123381

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

HUMAN RESOURCES
DIVISION

FEBRUARY 13, 1984

B-211058


123381

The Honorable David A. Stockman
Director, Office of Management
and Budget

Dear Mr. Stockman:

Subject: Timely Establishment of Medical Care Recovery Rates Could Increase Recoveries (GAO/HRD-84-32)

This report summarizes the results of our review of the Office of Management and Budget's (OMB's) role in the establishment of the Veterans Administration's (VA's) medical care recovery rates. It shows that medical care recoveries have been reduced by millions of dollars by delays in updating recovery rates to reflect increases in the cost of providing medical care.

Also enclosed is a copy of our report to the Administrator of Veterans Affairs (GAO/HRD-84-31, Feb. 13, 1984) on improvements needed in the methods used to establish medical care recovery rates that were identified during our review. The report shows that VA could increase medical care recoveries while providing a more equitable basis for billings by establishing individual facility rather than national rates and by setting separate rates for acute and nonacute care. VA and OMB program officials agreed with our findings, conclusions, and recommendations. Their views have been incorporated where appropriate.

Although our review was limited to the advantages to the government of VA using individual hospital billing rates, we believe our recommendations to VA may also be applicable to the Department of Defense (DOD) and the Department of Health and Human Services (HHS). We would appreciate being informed of any actions you take on the matters discussed in the report.

BACKGROUND

VA is authorized to recover the "reasonable" value of medical services provided to certain patients provided care at VA facilities. Specifically:

123381

--The Federal Medical Care Recovery Act (42 U.S.C. 2651) authorizes recovery of the "reasonable value"[1] of care provided to eligible patients needing medical treatment for injuries which resulted from the negligent or other wrongful actions of a third party.

--The Veterans' Health Care, Training, and Small Business Loan Act of 1981 (38 U.S.C. 629) extended VA's recovery authority to include veterans' injuries or illnesses stemming from (1) employment and covered by a workers' compensation law or plan, (2) a motor vehicle accident for which the veteran had uninsured motorist coverage, and (3) a violent crime occurring in a jurisdiction that reimburses for such victims' medical care.

--The Veterans Omnibus Health Care Act of 1976 (38 U.S.C. 611) authorizes recovery of the costs of emergency care provided to persons otherwise ineligible for VA care.

In addition, VA attempts to recover the cost of medical care provided to persons presumed to be eligible for care at the time of admission, but later found to be ineligible. For fiscal year 1982, VA collected $13.8 million for medical services subject to reimbursement out of $48.1 million billed.

Under Executive Order 11060, OMB is responsible for setting the rates used by VA in billing liable third parties. The order states that

> "The Director of the Bureau of the Budget [now OMB] shall, for the purposes of the Act of September 25, 1962, from time to time, determine and establish rates that represent the reasonable value of hospital, medical, surgical, or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished."[2]

---

[1]The term "reasonable value" is neither defined in the act nor discussed in its legislative history.

[2]The act of September 25, 1962, refers to the Federal Medical Care Recovery Act (42 U.S.C. 2651), which concerns third-party liability for tort-feasor cases.

OMB has generally[3] accepted the national per diem rates developed by VA for use at all VA facilities. VA also uses these rates in billing the other categories of patients described above.

In addition to VA's rates, OMB must approve rates for care provided by DOD and HHS. According to an OMB official, the rates used by all three agencies should go into effect on October 1 of each year because they are based on that fiscal year's anticipated budget.

A 1973 OMB directive requires that federal agencies submit their proposed reimbursement rates in March so that the new reimbursement rates could take effect at the beginning of the fiscal year. When the directive was issued, the fiscal year began July 1. According to an OMB official, the submission deadlines were not revised in 1976, when the start of the fiscal year was changed to October 1.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our review objectives were to identify the causes of any delays in implementing medical care recovery rates and to estimate the revenues lost because of the delays. To accomplish this we

- --reviewed VA and OMB guidance on development of the rates,
- --interviewed VA and OMB officials to determine whether proposed rates were being submitted to OMB in accordance with the 1973 OMB directive, and
- --obtained data on VA's fiscal years 1981 and 1982 billings, billing rates for acute medical/surgical and psychiatric patients, and the percentage of billed patients who were acute medical/surgical and psychiatric in order to determine the effect of the delays on billing amounts.

PROGRESS MADE IN REDUCING DELAYS IN OMB APPROVAL OF PER DIEM RATES

Although OMB has made significant progress in reducing delays in establishing per diem rates, the rates still take effect after the beginning of the fiscal year to which they apply. In

---

[3]From June 1979 to May 1981, OMB set rates independent of VA's recommended rates to conform to former President Carter's cost containment guidelines.

fiscal year 1981, the rates did not go into effect until May 11, 1981, over 7 months after the start of the fiscal year. In each succeeding year, OMB has reduced the delays, implementing the rates for fiscal years 1982, 1983, and 1984 on January 4, 1982, December 15, 1982, and November 2, 1983, respectively. However, because of steadily increasing health care costs, even a 1-month delay in implementing new rates significantly reduces VA, DOD, and HHS billing amounts. For example, the fiscal year 1981 delay reduced VA billing amounts by almost $9 million--over $1 million a month.

According to an OMB official, OMB has a policy of approving all three agencies' billing rates before any are published. However, the OMB official said that only VA has been submitting the proposed rates in accordance with the 1973 OMB directive. VA, HHS, and DOD submitted their proposed rates for fiscal year 1984 on April 4, August 17, and October 7, 1983, respectively. The OMB official said that although the directive still requires the submission of proposed rates in March, if OMB receives them by mid-August, the rates can be published to take effect on October 1. She said that DOD was late in submitting its rates for fiscal year 1984 because it was implementing new procedures for calculating the rates.

VA and OMB officials agreed that they need to work together to ensure that per diem rates are established in a timely manner.

RECOMMENDATION

We recommend that you take actions to ensure that VA, DOD, and HHS submit their proposed rates in time to permit OMB review and publication of the rates by the beginning of the fiscal year. The actions taken should include revision of the 1973 directive to establish a new deadline for submission of the proposed rates.

As you know, 31 U.S.C. 720 requires that the head of a federal agency submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this report to the Chairmen of the four above-mentioned Committees and the House and Senate Committees on Veterans' Affairs, the Secretaries of Defense and Health and Human Services, and the Administrator of Veterans Affairs.

Sincerely yours,

Richard L. Fogel
Director

Enclosure