

## OIG Cautions About ZPIC Conflict of Interest

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### ZPICs Have Conflict of Interest



[HHS-OIG recently released a report](#) concerning the professional independence of CMS contractors. Specifically, OIG identified that several organizations serving as Zone Program Integrity Contractors (ZPICs) had conflicts of interest, whereby the ZPIC "could be in the position of evaluating work performed or associated with its own company." For instance, one ZPIC's parent company had a contract with a Medicare Part D plan sponsor to provide technological implementation and operations. Another ZPIC's parent company owned Medicare Part C and D plans which were at work throughout the country. Another ZPIC applicant's parent company was also a Medicare Part C and D plan sponsor in the zones for which the ZPIC had submitted a proposal. Thus, each ZPIC could be put in the position of having to evaluate its work or the work of its parent organization.

Nevertheless, OIG found that each one of these potential conflicts had in some way been "mitigated." This is done through screening processes and other techniques, by which those who bid on government contracts and perform the actual auditing duties of the ZPIC are not the same as those administer the company's (or parent company's) other programs. We've previously discussed some of the Medicaid contractors for various "hot-spot" cities, such as [Baton Rouge](#) and [Houston](#), and you might find it interesting to note that a lot of Medicaid claims processing contractors or benefit integrity contractors are companies like Xerox (ACS) and HP (the same companies that you get copiers and computers from). Many of these large conglomerates have found that securing a bid for a Medicare or Medicaid contract can be a lucrative business, but because they are so large, there are often conflicts between the various divisions.

Looking specifically at OIG's report, the report itself does not name names. It does not identify which companies specifically had conflicts, but does instead note that two of the five ZPIC contracts currently awarded have actual conflicts of interest. This can be a scary thought: what kinds of incentives do the people reviewing my claims for payment or denial have? Could they deny my claims because I'm in a certain state or region, but pay similar claims so that their claims

processing department has better numbers? Well, *it's possible - but not probable.*

### Effects on ZPIC Claim Review

At the end of the day, a ZPIC is a ZPIC and a RAC is a RAC. These Medicare contractors are designed to identify problematic claims, review them with a critical eye, and deny them if they don't meet stringent technical and medical requirements. The simple fact that the ZPIC's parent company owns other health care operations is probably not enough to affect the judgment of individual auditors. These auditors, anyway, are already looking for a reason to deny a claim. In fact, we have been in many situations when denial of 100% of a sample was not uncommon. ZPICs often cite multiple reasons for denying a claim when they update a provider on the results of the review, usually relying on *both* a technical aspect (missing signature/legibility) and a medical aspect (medically unnecessary service/documentation does not support the level billed). It's been our experience that a strong and all-encompassing approach when appealing these denials is important.

### CMS Changes to ZPIC Bidding

In any regard, the OIG's report came down hard on CMS for failing to adequately screen ZPICs and their subcontractors before awarding them contracts, noting that, "[c]urrently, CMS does not use a written policy or standard checklist to facilitate its review of Organizational Conflict of Interest Certificates. In addition, we found no documentation showing that CMS conducted a review of some offerors' and subcontractors' certificates. In some cases, even after CMS had requested revised certificates, required conflict and financial interest information was still missing." In other words, CMS ignored a number of its duties in pre-screening ZPICs for possible and actual conflicts. As a result, OIG recommended that CMS develop more formal policies and procedures for reviewing conflict of interest problems and that CMS require bidders to more thoroughly note any actual or potential conflicts.



[Robert Liles](#) represents providers in Medicare post-payment audits and appeals, and similar appeals under Medicaid. In addition, Robert counsels clients on regulatory compliance issues, performs gap analyses and internal reviews, and trains healthcare professionals on various legal issues. For a free consultation, call Robert today at 1-800-475-1906.