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DOJ OIG Releases Report on the Federal Bureau of Prisons' Reimbursement Rates for Outside Medical Care

The Department of Justice (DOJ) Office of the Inspector General (OIG) announced today the release of a report finding that the Federal Bureau of Prisons (BOP) consistently paid outside doctors and hospitals more to treat federal inmates than Medicare would pay for the same services. As a result, in fiscal year (FY) 2014, the BOP spent at least \$100 million more for this care than it would have if it had paid Medicare rates.

The OIG's report, which examined the BOP's reimbursement rates for outside medical care, also found that among federal agencies that pay for medical care, the BOP is the only agency that is not covered by a statute or regulation under which the government sets the reimbursement rate, usually at the Medicare rate. Instead, the BOP negotiates its rates for medical services with providers. We found that all of the BOP institutions we examined paid a premium above the applicable Medicare rates. We further found that the DOJ and the BOP have not fully explored other legislative options that could reduce the BOP's outside medical spending.

The OIG's specific findings in the report released today include:

- **The BOP spent at least \$100 million more than the Medicare rate on outside medical care in FY 2014.** We found that all 69 institutions we analyzed paid reimbursement rates that were higher than the Medicare rate. We compared the BOP's reimbursement rates with Medicare rates and found that, at the end of FY 2014, BOP institutions paid an average of 1.7 times the Medicare rate. The highest rate we identified was more than triple the Medicare rate. We estimated that the amount paid by all BOP institutions above the Medicare rate in FY 2014 was at least \$100 million.
- **The BOP is the only federal agency that is not covered by a statute or regulations under which the government sets the agency's reimbursement rates, usually at the Medicare rate.** BOP reimburses for medical services at a rate that is negotiated with providers serving each institution. All other federal agencies that regularly pay for medical care reimburse outside providers at rates set by the government. This includes three law enforcement agencies that, under 18 U.S.C. § 4006(b)(1), pay no more than the Medicare rate for outside medical services provided to individuals in their custody: the U.S. Marshals Service and the Federal Bureau of Investigation, which are

both part of the DOJ, and the Department of Homeland Security. This also includes other agencies whose rates are covered by other statutes and regulations, such as the Department of Defense (DOD), the Department of Veterans Affairs (VA), and the Indian Health Service. As a result, medical providers are required to accept the Medicare rate when reimbursed by the federal government for treating members of the military and their dependents, Veterans, Native Americans, federal pre-trial detainees, and immigration detainees, but those same providers are allowed to charge the BOP a premium above the Medicare rate when treating BOP inmates.

- **The DOJ and the BOP have not fully explored other legislative options that could reduce the BOP's medical spending.** Both BOP officials and institution staff expressed concern that adding the BOP to the list of agencies in 18 U.S.C. § 4006(b)(1) could result in fewer medical providers being willing to treat BOP inmates, some of whom need long-term care. However, we found that the BOP has not fully explored other legislative options that might help it control its medical costs without compromising provider access. For example, a provision of the *Social Security Act*, 42 U.S.C. § 1395cc, requires providers who participate in Medicare to accept a government-set rate for some agencies' patients, including those of the DOD and the VA. Were that provision extended to the BOP, it could allow the government to set the BOP's reimbursement rates without compromising provider access. Yet neither the DOJ nor the BOP has explored this possibility. We also found that the BOP officials we interviewed had not engaged with states to understand how their prison systems address similar challenges, or with other federal agencies to discuss strategies for better ensuring access to medical care.

Today's report makes three recommendations to the BOP to assist the BOP in exploring legislative and other options for providing medically necessary care while maintaining access to providers and better controlling medical costs. The BOP agreed with all three recommendations.

Report: The report is available on the OIG's website at the following link: <https://oig.justice.gov/reports/2016/e1604.pdf>.

Multimedia: To accompany today's report, the OIG has released a 3-minute video featuring the Inspector General summarizing the report's findings. The video and a downloadable transcript are available at the following link: <https://oig.justice.gov/multimedia/>.