractice Insurance Expense			
Year	**Plan's Malpractice Insurance Expense Reported on MLR Form**	**Audited Malpractice Insurance Expense**	**Variance ($)**
2013			
2014			
2015			
2016			
Total Variance			

c. **Premium Reinsurance Expense**

In all contract years, the Plan opted to use OPM's premium as the denominator of the MLR (prior to adjustments). However, the Plan adjusted OPM's premium for expenses that represented monthly premiums paid for reinsurance coverage that protects members from high dollar claim cases. Per 45 CFR 158.221(c) and OPM Rating Instructions for 2013 through 2016, premium used in the MLR calculation can only be adjusted for allowable tax expenses and adjustments due to reconciliation. Therefore, we did not include an adjustment for the premium reinsurance expenses in each year's audited MLR calculation, resulting in a total increase to premium of over the four-year audit scope. Table V illustrates the unallowable premium reinsurance expense by contract year.

Table V – Premium Reinsurance Expense			
Year	**Plan's Reported Premium Income on MLR Form (A)**	**Premium Income as Reported by OPM (B)**	**Unallowable Premium Reinsurance Expense (A) – (B)**
2013			
2014			
2015			
2016			
Total Variance			

The Plan reported unallowable expenses due to a lack of adequate internal controls over the MLR reporting process. Specifically, the Plan did not have documented policies and

procedures in place to ensure that applicable regulations were used to determine allowable expenses within the MLR calculation.

Plan Response:

The Plan does not agree that the fraud reduction, malpractice, and premium reinsurance expenses are unallowable adjustments to the FEHBP MLR calculation. In all three instances the Plan contends that it is not equitable to not receive a credit for these expenses when the FEHBP is benefiting from the services these expenses provide (e.g., quality of care and claims cost reductions).

OIG Comment:

The fraud reduction and malpractice expenses included in the Plan's reported MLR numerator are unallowable per issued guidance. Specifically, the Plan is not in compliance with 45 CFR 158.140(b)(2)(iv) and (b)(3), by reporting third party vendor payments related to FWA services as fraud reduction expenses on the FEHBP MLR forms when there are no fraud recoveries. Furthermore, 45 CFR 158.140(b)(3) states that amounts paid for professional or administrative services, like attorney fees, should not be included as an adjustment to incurred claims. Therefore, the Plan's reported malpractice expenses within the incurred claims are also unallowable.

Additionally, we communicated to the Plan that the reinsurance expense adjustment, made to the reported premium income on the FEHBP MLR forms in 2013 through 2016, was unallowable. Adjusting the premium in the denominator of the MLR calculation is not in compliance with 45 CFR 158.221(c) and OPM Rating Instructions for 2013 through 2016, which state that allowable tax expenses are the only adjustment that issuers can make to OPM's premium in the MLR calculation.

6. Federal and State Taxes and Licensing or Regulatory Fees

The Plan did not reasonably or accurately allocate certain tax expenses to the FEHBP, in accordance with Federal regulations. As a result, the Plan under-reported total tax expenses in contract years 2013 through 2016. For specific monetary values, see Table VI on page 20.

The Plan overstated premium income due to under-reported tax expenses in contract years 2013 through 2016.

45 CFR 158.161 and 162 require that taxes and regulatory fees be broken out and excluded from the total amount of premium revenue when calculating an issuer's

MLR. In addition, 45 CFR 158.170 requires methods used to allocate costs be based on generally accepted accounting principles that generate the most accurate results.

Based on our review of the Plan's support for Federal income tax and other tax-related expenses, we identified the following issues:

a. <u>Patient Centered Outcomes Research Institute (PCORI)</u>

The Plan incorrectly and inequitably allocated PCORI expenses in contract years 2013 through 2016. Specifically, the Plan used member months that did not correspond to the timing requirements specified by OPM and the policy year requirements outlined in 26 CFR 46.4375-1(c). Also, in contract year 2013, the Plan utilized only 11 months of data, when a full calendar year of member month data was required. Furthermore, the total member months used to generate the total PCORI expense were not used in the ratio to allocate the expense to the FEHBP. Finally, due to the member month timing issue, the Plan utilized the prior period PCORI fees in their calculation of PCORI expenses.

The PCORI Fee is imposed on applicable issuers per Affordable Care Act (ACA) provision 6301. Also, 26 CFR 46.4375-1(c) states that this fee is calculated as the product average of covered lives for the calendar year and the applicable annual rate. However, the Plan calculated the PCORI expense for contract year 2013 using member month data from July 2012 through May 2013 and the PCORI fee for 2012. For contract years 2014 through 2016, the Plan calculated the PCORI expense using member month data from June of the prior MLR filing period through May of the current MLR filing period and the prior period PCORI rate. Once the total PCORI expense for the Plan's book of business was determined, the Plan allocated that expense to the FEHBP using member month data that was unsupported and did not match the total member months used to generate the PCORI expense.

We recalculated the PCORI expense utilizing the methodology set forth in 26 CFR 46.4375(c)(2)(v)(a) with the effective rate for each year defined by the Internal Revenue Service guidelines. We also utilized the supported member month data, on a calendar year basis, in both the calculation of the total PCORI expense and the allocation to the FEHBP. As a result, we determined that the Plan materially understated the FEHBP PCORI expense in contract years 2013 through 2015. Although the same methodology was utilized by the Plan in 2016, the understated amount was immaterial.

Since the Plan's methodology did not produce the most accurate results, as required by 45 CFR 158.170(b), we utilized our audited PCORI expenses in the FEHBP MLR calculation for contract years 2013 through 2015. Due to the immateriality of the

variance in contract year 2016, we accepted the Plan's PCORI expense in the audited 2016 FEHBP MLR calculation. The results of the adjustments to the PCORI expense can be seen in Table VI on page 20.

b. <u>Health Insurer Tax (HIT)</u>

Under ACA Provision 9010, the HIT fee is imposed on an issuer of fully insured health plans with at least $25 million in net premiums in proportion to the issuer's market share, for year 2014 and beyond. Although the Plan allocated HIT expenses to the FEHBP, the allocation ratio did not include the total premium from the entire book of business, which is the basis for the HIT expense. Specifically, the total premium generated by the United Airlines Dental group was excluded from the Plan's reported total premium revenue. We updated the allocation ratio and allocated the HIT expense to the FEHBP by utilizing a ratio of total FEHBP premium over total premium revenue generated by the Plan's entire book of business. Although the error did not result in questioned costs for purposes of the MLR calculation, we determined that the Plan had insufficient internal controls to accurately allocate these expenses to the FEHBP.

c. <u>Other Taxes</u>

48 United States Code (USC) 1421(i) subjects the Plan to income taxes determined under Guam Income Tax Law, which is a separate body of law that originated from and generally parallels U.S. tax law. In other words, the Plan is not subject to Federal Income Tax. The Government of Guam offers a qualifying certificate that exempts businesses from paying taxes to Guam on their income if they make qualifying contributions as specified in the Qualifying Certificate and administered by the Guam Economic Development Authority. Specifically, the Plan's Qualifying Certificate requires $300,000 in yearly contributions to either the College of Nursing at the University of Guam, or specialty training to Guam-based health care professionals, or other health and insurance programs and non-profit groups. Since these contributions are required to maintain the Qualifying Certificate for tax exemptions, the Plan allocated a portion of these contributions to the FEHBP and classified them as Other Taxes. As such, these other taxes were deducted in place of Guam income tax expense on the FEHBP MLR form.

According to 45 CFR 158.161, payments made by Federally tax exempt health plans for community benefit expenditures can be reported under licensing and regulatory fees on the FEHBP MLR forms. Community benefit expenditures are defined as activities or programs that seek to achieve the objectives of improving access to health services, enhancing public health, and relief of government burden. Per our review, we determined that the Plan's contributions to maintain their Qualifying Certificate with the

Government of Guam qualifies as community benefit expenditures by a Federally tax exempt health plan. Therefore, in accordance with 45 CFR 158.161(c)(2), a portion of these expenses can be allocated to the FEHBP.

However, we determined that the Plan did not allocate the community benefit expenditures consistently in contract years 2014 through 2016. Specifically, in contract year 2014, the Plan included non-Guam based premium in the allocation ratio. Furthermore, the Plan did not deduct the allowable community benefit expenditures from the FEHBP MLR premium in contract years 2015 and 2016. Since these community benefits are only applicable to Guam, the allocation ratio should include only Guam-based premium, which was the same methodology that the Plan used to allocate the community benefit expenditures in contract year 2013.

Therefore, we allocated the community benefit expenditures in 2014 through 2016 using a ratio of FEHBP premium to the Plan's Guam book of business premium revenue. As a result, we determined that the Plan's reported 2014 community benefit expenditures (other taxes) were reasonable, even though the allocation methodology did not yield the most accurate results, in accordance with 45 CFR 158.170(b).

Furthermore, we determined that $116,157 in contract year 2015 and $95,023 in contract year 2016 were allowable reductions to premium on the FEHBP MLR form. As such, we updated our audited 2015 and 2016 MLR calculations to account for these other taxes. The results can be seen on Table VI on page 20.

The cause of these oversights stem from a lack of internal controls over the Plan's highly manual process of collecting, calculating, allocating, and reporting tax amounts on the FEHBP MLR forms. Specifically, the Plan did not have documented policies and procedures in place to ensure that applicable regulations and pricing were used to determine taxable amounts. Furthermore, there was insufficient oversight to ensure that an equitable and consistent allocation methodology was used to determine the FEHBP's applicable tax expenses during all contract years.

Table VI - Tax Expenses					
Year	**Tax Expense**	**Plan's Reported Tax Expense**	**Audited Tax Expense**	**Variance ($)**	**Variance (%)**
2013	PCORI				
	HIT [1]				
	Federal Taxes				
	State Taxes				
	Regulatory Authority Fee (Other Taxes)				
	Total Taxes				
2014	PCORI				
	HIT [1]				
	Federal Taxes				
	State Taxes				
	Regulatory Authority Fee (Other Taxes)				
	Total Taxes				
2015	PCORI				
	HIT [1]				
	Federal Taxes				
	State Taxes				
	Regulatory Authority Fee (Other Taxes)				
	Total Taxes				
2016	PCORI				
	HIT [1]				
	Federal Taxes				
	State Taxes				
	Regulatory Authority Fe (Other Taxes)				
	Total Taxes				

[1] Per ACA Provision 9010, the HIT fee is applicable starting in contract year 2014.

[2] Due to immateriality, we accepted the Plan's reported amount. However, procedural findings apply.

[3] The Plan's support for PCORI ( ) and HIT , for contract year 2014, did not tie to the Plan's 2014 MLR filing with OPM; therefore, we showed the Plan's reported tax expenses from the 2014 MLR filing (but used the Plan's support when auditing the Plan's PCORI and HIT amounts.

Plan Response:

The Plan agreed that it did not accurately allocate PCORI expenses in the MLR calculation for years 2013 through 2016. Additionally, the Plan agreed that it did not accurately allocate HIT and other tax expenses in the MLR calculation for years 2014 through 2016. To address these issues the Plan implemented new policies and procedures in 2017 to ensure better oversight of and internal controls over the MLR process. Included as part of these policies and procedures were corrective actions to address deficiencies in the allocation methodologies used to calculate the PCORI, HIT, and other tax expenses.

OIG Comments:

Though the Plan provided newly implemented MLR policies and procedures as part of its draft report response, these policies and procedures do not address the PCORI, HIT, and Other Tax errors addressed in this report. The Plan's policies and procedures continue to perpetuate the use of an allocation based on membership for all tax expenses, which does not produce the most accurate results as prescribed by 45 CFR 158.170.

Conclusion – MLR Review

We adjusted the FEHBP MLRs as discussed throughout the report. The results of these adjustments show that penalty payments totaling [redacted] are due to OPM for contract years 2013 through 2016. The penalties specific to each year are illustrated on Table I on page 8 of this report.

In general, the errors identified above were caused by oversights, human error, or deficiencies in the Plan's allocation methodologies. However, the root cause of these issues is a lack of internal controls over the FEHBP MLR calculation and reporting process. Without detailed, written policies and procedures to govern and oversee MLR data collection, allocation, and reporting, the Plan is at risk for continued reporting inconsistences and errors that may continue to have material impacts on the MLR calculation.

Recommendation 1

We recommend that the contracting officer adjust the MLR credits in contract years 2014 through 2016 to $0, and require the Plan to return [redacted], to the MLR subsidization penalty account for contract years 2013 through 2016.

Recommendation 2

We recommend that the Plan follow all requirements as outlined in OPM's Rating Guidelines and file one MLR form for all plan codes that cover the same area.

Recommendation 3

We recommend that OPM verify the FEHBP MLR forms are inclusive of applicable plan codes, as designated in OPM's Community Rating Guidelines, prior to confirming the penalty or credit due the Plan.

Recommendation 4

We recommend that the Plan include only incurred claims and related adjustments in the numerator of the MLR as regulated by OPM's Rating Guidelines and 45 CFR 158.140.

Recommendation 5

We recommend that the Plan develop and maintain standardized policies and procedures over the FEHBP MLR submission and reporting process, to ensure that accurate data and allowable adjustments are included in the calculation.

Recommendation 6

We recommend that the Plan ensure that all allocation methodologies used in the calculation of the FEHBP MLR are consistently applied and yield the most accurate results.

Recommendation 7

While we recognize that the late termination of FEHBP dependents was due to human error, we recommend that the Plan implement formal policies and procedures surrounding the termination of dependent coverage to reduce the risk of these errors occurring in the future.

B. MLR CLAIMS COMPLIANCE

On July 29, 2014, OPM issued Carrier Letter 2014-18 regarding claims data requirements for non-traditional community-rated carriers [Plans] submitting an MLR form to OPM in contract year 2013. Beginning that year, all Plans submitting MLR forms to OPM must also submit the claims data reported as the numerator in the MLR. Specifically, only FEHBP claims associated with benefits covered may be included in the claims data submission. Subsequent Carrier Letters are issued on a yearly basis outlining the claims data requirements for each contract year.

A lack of internal controls over the claims data utilized in the 2013 through 2016 MLR calculations resulted in the submission of claims data to the OIG that contained significant and material variances.

The Plan submitted claims data to the OPM OIG for contract years 2013 through 2016 in support of their MLR filed with OPM. However, upon our review, we found that the data did not support the claims data used as the numerator of the MLR. Furthermore, the data submitted to the OIG contained errors and data that cannot be classified as incurred claims. Specifically, we found the following:

1. Clinic Dental Claims

The claims data submitted to the OIG for contract years 2013 through 2016 contained significantly more dental claims data, categorized as dental claims from the Plan's clinic, than what was reported on line 2.1b of the MLR Form. See Table VII for reported amounts.

Table VII - Clinic Dental Claims Comparison

Year	Plan's Clinic Dental Claims Data Submitted to OIG as Required by Carrier Letter	Clinic Dental Claims Reported on MLR Form Line 2.1b	Variance ($)	Variance (%)
2013	[redacted]	[redacted]	[redacted]	[redacted]
2014	[redacted]	[redacted]	[redacted]	[redacted]
2015	[redacted]	[redacted]	[redacted]	[redacted]
2016	[redacted]	[redacted]	[redacted]	[redacted]

2. **Network Pharmacy Claims**

The network pharmacy claims data submitted to the OIG did not support the network pharmacy claims used in the numerator of the MLR for contract years 2013 through 2016. See Table VIII for the network pharmacy claims variances.

Table VIII - Network Pharmacy Claims Comparison				
Year	Plan's Network Pharmacy Claims Data Submitted to OIG as Required by Carrier Letter	Network Pharmacy Claims Reported on MLR Form Line 2.1b	Variance ($)	Variance (%)
2013				
2014				
2015				
2016				

3. **Non-FEHBP Claims**

In contract year 2015, the Plan incorrectly included $2,273 of non-FEHBP claims in the claims data submission to the OIG. Furthermore, $5,087 in FEHBP network claims and $887 in FEHBP clinic dental claims were incorrectly excluded from the claims data submission to the OIG.

4. **Unsupported Claims Variance**

In contract year 2016, the claims submitted to the OIG totaled However, the Plan stated that they submitted in claims data. The variance is unsupported.

5. **Wellness Incentive Claims**

The Plan included wellness incentives of $9,675 in 2015 and $110,900 in 2016 in the claims data submission to the OIG. However, per 45 CFR 158.150(b)(iv)(A)(1) through (8), wellness incentives are considered quality health improvement expenses as opposed to incurred claims. Per the Claims Data Requirements Carrier Letters, only incurred claims data for the calendar year, paid through June 30th of the following year, is allowable in the claims data submission to the OIG.

Based on the identified issues, we determined that the Plan is not in compliance with the Claims Data Requirements Carrier Letters 2014-18, 2015-11, 2016-10, 2017-06 for contract years 2013

through 2016, respectively. Furthermore, the data submitted to the OIG was incomplete and contained multiple errors, resulting in material variances. Therefore, as discussed in section A.3. on page 9 of this report, the submitted data cannot be relied upon to support the incurred claims expense for the MLR numerator in all contract years.

Plan Response:

The Plan did not respond to this finding.

Recommendation 8

We recommend that the Plan comply with the instructions in the yearly OPM Claims Data Requirements Carrier Letter, and ensure that the submitted claims data supports all of the incurred claims reported on the MLR form.

C. LOST INVESTMENT INCOME

In accordance with FEHBP regulations and the contract between OPM and the Plan, the FEHBP is entitled to recover lost investment income on MLR penalties due in contract years 2014 through 2016. We determined the FEHBP is due [redacted] for lost investment income, calculated through March 31, 2019 (see Exhibit F). In addition, the FEHBP is entitled to lost investment income for the period beginning April 1, 2019, until all defective pricing amounts have been returned to the FEHBP.

FEHBAR 1652.215-70 provides that, when the [OPM] Contracting Officer determines that the rates shall be reduced and the Government is entitled to an MLR penalty, the Carrier shall be liable to and shall pay the FEHB Fund at the time the MLR penalty is paid. In addition, the Government is entitled to a refund and simple interest on the amount of the MLR penalty from the date on which the penalty should have been paid to the FEHB Fund to the date on which the penalty was or will be actually paid to the FEHB Fund. Our calculation of lost investment income is based on the United States Department of the Treasury's semiannual cost of capital rates.

OIG Comments:

Lost Investment Income was calculated on the MLR penalty after the review and inclusion of the Plan’s Response. As such, the Plan did not have an opportunity to review this finding prior to the final report.

Recommendation 9

We recommend that the Plan return [redacted] to the FEHBP for lost investment income calculated through March 31, 2019. We also recommend that the Plan return lost investment income on amounts due for the period beginning April 1, 2019, until the entire MLR penalty has been returned to the FEHBP.

D. INTERNAL CONTROLS REVIEW

Inadequate internal controls over the MLR process resulted in penalties due OPM of [redacted] for contract years 2013 through 2016

The Plan did not maintain an adequate system of internal controls to govern the MLR process. Per Contract Section 5.64, "(c) … The Contractor shall establish the following within 90 days after the contract award … (2) An internal controls system. (i) The Contractor's internal control system shall-- (A) Establish standards and procedures to facilitate timely discovery of improper conduct in connection with Government contracts; and (B) Ensure corrective measures are promptly instituted and carried out. (ii) At a minimum, the Contractor's internal control system shall provide for … (A) Assignment of responsibility at a sufficiently high level and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system."

We found that the Plan's internal controls system did not sufficiently meet the contract criteria in the following ways:

1. Inaccurate MLR Reporting

We identified numerous MLR reporting errors caused by a lack of documented policies and procedures and insufficient oversight related to the FEHBP MLR processes. Ultimately, these errors resulted in defective Certificates of Accurate MLR and penalties due to OPM in 2013 through 2016. The errors included:

a. Incurred Claims

In all contract years, the Plan inaccurately reported incurred claims to the OPM OIG as discussed in section A.3. of this report. Additionally, the Plan utilized unsupported incurred claims data and unallowable administrative costs related to their clinic in the numerator of the MLR as discussed in section A.3.a. of this report. Furthermore, the Plan reported claims that were improperly paid for ineligible dependents in 2013, 2014, and 2016 as discussed in section A.3.b. of this report.

b. Unallowable Expenses

The Plan inaccurately reported fraud and abuse expenses and malpractice insurance expense for all contract years. Furthermore, the Plan inaccurately adjusted the premium in all contract years by an unallowable reinsurance expense. These unallowable expenses are discussed in section A.5. of this report.

c. Taxes

The Plan reported inaccurate PCORI, HIT and Other tax expenses. The impact of these errors are reported in section A.6. of this report.

2. Inappropriate Expense Allocations

Similarly, we identified the use of numerous inappropriate expense allocation methodologies, which resulted from a lack of documented policies and procedures and insufficient oversight related to the FEHBP MLR processes. According to 45 CFR 158.170(b)(1), "Allocation to each category should be based on a generally accepted accounting method that is expected to yield the most accurate results." However, the Plan did not ensure that the FEHBP is receiving appropriate expense allocations, per Federal regulations. As a result, the reported expenses did not yield the most accurate results in the 2013 through 2016 MLR submissions. Specifically, these inappropriate expense allocation methodologies applied to both the QHI and Tax expenses as reported in sections A.4. and A.6., respectively.

Based on the expansiveness of these errors across multiple Federally regulated filing requirements, it is evident that the Plan does not have the contractually required oversight at a sufficiently high level. Furthermore, the Plan does not have adequate resources to ensure the effectiveness of its internal control system as it relates to the oversight of the FEHBP MLR submissions.

Plan Response:

The Plan did not respond to this finding.

Recommendation 10

We recommend that the Plan develop documented policies and procedures to govern the collection and reporting of MLR data that complies with laws, regulations, and the OPM contract.

E. ELECTRONIC PROVIDER CLAIMS

We reviewed the Plan's policies and procedures surrounding claims processing and compliance. Our review disclosed that the majority of the Plan's provider claims are not submitted electronically.

OPM Contract CS 2825 (Contract) Section 2.11 states, "At a minimum the Carrier's program must achieve the following objectives: (1) The majority of provider claims should be submitted electronically ... ." However, in response to our audit inquires, the Plan noted that approximately 39 percent of claims are processed electronically, which is the result of prohibitory costs and technological challenges. Even though the Plan is working with certain provider practices to increase electronic claims submissions, they are required to meet all components of their contract with OPM.

Plan Response:

The Plan did not respond to this finding.

Recommendation 11

We recommend that the Plan continue its efforts to increase electronic claims submissions to meet their contractual obligation.

F. OTHER AREAS OF REVIEW

During the course of our audit, we reviewed the following areas, in which no audit findings were identified.

1. Fraud, Waste and Abuse Review

OPM Carrier Letter 2014-29 provided fraud and abuse industry standards and requirements for Plans contracting with OPM and providing health benefits to Federal employees. Based on our review, we concluded the Plan has processes and procedures in place to meet the requirements outlined in OPM's Fraud and Abuse carrier letter.

2. Debarment Review

Per Contract Sections 1.9 and 2.7, the Plan must meet contractual requirements related to providers debarred by OPM. Based on our review, we concluded the Plan has processes and procedures in place to meet the requirements outlined in the contract.

3. <u>Offshore Contracting Review</u>

Per OPM Carrier Letter 2012-23, the Plan must meet certain requirements when engaging in offshore contracting and the use of protected health information offshore. Based on our review, we concluded the Plan has processes and procedures in place to meet the requirements outlined in the Offshore Contracting carrier letter.

EXHIBIT A

TakeCare Insurance Company, Inc. - Plan Codes JK and KX
Summary of Penalty Underpayments

Contract Year 2016

Medical Loss Ratio Penalty	[redacted]
Amount Credited	$0
Total Penalty Due OPM	[redacted]

Contract Year 2015

Medical Loss Ratio Penalty	[redacted]
Amount Credited	$0
Total Penalty Due OPM	[redacted]

Contract Year 2014

Medical Loss Ratio Penalty	[redacted]
Amount Credited	$0
Total Penalty Due OPM	[redacted]

Contract Year 2013

Medical Loss Ratio Penalty	[redacted]
Less: Penalty Previously Paid	[redacted]
Total Penalty Due OPM	[redacted]

Total MLR Penalties Due OPM	[redacted]
Lost Investment Income on MLR Penalties	[redacted]
Total Due OPM	[redacted]

EXHIBIT B

TakeCare Insurance Company, Inc. - Plan Codes JK and KX
2013 Medical Loss Ratio Penalty Calculation

	Plan	Audited
2013 FEHBP MLR Lower Corridor (a)	85%	85%
2013 FEHBP MLR Upper Corridor (b)	89%	89%
Claims Expense		
Incurred Claims (Medical, Pharmacy, Dental, Clinic)		
Paid Medical Incentive Pools and Bonuses	$0	$0
Healthcare Receivables	$0	$0
Allowable Fraud Reduction Expenses		$0
Adjusted Incurred Claims		
Quality Health Improvement Expenses		
Total MLR Numerator		
Premium Expense		
Premium Income		
Less: Federal and State Taxes and Licensing or Regulatory Fees		
Total MLR Denominator (c)		
FEHBP MLR Calculation (d)		
Penalty Calculation (If (d) is less than (a), ((a-d)*c)		
Credit Calculation (If (d) is greater than (b), ((d-b)*c)		
Total Penalty Due OPM (inclusive of penalty previously paid)		

EXHIBIT C

TakeCare Insurance Company, Inc. - Plan Codes JK and KX
2014 Medical Loss Ratio Penalty Calculation

	Plan		Audited	
2014 FEHBP MLR Lower Corridor (a)	85%		85%	
2014 FEHBP MLR Upper Corridor (b)	89%		89%	
Claims Expense				
Incurred Claims (Medical, Pharmacy, Dental, Clinic)	[redacted]		[redacted]	
Paid Medical Incentive Pools and Bonuses	$0		$0	
Healthcare Receivables	$0		$0	
Allowable Fraud Reduction Expenses	[redacted]		[redacted]	
Adjusted Incurred Claims	[redacted]	[4]	[redacted]	
Quality Health Improvement Expenses	[redacted]		[redacted]	[5]
Total MLR Numerator	[redacted]		[redacted]	
Premium Expense				
Premium Income	[redacted]		[redacted]	[6]
Less: Federal and State Taxes and Licensing or Regulatory Fees	[redacted]		[redacted]	
Total MLR Denominator (c)	[redacted]	[4]	[redacted]	
FEHBP MLR Calculation (d)	[redacted]		[redacted]	
Penalty Calculation (If (d) is less than (a), ((a-d)*c)	[redacted]		[redacted]	
Credit Calculation (If (d) is greater than (b), ((d-b)*c)	[redacted]	[4]	[redacted]	
Total Penalty Due OPM			[redacted]	

[4] The values reported in the Per Plan column were extracted from the Plan's FEHBP MLR Form with no decimal places. Due to rounding, the totals may not mathematically tie.
[5] The variance between the Per Plan and Per Audit QHI is [redacted], due to the additional plan code KX QHI costs.
[6] The Per Audit Premium Income includes OPM's reported premium of [redacted] and [redacted] for plan codes JK and KX respectively.

EXHIBIT D

TakeCare Insurance Company, Inc. - Plan Codes JK and KX
2015 Medical Loss Ratio Penalty Calculation

	Plan	Audited
2015 FEHBP MLR Lower Corridor (a)	85%	85%
2015 FEHBP MLR Upper Corridor (b)	89%	89%
Claims Expense		
Incurred Claims (Medical, Pharmacy, Dental, Clinic)		
Paid Medical Incentive Pools and Bonuses	$0	$0
Healthcare Receivables	$0	$0
Allowable Fraud Reduction Expenses		
Adjusted Incurred Claims		
Quality Health Improvement Expenses		
Total MLR Numerator		
Premium Expense		
Premium Income		
Less: Federal and State Taxes and Licensing or Regulatory Fees		
Total MLR Denominator (c)		
FEHBP MLR Calculation (d)		
Penalty Calculation (If (d) is less than (a), ((a-d)*c)		
Credit Calculation (If (d) is greater than (b), ((d-b)*c)		
Total Penalty Due OPM		

EXHIBIT E

TakeCare Insurance Company, Inc. - Plan Codes JK and KX
2016 Medical Loss Ratio Penalty Calculation

	Plan	Audited
2016 FEHBP MLR Lower Corridor (a)	85%	85%
2016 FEHBP MLR Upper Corridor (b)	89%	89%
Claims Expense		
Incurred Claims (Medical, Pharmacy, Dental, Clinic)		
Paid Medical Incentive Pools and Bonuses	$0	$0
Healthcare Receivables	$0	$0
Allowable Fraud Reduction Expenses		
Adjusted Incurred Claims		
Quality Health Improvement Expenses		
Total MLR Numerator		
Premium Expense		
Premium Income		
Less: Federal and State Taxes and Licensing or Regulatory Fees		
Total MLR Denominator (c)		
FEHBP MLR Calculation (d)		
Penalty Calculation (If (d) is less than (a), ((a-d)*c)		
Credit Calculation (If (d) is greater than (b), ((d-b)*c)		
Total Penalty Due OPM		

EXHIBIT F – LOST INVESTMENT INCOME

FEHBP MLR Submission Years (current year):	2014	2015	2016	2017	2018	2019	Total
MLR Penalty Due OPM							
2013 MLR Penalty Due							
2014 MLR Penalty Due							
2015 MLR Penalty Due							
2016 MLR Penalty Due							
Total:							
Cumulative Totals:							
Interest Rate for current year:	N/A [1]	[2]	[2]	N/A	N/A	[6]	
Interest for current year:	[1]	[2]	[2]	N/A [4]	N/A [4]	[5]	
Average Yearly Interest Rate:		N/A [3]				[6]	
Interest on Prior Years Findings:		[3]			[7]	[7]	
Total Cumulative Interest Calculated Through March 31, 2019:[8]							

[1] FAR 1652.215-70 was updated on June 15, 2015, to include LII language on MLR penalties. Therefore, LII applicable to contract year 2013 started on June 15, 2015.

[2] For contract years 2014 and 2015, MLR submissions were due to OPM on September 30th the year after the MLR contract year. All penalties were due to OPM no later than November 30th following the submission date. Therefore, LII was calculated starting on December 1st of the submission year using the interest rate applicable as of December 1st.

[3] Per [1], LII for contract year 2013 was effective on June 15, 2015. Therefore, the calculation of the interest on prior year findings includes one half month of interest at and 6 months of interest at .

[4] For 2016 the MLR submission was due to OPM on September 30th, 2017, and all penalties were due no later than 60 days after notification of amounts due. TakeCare was notified of MLR penalties due OPM in the OPM OIG Draft Report issued on December 10, 2018. Therefore, current year interest began on February 15, 2019.

[5] Per [4], LII on 2016 MLR penalties starts on February 15, 2019. Therefore, the calculation of the interest on current year findings for 2016, includes 1.5 months interest (February 15 through March 31, 2019).

[6] Interest rate effective from January 1 through June 30, 2019.

[7] Since the 2016 MLR penalties were due OPM starting on February 15, 2019, the 2016 MLR penalties were not included in the calculation of interest on prior year findings in years 2018 and 2019.

[8] We recommend the Plan return LII on amounts due for the period beginning April 1, 2019, until the entire MLR penalty has been returned to the FEHBP.

EXHIBIT G

Claims and Sample Selection Criteria/Methodology

Medical and Pharmacy Claims Sample

Claims Review Area	Universe Criteria	Universe (Number)	Sample Criteria and Size	Sample Type	Results Projected to the Universe?
Dependent Eligibility 2013	All dependent members age 26 or older that incurred medical and pharmacy claims.	46 members	All universe members with medical and pharmacy claims paid greater than $0 after their 26th birthdate plus 31-day extension of coverage period. As a result, 24 members were sampled.	Judgmental	No
Dependent Eligibility 2014	All dependent members age 26 or older that incurred medical and pharmacy claims.	45 members	All universe members with medical and pharmacy claims paid greater than $0 after their 26th birthdate plus 31-day extension of coverage period. As a result, 20 members were reviewed, all of whom were also included in the 2013 sample.	Judgmental	No
Dependent Eligibility 2015	All dependent members age 26 or older that incurred medical and pharmacy claims.	56 members	All universe members with medical and pharmacy claims paid greater than $0 after their 26th birthdate plus 31-day extension of coverage period. As a result, 5 members were reviewed in addition to 19 members that were included in prior year samples.	Judgmental	No
Dependent Eligibility 2016	All dependent members age 26 or older that incurred medical and pharmacy claims.	53 members	All universe members with medical and pharmacy claims paid greater than $0 after their 26th birthdate plus 31-day extension of coverage period. As a result, 4 members were reviewed in addition to 20 members that were included in prior year samples.	Judgmental	No

APPENDIX

P.O. Box 6578 Tamuning, Guam 96931
Telephone: [redacted] Fax [redacted]

February 15, 2019

[redacted]
Group Chief, Community Rated Audits Group
United States Office of Personnel Management
Office of the Inspector General

Re: TakeCare Insurance Company, Inc. ("TakeCare") Response to Office of the Inspector General ("OIG") Draft Audit Report (Audit Report No. 1C-JK-00-18-029)

Dear [redacted]:

Thank you for the opportunity to respond to the audit findings as stated on the OIG draft audit report for TakeCare (Audit Report No. 1C-JK-00-18-029) dated December 10, 2018.

The following are TakeCare's responses to the audit findings stated in the OIG Draft report:

1. Medical Loss Ratio Review

   TakeCare does not agree with the **Deleted by the OIG – Not Relevant to the Final Report** under payment penalties identified on the OIG draft report for audit years 2013 to 2016. The claims cost expenses used on the MLR submission were substantiated in Exhibit A – 2013 to 2016 Line 21b and OIG Claims Data Reconciliation that was provided to OIG auditors **Deleted by the OIG – Not Relevant to the Final Report**

2. 2014 MLR Submission Error

   TakeCare confirms that it submitted separate MLR submission for plan code JK and plan code KX for MLR year 2014. This issue was addressed and resolved in succeeding plan year submission.

3. MLR Claims Data

a. Unallowable Costs Reported in Claims

TakeCare does not agree that expenses related to operating the FHP clinic are not considered cost related to providing health care services to FEHBP members/patients. These are overhead costs associated in operating the FHP clinic and are necessary in the delivery of health care to these patients/members. The methodology being used in the MLR calculation was consistent with the methodology used for rate development where these costs were recognized and accepted as claims expenses by OIG auditors as evident on the fact that this methodology was not identified as an issue in previous TakeCare audits by OIG. Likewise, this is no different compared to other contracted facilities where similar expenses were included in the costs of providing services to FEHBP patients/members.
Deleted by the OIG – Not Relevant to the Final Report

b. Claims Paid for Ineligible Dependents

TakeCare agrees **Deleted by the OIG – Not Relevant to the Final Report**

4. Quality Health Improvements ("QHI")

TakeCare confirms that there were issues on the allocation methodology used for QHI on the MLR calculation. These issues were corrected and addressed in the MLR calculation submission from TakeCare beginning MLR year 2017. The attached policies marked as Exhibit D was implemented to ensure better oversight and internal controls on the MLR calculation was established by TakeCare and ensure these issues are avoided.

5. Unallowable Expenses

TakeCare does not agree with OIG's findings that there were unallowable expenses that were included on the numerator of the MLR calculation and reduction on the premium revenue of the denominator of the MLR calculation.

a. Fraud Reduction Expenses

TakeCare included as part of its MLR calculation reinsurance recoveries on the reported claims cost for the FEHBP and this was explained to the OIG auditors during their on-site audit. **Deleted by the OIG – Not Relevant to the Final Report**

It is not equitable for TakeCare to not get any credit for the reinsurance premiums since the FEHBP is getting the benefit of the reinsurance recoveries through claims cost reduction and TakeCare is stuck with the cost of reinsurance premiums payment without any consideration for these expenses on the MLR calculation.

b. Malpractice Expenses

TakeCare included as part of its MLR calculation malpractice coverage premiums. It is not equitable for TakeCare to not get any credit for these malpractice premiums since these expense are related to ensuring the quality of care and services that are rendered to FEHBP members and provide protection to these members in case of any malpractice issues.

c. Premium Reinsurance Expenses

TakeCare included as part of its MLR calculation reinsurance recoveries on the reported claims cost for the FEHBP and this was explained to the OIG auditors during their on-site audit. The OIG auditors agreed with the reduction of the claims costs from reinsurance recoveries since it lowers the claims costs for FEHBP. It is not equitable for TakeCare to not get any credit for the reinsurance premiums since the FEHBP is getting the benefit of the reinsurance recoveries through claims cost reduction and TakeCare is stuck with the cost of reinsurance premiums payment without any consideration for these expenses on the MLR calculation.

6. Federal and State Taxes and Licensing or Regulatory Fees

a. Patient Centered Outcome Research Institute ("PCORI")

TakeCare confirms that it did not accurately allocated PCORI expenses in the MLR calculation. These issues were corrected and addressed in the MLR calculation submission from TakeCare beginning MLR year 2017. The attached policies marked as Exhibit D was implemented to ensure better oversight and internal controls on the MLR calculation was established by TakeCare and ensure these issues are avoided.

b. Health Insurer Tax ("HIT")

TakeCare confirms that it did not accurately allocated HIT in the MLR calculation. These issues were corrected and addressed in the MLR calculation submission from TakeCare beginning MLR year 2017. The attached policies marked as Exhibit D was implemented to ensure better oversight and internal controls on the MLR calculation was established by TakeCare and ensure these issues are avoided.

c. Other Taxes

TakeCare confirms that it did not accurately allocate other taxes in the MLR calculation. These issues were corrected and addressed in the MLR calculation submission from TakeCare beginning MLR year 2017. The attached policies marked as Exhibit D was implemented to ensure better oversight and internal controls on the MLR calculation was established by TakeCare and ensure these issues are avoided.

We anticipate that our responses are sufficient to address all audit findings in this draft report and these issues will be deemed resolved in the final audit report for TakeCare.

Please do not hesitate to contact me with any concerns or questions.

Respectfully,

TakeCare Insurance Company, Inc.
P.O. Box 6578 Tamuning Guam 96931

Enclosures:

Deleted by the OIG – Not Relevant to the Final Report

Cc with enclosures:

, TakeCare
, TakeCare
, Chief, Audit Resolution and Compliance
, Senior Team Leader
, Auditor In-Charge

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