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Medicare pays full price for half-empty vials of medicine

By [Phillip Swarts](#)

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After the Obamacare fiasco, the Health and Human Services Department must be a glass-half-empty kind of place. Just ask the folks at Medicare, who wasted \$24.2 million paying for partly used vials of a type of breast cancer medicine.

Herceptin, which is used to treat breast cancer that has spread to other parts of the body, normally is supplied in multiuse 440-milligram vials that can be stored for up to 28 days.

But the HHS inspector general, the department's internal watchdog, found that Medicare providers were billing the government for the price of a full vial, even for portions for a single patient.

"Because Herceptin is supplied in a multiuse vial, providers should bill Medicare only for the actual dose of Herceptin administered to the patient. Providers should not bill Medicare for a full vial of Herceptin unless the patient actually received a full vial of the drug," said Leslie Preuss, a senior inspector general auditor who helped lead the investigation. "These improper billing practices cost the Medicare program millions of dollars and may have subjected cancer patients to higher co-pays."

Investigators suspect the government overpaid on 77 percent of the drug purchases because the oversight process wasn't good enough to catch the mistakes.

For paying for medicine that was never given to patients, the Health and Human Services Department and the Centers for Medicare and Medicaid Services win this week's Golden Hammer, a distinction from The Washington Times given to examples of wasteful spending with tax dollars.

The good news is that CMS is taking action and has been able to recoup \$17.8 million of the overpayments. That still leaves taxpayers out \$6.4 million, though.

Agency officials said they will review purchases to make sure the right amount is being paid going forward.

"CMS will continue to work with the contractors to ensure that the overpayments identified in the individual reports are collected to the maximum extent possible," HHS said in a response to the audit.

Billing problems

Investigators found one instance in which the government was billed incorrectly 98 times for a single patient and wound up paying \$153,934 in excess. The health care provider repeatedly billed the government for the full 440 milligrams instead of the 130 milligrams they were administering.

Medicare guidelines say the government won't pay for unused amounts of the medicine, but inspectors found that Medicare didn't always comply.

"A payment for an entire multiuse vial is likely to be incorrect," the inspector general said. "The providers attributed the incorrect payments to clerical errors and to billing systems that could not prevent or detect the incorrect billing of units of service."

Beneficiaries, providers and the government have little incentive to scrutinize spending because they aren't using their own money, said Michael Cannon, director of health policy studies at the Cato Institute, a right-leaning think tank.

"This is endemic. This isn't just a one-off thing. This is systemic. This is because doctors and Medicare enrollees are all spending the taxpayers' dollars," he said. "It's someone else's money, so who cares?"

Medicare would work better if it were set up like Social Security, Mr. Cannon said. In that case, everyone is responsible for their own spending instead of assuming they can bill the government for anything.

"The fact that Medicare is so big makes this dynamic of government incompetence even worse," he said. "There are lots of \$500 hammers in Medicare, and this is one of them."

Overbilling for unused medicine may have been even worse. The inspector general did not evaluate an additional 101 purchases because three of providers are no longer in business and a fourth had all of its records destroyed in a tornado.

Investigators want CMS to double-check records for doses of the drugs equaling 44 or 88 units, indications that full vials are being billed even though it's likely that patients are using less.

Health care officials said doses of Herceptin are adjusted for each individual, making it difficult to conduct a blanket analysis and treat every purchase the same. Investigators disagreed, stating that the high amount of waste warrants closer attention.

The inspector general is concerned that the same purchasing problem could be present in bills for other drugs.

"Herceptin is one of many multiuse drugs," investigators said. "Therefore, the problem of provider billing for full vials may exist with other such drugs."

CMS officials said they believe Herceptin is an "unusual situation" that would not apply to other drugs, but encouraged the inspector general to bring any similar problems to their attention.