Department of Health and Human Services

**OFFICE OF INSPECTOR GENERAL**

# IMPACT ON MEDICARE PROGRAM FOR INVESTMENT INCOME THAT MEDICARE PART D PLANS EARNED AND RETAINED FROM MEDICARE FUNDS IN 2009

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# EXECUTIVE SUMMARY

## BACKGROUND

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 amended the Social Security Act (the Act) to establish the Voluntary Prescription Drug Benefit Program, known as Medicare Part D. The Centers for Medicare & Medicaid Services (CMS) finances Part D through the Supplementary Medical Insurance trust fund. The assets of the trust fund are held in special-issue U.S. Treasury securities, which earn interest income. CMS contracts with private, stand-alone drug plans and private Medicare Advantage health plans that have a drug coverage component (which we collectively refer to as "Part D plans") to offer Medicare beneficiaries options to voluntarily purchase a prescription drug benefit under Part D.

Pursuant to section 1860D-15 of the Act, CMS makes advance capitated payments (prepayments) to Part D plans for each enrollee at the beginning of each month. Part D plans may invest these Medicare funds in interest-bearing instruments until the funds are needed to pay for drug costs and administrative services. Federal law does not currently limit the ability of Part D plans to retain as additional revenue the investment income earned on Federal funds. Part D plans must submit, annually, bid proposals containing their anticipated revenue requirements for providing drug coverage under each of their plans for the upcoming year.

During calendar year (CY) 2009, CMS paid 706 Part D plans approximately $45 billion in prepayments. We reviewed 52 selected Part D plans to estimate the investment income earned from Medicare funds received in CY 2009 and thereby estimate the investment income that the 706 plans earned.

## OBJECTIVE

Our objective was to estimate the financial impact on Medicare of limiting the ability of Part D plans to retain investment income earned on Medicare funds.

## SUMMARY OF FINDINGS

On the basis of our reviews of 52 Part D plans, we determined that in CY 2009, the 706 Part D plans held Medicare funds for approximately 20 days before paying for pharmacy claims. Specifically:

- If Federal requirements had been established to delay the prepayments to Part D plans until after the beginning of the beneficiary's coverage period (similar to the Federal Employees Health Benefits (FEHB) program) by the same 20 days that the plans held Medicare funds, the Medicare Part D trust fund could have earned approximately $111.2 million of interest income in CY 2009.

- Alternatively, if Federal requirements had been established to require Part D plans to reduce their revenue requirements in their bid proposals to account for anticipated investment income that the plans earned over the same 20 days, Medicare could have saved an estimated $5.3 million that the 706 plans earned in CY 2009.

Because Federal requirements governing Medicare Part D do not limit the ability of Part D plans to retain investment income earned on Medicare funds, Medicare loses potential cost savings. In contrast to the Federal requirements that govern Part D, the FEHB program limits the ability of companies to retain as additional revenue the investment income earned from Federal funds. We therefore encourage CMS to study these audit results, consider the impact of the investment income earned on Medicare funds, and review our findings and recommendation to improve the economy and efficiency of Part D.

## RECOMMENDATION

We recommend that CMS evaluate these audit results and, in the context of its joint efforts with the U.S. Department of the Treasury, either:

- pursue legislation to adjust the timing of Medicare's prepayments to Part D plans to account for the time that these plans invest Medicare funds before paying pharmacy claims

  or

- develop and implement regulations that require Part D plans to reduce their revenue requirements in their bid proposals to account for anticipated investment income.

## CENTERS FOR MEDICARE & MEDICAID SERVICES COMMENTS

In written comments on our draft report, CMS did not concur with our recommendation because, in CMS's judgment, the implementation of either option would cause most Part D plans to increase their bid proposals to recoup the investment income that they would lose, which would result in a decrease in most or all of the estimated cost savings. CMS also stated that implementing either option could create an undesirable precedent that could result in CMS's making additional payments to Medicare Part C and Part D plans. CMS added that it assumes that it would be asked to pay interest on the additional payments that CMS frequently makes to Part D plans after the completion of the risk adjustment reconciliation each year and said that "[w]e believe a statutory change would be required to impose such an obligation on CMS …."

## OFFICE OF INSPECTOR GENERAL RESPONSE

After reviewing CMS's comments, we maintain that our findings and recommendation are valid. We agree with CMS's statement that if Part D plans were to increase their bid proposals, our estimated cost savings would be reduced. However, we disagree with CMS's assertion that implementing our recommendation would result in a decrease in most or all of the estimated cost savings. Specifically, any decrease in the estimated cost savings caused by increases in Part D plans' bid proposals would be minimized because of the difference between the higher interest earned by the Medicare trust funds and the lower interest earned by Part D plans.

We agree that if CMS were required to pay interest on additional Part D payments made after the risk adjustment reconciliation, the estimated savings we have identified would be reduced. However, it is not clear that Congress would enact legislation to require CMS to pay interest on these additional payments or allow the Part D plans to include investment income in their bid proposals.

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## INTRODUCTION

### BACKGROUND

#### Medicare Part D Program

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 amended the Social Security Act (the Act) to establish the Voluntary Prescription Drug Benefit Program, known as Medicare Part D.[1] The Centers for Medicare & Medicaid Services (CMS) finances Part D through the Supplementary Medical Insurance trust fund. The assets of the trust fund are held in special-issue U.S. Treasury securities, which earn interest income. CMS contracts with private, stand-alone drug plans and private Medicare Advantage health plans that have a drug coverage component (which we collectively refer to as "Part D plans") to offer Medicare beneficiaries options to voluntarily purchase a prescription drug benefit under Part D.[2]

Pursuant to section 1860D-15 of the Act, CMS makes advance capitated payments (prepayments) to Part D plans for each enrollee at the beginning of each month. Part D plans may invest these Medicare funds in interest-bearing instruments until the funds are needed to pay for drug costs and administrative services. Federal law does not currently limit the ability of Part D plans to retain as additional revenue the investment income earned on Federal funds. Part D plans must submit, annually, bid proposals containing their anticipated revenue requirements for providing drug coverage under each of their plans for the upcoming year.

During calendar year (CY) 2009, CMS paid 706 Part D plans approximately $45 billion in prepayments. We reviewed 52 selected Part D plans to estimate the investment income earned from Medicare funds received in CY 2009 and thereby estimate the investment income that the 706 plans earned.

#### Joint Centers for Medicare & Medicaid Services and Treasury Efforts Regarding Cash Management

In January 2009, the Government Accountability Office (GAO) issued a report[3] concerning the financial impact of the differences between the time that the U.S. Department of the Treasury (Treasury) receives cash to fund a program and the time that it disburses cash to the program. GAO reported that payments made at the beginning of the month, including payments to Part D plans, contributed to misalignment of cash flows because Treasury did not receive much of its cash until midmonth. GAO recommended that Treasury and CMS "… expeditiously convene a joint interagency effort to study options identified by GAO and any other options that would improve Treasury's ability to manage cash flow and reduce overall interest costs while not

[1] The Medicare Prescription Drug, Improvement, and Modernization Act of 2003, P.L. No. 108-173, § 101, Social Security Act, § 1860D-1(a), 42 U.S.C. § 1395w-101(a).

[2] The Medicare Advantage program (Part C) offers managed care options to Medicare beneficiaries.

[3] GAO-09-118, *Debt Management: Treasury's Cash Management Challenges and Timing of Payments to Medicare Private Plans*, January 30, 2009.

unduly increasing administrative burden for CMS." Both Treasury and CMS agreed with GAO's recommendation.

### Prior Office of Inspector General Audit of Medicare Part C Plans

We audited Medicare Part C plans[4] for CY 2007 and concluded that if Federal requirements had been established to delay prepayments to Medicare Advantage (MA) organizations (Part D plans) by the 46 days that we estimated that MA organizations held Medicare funds before paying for services, the Medicare trust funds that finance Part C could have earned approximately $450 million of interest income in CY 2007. Alternatively, if Federal requirements had been established to require MA organizations to reduce their revenue requirements in their bid proposals to account for anticipated investment income, Medicare could have saved an estimated $376 million in CY 2007. This report made a two-part recommendation to CMS to either pursue legislation to adjust the timing of Medicare's prepayments or require MA organizations to reduce their revenue requirements in their bid proposals to account for anticipated investment income. While CMS did not concur with our recommendation, we maintained that our findings and recommendation were valid.

## OBJECTIVE, SCOPE, AND METHODOLOGY

### Objective

Our objective was to estimate the financial impact on Medicare of limiting the ability of Part D plans to retain investment income earned on Medicare funds.

### Scope

We reviewed the approximately $45 billion of prepayments made to 706 Part D plans during CY 2009.

We did not review CMS's system of internal controls because our objective did not require us to do so.

### Methodology

To accomplish our objective, we did the following:

- We reviewed Federal requirements to understand:
    - how CMS earns interest income from the assets held in the Part D trust fund and how CMS makes payments to Part D plans and

[4] *Rollup Review of Impact on Medicare Program for Investment Income That Medicare Advantage Organizations Earned and Retained From Medicare Funds in 2007* (A-07-10-01080, January 18, 2011).

- how companies participating in the Federal Employees Health Benefits (FEHB) program manage cash.

- We interviewed CMS officials and sent questions to Part D plan officials to gain an understanding of the treatment of investment income for Part D, such as inclusions in the plans' bids.

- We reviewed the findings and recommendations of the GAO report regarding cash management.

- We obtained from CMS the prospective payment amounts from the plan payment reports paid to the Part D plans that participated in Part D during CY 2009.

- From the *2010 Annual Report of the Boards of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds*, we determined the effective annual rates of interest earned by the assets of the Part D trust fund for CY 2009.

- We analyzed 52 Part D plans to estimate the investment income that the plans could have earned and the average number of days that the 706 Part D plans held funds until paying providers for pharmacy claims. Appendix A contains details on how we selected the 52 plans and the estimation methodologies that we used.

- We calculated the interest income that the trust fund could have earned if CMS had delayed its prepayments to Part D plans. To make these calculations, we used the total prepayments, the effective annual rates of interest earned by the assets of the trust fund, and the estimated average number of days that the 706 Part D plans held funds until paying pharmacy claims.

- We discussed the results of our review with CMS officials on September 12, 2012.

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 objective.

## FINDINGS AND RECOMMENDATION

On the basis of our reviews of 52 Part D plans, we determined that in CY 2009, the 706 Part D plans held Medicare funds for approximately 20 days before paying for pharmacy claims. Specifically:

- If Federal requirements had been established to delay the prepayments to Part D plans until after the beginning of the beneficiary's coverage period (similar to the FEHB program) by the same 20 days that the plans held Medicare funds, the Medicare Part D trust fund could have earned approximately $111.2 million of interest income in CY 2009.

- Alternatively, if Federal requirements had been established to require Part D plans to reduce their revenue requirements in their bid proposals to account for anticipated investment income that the plans earned over the same 20 days, Medicare could have saved an estimated $5.3 million that the 706 plans earned in CY 2009.[5]

Because Federal requirements governing Medicare Part D do not limit the ability of Part D plans to retain investment income earned on Medicare funds, Medicare loses potential cost savings. In contrast to the Federal requirements that govern Part D, the FEHB program limits the ability of companies to retain as additional revenue the investment income earned from Federal funds. We therefore encourage CMS to study these audit results, consider the impact of the investment income earned on Medicare funds, and review our findings and recommendation to improve the economy and efficiency of Part D.

## LACK OF POLICIES REGARDING TREATMENT OF INVESTMENT INCOME IN MEDICARE PART D

Federal requirements governing Medicare Part D do not limit the ability of Part D plans to retain investment income earned on Medicare funds. Specifically, neither Federal regulations nor CMS guidelines require Part D plans to include anticipated investment income earned on Medicare funds in their bid proposals.

## TREATMENT OF INVESTMENT INCOME IN MEDICARE PART D PLANS

We found that 51 of the 52 Part D plans that we reviewed did not reduce their anticipated revenue requirements by anticipated investment income in their bid proposals for CY 2009. We also found that the 52 plans invested the prepayments and earned an estimated $3.9 million of investment income from Medicare funds they received in CY 2009.

We used our analysis of the 52 Part D plans to estimate that, in the aggregate, the 706 Part D plans invested Medicare funds in interest-bearing instruments for approximately 20 days before paying providers for pharmacy claims.

[5] The difference in potential savings ($111.2 million compared to $5.3 million) between the two alternatives is primarily because of the variance between short-term rates earned by the Part D plans and longer term rates earned by the Medicare Part D trust fund. During CY 2009, short-term rates hit historic lows and dropped more in relative terms than longer term rates did. Part D plans could invest the prepaid capitation payments for short terms until the funds were needed to pay for prescription drugs. By contrast, the Medicare Part D trust fund held longer term investments, which yielded significantly higher rates. Thus, the potential savings are much higher for delaying capitated payments to the Part D plans compared to the potential savings for requiring the plans to reduce their revenue requirements to account for anticipated investment income.

## LOST OPPORTUNITY FOR EARNINGS FOR THE MEDICARE PART D TRUST FUND

If Federal requirements had been established to delay the prepayments to Part D plans until after the beginning of the beneficiary's coverage period (similar to the FEHB program) by the same 20 days that the Part D plans held Medicare funds, the Part D trust fund could have earned approximately $111.2 million of interest income in CY 2009.

We calculated this potential interest income with the assumption that the Federal Government would have invested its total prepayments to Part D plans ($45 billion) in interest-bearing instruments for 20 additional days at rates equal to the effective annual rates of interest that the Part D trust fund earned (4.4 percent) in CY 2009.

## LOST OPPORTUNITY FOR COST SAVINGS FOR MEDICARE PART D

If Federal requirements had been established to require Part D plans to reduce their revenue requirements in their bid proposals to account for anticipated investment income, Medicare could have saved an estimated $5.3 million that the 706 Part D plans earned by investing the prepayments for approximately 20 days in CY 2009.

We estimated the potential savings of $5.3 million for the 706 Part D plans using our reviews of the selected plans, in which we found that the 52 plans earned approximately $3.9 million of investment income from Medicare funds. Appendix A contains details of our estimation methodologies.

## TREATMENT OF INVESTMENT INCOME IN THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Unlike Medicare Part D, the FEHB program limits the ability of companies to retain as additional revenue the investment income earned from Federal funds. The U.S. Office of Personnel Management (OPM) pays insurance companies offering managed care coverage through the FEHB program after the start of the employees' insurance coverage periods (as provided for in OPM's FEHB program *Carrier Handbook,* chapter VII). As a result, insurance companies participating in the FEHB program have more limited opportunities to generate investment income than Part D plans do. Moreover, if the possibility of earning investment income exists, OPM's FEHB regulations (48 CFR §§ 1615.470-1 and 1652.215-71) require that a clause be inserted in the FEHB carrier contract that requires the carrier to retain all investment income in the FEHB program's reserves for use in the operation of the FEHB program. (See 5 CFR § 890.503.)

No such policies limit the ability of Part D plans to retain as additional revenue the investment income earned from Federal funds.

## CONCLUSION

This review of Medicare Part D for CY 2009 demonstrates the money that might have been saved if Federal regulations or guidelines had limited the ability of Part D plans to retain investment income earned on Medicare funds. Moreover, for CY 2009, the lack of Federal requirements governing treatment of investment income earned within Part D stood in contrast to the Federal requirements governing the FEHB program. This lack of Federal regulations or guidelines caused a financial impact to Medicare in CY 2009: Part D plans held Medicare funds for approximately 20 days and earned investment income of an estimated $5.3 million, and the Part D trust fund lost out on a potential investment income of approximately $111.2 million.

We therefore encourage CMS to study these audit results; consider the impact of the investment income earned on Medicare funds in conjunction with its joint efforts with Treasury to improve Treasury's ability to manage cash flow and reduce overall interest costs; and review our findings and recommendation, which identify mechanisms to improve the economy and efficiency of Medicare Part D.

## RECOMMENDATION

We recommend that CMS evaluate these audit results and, in the context of its joint efforts with Treasury, either:

- pursue legislation to adjust the timing of Medicare's prepayments to Part D plans to account for the time that these plans invest Medicare funds before paying pharmacy claims

  or

- develop and implement regulations that require Part D plans to reduce their revenue requirements in their bid proposals to account for anticipated investment income.

## CENTERS FOR MEDICARE & MEDICAID SERVICES COMMENTS

In written comments on our draft report, CMS did not concur with our recommendation because, in CMS's judgment, the implementation of either option would cause most Part D plans to increase their bid proposals to recoup the investment income that they would lose. Specifically, CMS said that "[i]f the Part D plans were to increase their bid proposals to account for the proposed offsets, these higher costs would be recognized in the bid proposals and would result in a decrease in most or all of the estimated cost savings."

CMS also stated that implementing either option could create an undesirable precedent. CMS assumes that it would be asked to pay interest on the additional payments that CMS frequently makes to Part C and Part D plans after the completion of the risk adjustment reconciliation each year. CMS said that "[w]e believe a statutory change would be required to impose such an obligation on CMS …." CMS stated that the payment of this interest would result in a further decrease in estimated cost savings.

CMS's comments are included in their entirety as Appendix B.

## OFFICE OF INSPECTOR GENERAL RESPONSE

After reviewing CMS's comments, we maintain that our findings and recommendation are valid. We agree with CMS's statement that if Part D plans were to increase their bid proposals, our estimated cost savings would be reduced. However, for the following reasons, we disagree with CMS's assertion that implementing our recommendation would result in a decrease in most or all of the estimated cost savings:

- Market competition may create a disincentive for some Part D plans to increase their bid proposals. Part D plans can provide additional benefits to their enrollees if the Part D plans' bid proposals are below CMS-established benchmarks. However, increases in the bid proposals that either approach or exceed benchmark levels would cause decreases to these additional benefits, thus making those plans less attractive to enrollees. In its report concerning cash management, GAO stated that CMS's Office of the Actuary had noted that some Part D plans might be unwilling to increase their bid proposals "if doing so risks losing market share" (GAO-09-118).

- Generally, the Medicare trust funds yield higher interest returns with long-term investments than what Part D plans earn with short-term investments. Thus, any decrease in the estimated cost savings caused by increases in Part D plans' bid proposals would be reduced because of the difference between the higher interest earned by the Medicare trust funds and the lower interest earned by Part D plans.

  Part D plans invested the prepaid payments for short terms until the funds were needed to pay for pharmacy claims. During our review period, the Medicare trust funds earned significantly higher interest rates than the Part D plans did. The short-term interest rates earned by the Part D plans averaged 0.37 percent. In contrast, the Medicare Part D trust fund, which holds longer term investments, earned interest at an annual rate of 4.4 percent.

  Consequently, even if Part D plans increased their bid proposals to account for lost investment income caused by delayed payments, most of the estimated savings would be maintained because the Medicare trust funds realize higher interest rates on their investments than do the Part D plans.

We agree that if CMS were required to pay interest on additional Part D payments made after the risk adjustment reconciliation, the estimated savings we have identified would be reduced. However, it is not clear that Congress would enact legislation to require CMS to pay interest on these additional payments or allow the Part D plans to include investment income in their bid proposals to increase their bid proposals.

# APPENDIXES

# APPENDIX A: SELECTION AND ESTIMATION METHODOLOGIES

## SELECTION OF 52 MEDICARE PART D PLANS

We selected 52 Medicare Part D plans using a survey (2 plans) and both judgmental (30 plans) and random (20 plans) samples. We judgmentally selected and surveyed two plans. (We began our review with a survey of two plans to develop this review's methodology.) From the remaining 704 plans (706 total plans less the 2 surveyed plans), we judgmentally sampled the 30 largest plans on the basis of total payments received from the Centers for Medicare & Medicaid Services (CMS). We then selected a random sample of 20 plans from the 674 remaining plans (706 total plans less the 2 surveyed plans and the 30 judgmentally selected plans).

## ESTIMATION OF POTENTIAL COST SAVINGS FOR MEDICARE PART D

We used the results of our analysis of the 52 Part D plans to estimate the investment income that the 706 plans earned on Medicare funds during calendar year (CY) 2009. Specifically, we estimated the investment income that the plans earned only on the portion of the advance capitation payments (prepayments) that would be used to pay pharmacy claims during CY 2009. We did not estimate the investment income that the plans might have earned on the remaining portions of their Medicare funding, which were for nonbenefit expenses, gain/loss margins, or Federal reinsurance. We did not include any retroactive adjustments made by CMS in our estimates of investment income.

In total, the 706 Part D plans earned an estimated $5.3 million of investment income from Medicare funds received in CY 2009. This amount consisted of:

- $346,595 earned by the 2 judgmentally selected and surveyed plans,

- $3,513,569 earned by the 30 judgmentally selected plans,

- $48,816 earned by the 20 randomly sampled plans, and

- $1,374,061 earned by the 654 remaining plans (estimated on the basis of the results of the 20 randomly sampled Part D plans).

We used the same time periods and interest rates that we used in our review of the 20 randomly sampled Part D plans to estimate the earnings of the 654 remaining plans.

## CALCULATION OF POTENTIAL EARNINGS FOR THE MEDICARE PART D TRUST FUND

### Estimated Number of Days That Medicare Part D Plans Held Medicare Funds

We estimated that the 706 Part D plans held the Medicare funds for approximately 20 days before paying pharmacy claims in CY 2009. The number of days between the plans' receipt of prepayments from CMS and the plans' payments to providers for pharmacy claims varied for the 52 plans that we reviewed. To estimate the average number of days that all 706 plans held Medicare funds in CY 2009 until they paid their claims, we used:

- $25.6 billion of prepayments that we estimated that plans used to pay for pharmacy claims (out of a total of $45 billion prepayments);
- $5.3 million of estimated investment income; and
- an interest rate of 0.37 percent,[1] which we estimated that plans earned when they invested Medicare funds.

### Calculation of Potential Interest Income

CMS finances Medicare Part D through the Supplementary Medical Insurance trust fund. We calculated the potential interest income with the assumption that the Federal Government invested its total prepayments to Part D plans ($45 billion) in interest-bearing instruments for the same 20-day periods and the same annual rates of interest that the Part D trust fund earned (4.4 percent) in CY 2009.

[1] For the 52 selected Part D plans, we used 30-day AA Financial Commercial Paper interest rates obtained from the Federal Reserve to estimate the investment income earned unless a plan provided the actual interest rates earned. To calculate the 0.37 percent, we combined results of the 2 judgmentally selected and surveyed plans, the 30 judgmentally selected plans, and the estimated results from the 674 remaining plans (estimated from the results of the 20 randomly selected plans).

## APPENDIX B: CENTERS FOR MEDICARE & MEDICAID SERVICES COMMENTS

DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

*Office of the Administrator*
Washington, DC 20201

**DATE:** FEB 14 2013

**TO:** Daniel R. Levinson
Inspector General

**FROM:** Marilyn Tavenner
Acting Administrator

**SUBJECT:** Office of Inspector General (OIG) Draft Report: "Impact on Medicare Program for Investment Income that Medicare Part D Plans Earned and Retained from Medicare Funds in 2009" (A-07-11-05017)

Thank you for the opportunity to review and comment on the above subject OIG draft report, which aims to estimate the financial impact on the Medicare prescription drug benefit (Part D) program of potentially limiting the ability of Part D plans to retain investment income earned on prepayment from Medicare before paying pharmacy claims. The Centers for Medicare & Medicaid Services (CMS) shares the OIG's concern regarding losing potential cost savings associated with the Medicare Part D program. However, we do not agree with the OIG that limiting the ability of Part D plans to retain investment income earned on Medicare funds would result in such savings.

Below is the CMS response to the OIG recommendations in the draft report.

**OIG Recommendation**

The OIG recommends that CMS review the OIG's audit findings and either: (1) pursue legislation to adjust the timing of Medicare's prepayments to Part D plans to account for the time that these plans invest Medicare funds before paying pharmacy claims, or (2) develop and implement regulations that require Part D plans to reduce their revenue requirements in their bid proposals to account for anticipated investment income.

**CMS Response**

The CMS does not concur with the OIG's recommendations. CMS believes that implementing either option would cause most Part D plans to increase their bid proposals in order to recoup investment income that they would lose. If the Part D plans were to increase their bid proposals to account for the proposed offsets, these higher costs would be recognized in the bid proposals and would result in a decrease in most or all of the estimated cost savings. This fact is identified in the report but not reflected in the savings estimate. Therefore, we believe that the report overstates the significance of this issue since the true savings would be a fraction of the amount cited in the draft.

In addition, CMS believes that either option could create an undesirable precedent that results in CMS making additional payments to Medicare Advantage organizations and Part D plans. Following the end of a coverage year, CMS is statutorily required to reconcile the multiple interim payments made to plans throughout the year in order to make a final payment determination. After the final reconciliation is complete, CMS typically owes Medicare funds to plans. For example, risk adjustment reconciliation for Part D plans takes place in August. CMS pays plans additional payments based on additional risk adjustment data that we receive from plans. It is reasonable to assume that CMS would be asked to pay interest on these funds if we implemented either option recommended by the OIG. We believe a statutory change would be required to impose such an obligation on CMS. However, if CMS were required to pay interest on these funds, as plans are required to pay or otherwise account for interest on retained Medicare funds, it would likely result in a further decrease in the estimated cost savings.

For these reasons, CMS does not agree with the OIG that limiting the ability of Part D plans to retain investment income earned on Medicare funds would result in savings to the program.

We appreciate the effort that went into this report. Again, we thank OIG for the opportunity to review and comment.