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Financial Activities Of The
Associated Physicians Of The
Cook County Hospital For
Fiscal Years 1970 and 1971

B-164031(4)

Social Security Administration
Department of Health, Education,
and Welfare

*BY THE COMPTROLLER GENERAL
OF THE UNITED STATES*

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096525

JUNE 16, 1972



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-164031(4)

Dear Mr. Pucinski:

In accordance with your request of November 11, 1971, we are submitting to you our report on the financial activities of the Associated Physicians of the Cook County Hospital (the Association) in Chicago, Illinois, for the fiscal years ended November 30, 1970 and 1971.

Certain pertinent matters included in this report have been discussed with the administrator of the Association and with officials of the Health and Hospitals Governing Commission of Cook County, the Illinois Medical Service (Blue Shield), and the Social Security Administration; however, written comments were not obtained.

We plan to make no further distribution of this report unless copies are specifically requested, and then copies will be distributed only after your approval has been obtained or public announcement has been made by you concerning the contents of this report.

Sincerely yours,

A handwritten signature in dark ink, reading "James B. Stacks". The signature is written in a cursive style with a large, stylized initial "J".

Comptroller General
of the United States

cltr
The Honorable Roman C. Pucinski
House of Representatives

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Honorable Roman C. Pucinski, House of
Representatives, to the Comptroller
General

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ABBREVIATIONS

GAO General Accounting Office
HEW Department of Health, Education, and Welfare
SSA Social Security Administration

COMPTROLLER GENERAL'S REPORT TO
THE HONORABLE ROMAN C. PUCINSKI
HOUSE OF REPRESENTATIVES

FINANCIAL ACTIVITIES OF
THE ASSOCIATED PHYSICIANS OF
THE COOK COUNTY HOSPITAL
FOR FISCAL YEARS 1970 AND 1971
1 Social Security Administration ²⁶
2 Department of Health, Education, ²²
and Welfare B-164031(4)

D I G E S T

WHY THE REVIEW WAS MADE

At the request of Congressman Roman C. Pucinski, the General Accounting Office (GAO) examined into the Federal funds paid to the Associated Physicians of the Cook County Hospital (the Association) in Chicago, Illinois, for the fiscal years ended November 30, 1970 and 1971, and into the expenditures by the Association in these 2 fiscal years. The Association is a not-for-profit corporation which acts as a billing agent for professional services rendered by its members who are physicians on the medical staff at the hospital. (See p. 6.)

The Federal funds involved payments for services of the hospital's supervisory and teaching physicians under part B of the Medicare program. Part A of the Medicare program primarily concerns payments for hospital services. Medicare is administered by the Social Security Administration (SSA) of the Department of Health, Education, and Welfare (HEW).

The part B payments were made for SSA by paying agents--or carriers--under contract.

FINDINGS AND CONCLUSIONS

Association income

The Association's income for the 2-year period ended November 30, 1971, consisted mostly of payments for the professional services rendered to patients at the Cook County Hospital by Association member physicians who had authorized the Association to bill Medicare and other insurers on their behalves.

--Of the Association's total income of \$847,445, only about \$219,800, or 26 percent, was received under part B of Medicare during the 2-year period.

--The remaining income consisted primarily of payments from private insurers.

In April 1969 SSA directed that Medicare payments to the Association be suspended because the documentation in support of the Association's claims was not adequate to justify the payments. Current Medicare payments were

The dispute arose from an October 1971 resolution by the Governing Commission, which operates the hospital, to the effect that the hospital's salaried physicians were being paid by the hospital for administrative and teaching duties (which are reimbursable as a hospital cost under part A of Medicare) and for patient-care duties (which are reimbursable under part B). (See pp. 18.)

In previous years the hospital and its physicians maintained that the physicians were paid only for hospital services reimbursable under part A and not for direct patient care reimbursable under part B. (See p. 17.)

Under SSA rules, for the Governing Commission to be paid for physicians' services under part B, the physicians would have to agree to such an arrangement. (See p. 19.)

Information on Medicare law

Medicare law is silent regarding the precise method of paying for the services of teaching physicians in a hospital setting. Under the HEW and SSA regulations and instructions, part B Medicare payments for the services of the hospital's physicians were made to the Association under assignments by the physicians who authorized the Association to use the funds as it saw fit. (See p. 20.)

GAO believes that legislation being considered by the Congress in April 1972 would

- prohibit the assignment of physicians' claims for part B reimbursement to such billing organizations as the Association (see p. 21) and
- provide a new cost-reimbursement basis for paying for the professional services of teaching physicians at the hospital instead of the traditional fee-for-service method. (See p. 22.)

CHAPTER 1

INTRODUCTION

In accordance with a request dated November 11, 1971, from Congressman Roman C. Pucinski (see app. IV), we have examined the Federal Medicare funds paid to the Associated Physicians of the Cook County Hospital in Chicago for the fiscal years ended November 30, 1970 and 1971, and the expenditures made by the Association for these 2 fiscal years.

Title XVIII of the Social Security Act (42 U.S.C. 1395)--popularly referred to as Medicare--effective July 1, 1966, provides the following two basic forms of protection against the costs of health care to eligible persons aged 65 and over.

--Part A, designated as Hospital Insurance Benefits for the Aged, covers inpatient hospital services and certain posthospital skilled nursing care in extended-care facilities and in the patients' homes. Part A is financed by special social security taxes paid by employees, employers, and self-employed persons.

--Part B, designated as Supplementary Medical Insurance Benefits for the Aged, is a voluntary program and covers physicians' services and other medical and health benefits. Part B is financed by premiums collected from eligible beneficiaries who have elected to be covered by the program and by matching amounts appropriated from the general revenues of the Federal Government.

Medicare is administered by the Social Security Administration of the Department of Health, Education, and Welfare. To help administer Medicare benefits, the Congress authorized HEW to contract with public agencies or private organizations to pay (1) hospitals and other institutions for services provided to eligible beneficiaries and (2) for physicians' services to such beneficiaries.

The organizations making payments to hospitals principally under part A are called fiscal intermediaries. The

organizations making benefit payments for physicians' services under part B are called carriers. The principal Medicare carrier for Cook County, Illinois, is the Illinois Medical Service (Blue Shield).

The Association was incorporated in Illinois on December 8, 1967, as a not-for-profit corporation. The Association bills the Medicare carrier for the professional services provided by its member physicians to Medicare patients at the Cook County Hospital under assignments to the Association that each member makes at the time he applies for membership. The stated purpose for which the Association was organized and the form of the members' assignments are set forth in appendix III.

PREVIOUS REPORTS PERTAINING TO THE ASSOCIATION

We have made two previous reviews pertaining to Part B Medicare payments made by Blue Shield to the Association for the services of its member physicians at the Cook County Hospital.

Our earlier reports (B-164031(4) Sept. 3, 1969, and 1969, and Feb. 11, 1970),¹ to the Senate Committee on Finance have previously been furnished to the Congressman. To a large extent the information presented in this report updates the material contained in the earlier reports.

SCOPE OF REVIEW

We obtained the financial information contained in this report from the financial statements and accounting records of the Association. The financial statements for fiscal year 1970 were audited by a firm of independent accountants retained annually by the Association for this purpose. We therefore accepted the audited receipts and expenditures for 1970. The financial statements for fiscal year 1971 had not been audited at the time of our field review. We therefore

¹The February 1970 report had not been publicly released by the Senate Committee on Finance; therefore, it was furnished to the Congressman by the Committee.

compared the receipts and expenditures for 1971 with the amounts shown in the Association's accounting records. In addition, we reconciled the records of Medicare income received by the Association for the 2 years to Blue Shield's payment records.

We also analyzed the Association's 1970 and 1971 expenditures for operating expenses and for its programs in support of patient care and health education.

We reviewed the existing Medicare law and related HEW regulations and instructions and certain proposed legislation (Social Security Amendments of 1971) which was being considered by the Congress in April 1972 to assess its possible effect on the Congressman's intention to recommend that the administration of the Association's funds be turned over to the Health and Hospitals Governing Commission of Cook County.¹

As part of our review, we interviewed the administrator of the Association, officials of the Governing Commission, Blue Shield, and SSA.

¹The Commission was established in October 1969 by State law (Ill. Rev. Stats., ch. 34, sec. 5020, approved Apr. 26, 1969), to operate Cook County Hospital and other health-care facilities owned by the county.

CHAPTER 2

SUMMARY OF THE ASSOCIATION'S FINANCIAL ACTIVITIES

THE ASSOCIATION'S INCOME

The Association's income consisted principally of payments received for professional services rendered to patients at the Cook County Hospital by its member physicians who had authorized the Association to bill Medicare and other insurers on their behalves.

A summary showing the sources of the Association's income for the fiscal years ended November 30, 1970 and 1971, follows.

<u>Source of income</u>	<u>1970</u>	<u>1971</u>	<u>Total</u> <u>(note a)</u>	<u>Per-</u> <u>cent</u>
Medicare--Part B:				
Blue Shield	\$ 8,304	\$199,535)		
Travelers Insur-)		
ance Company)	\$219,843	26
(note b)	-	12,004)		
Private insurers	180,284	422,252)		
Interest on invest-)	627,602	74
ments and miscel-)		
laneous items	<u>16,985</u>	<u>8,081)</u>	<u> </u>	<u> </u>
Total	<u>\$205,573</u>	<u>\$641,872</u>	<u>\$847,445</u>	<u>100</u>

^aThe receipts exclude (1) certain refunds applicable to prior years' health and life insurance premiums paid for the hospitals' residents and interns and (2) interest income earned in previous periods.

^bTravelers Insurance Company, under a contract with the Railroad Retirement Board, pays Medicare claims for physicians' services to eligible railroad workers and annuitants of the Board.

The Association received Medicare payments of only \$8,304 in 1970 because Blue Shield, at the direction of SSA, had suspended payment of the Association's claims in

April 1969. SSA directed the suspension of payments because the documentation in support of such claims was inadequate to justify the payments. Blue Shield did not resume making current payments until November 1970. The Association received payments from private insurers of only \$180,300 in 1970 because it did not begin billing such insurers for physicians' services until July 1970. Previously, private insurers had been billed for physicians' services at the hospital by the Physicians' and Surgeons' fund administered by the Hektoen Institute for Medical Research of the Cook County Hospital.

In summary, of the Association's income of \$847,445 for the 2-year period ended November 30, 1971, only about \$219,800, or about 26 percent, represented payments under part B of the Medicare program. The remaining income consisted principally of payments from private insurers, such as Aetna Life and Casualty, Metropolitan Life Insurance Company, and the Occidental Life Insurance Company of California.

THE ASSOCIATION'S LIQUID ASSETS AND LIABILITIES

The Association's cash and marketable securities on hand at November 30, 1970 and 1971, and the net increase in these assets in fiscal year 1971 are shown below.

	November 30, <u>1970</u>	November 30, <u>1971</u>	Increase or decrease(-)
Cash in banks	\$ 72,792	\$ 66,252	\$ -6,540
Petty cash	100	100	-
Marketable securities, at cost	<u>48,308</u>	<u>175,000</u>	<u>126,692</u>
Total	<u>\$121,200</u>	<u>\$241,352</u>	<u>\$120,152</u>

The marketable securities at November 30, 1971, consisted of one short-term bank time certificate of deposit. At November 30, 1971, the Association had set aside about \$175,000 of marketable securities as a contingency fund to provide for future obligations. The Association estimated that its receivables for billings to Medicare and private

insurers amounted to \$275,875 at November 30, 1970. At the time of our field review, a similar estimate of receivables had not been prepared as of November 30, 1971.

At November 30, 1971, the Association's accrued liabilities and unpaid commitments amounted to \$122,470, plus its Medicare overpayment liability of \$705,100.

The Medicare overpayment liability pertained to the payments of \$1.6 million made to the Association by Blue Shield between April 1968 and April 1969 for claims made on behalf of its member physicians, which had not always been sufficiently documented to justify payment. By applying statistical methods to an audited sample of such payments, SSA in March 1970 finalized its computations of the amount of the overpayments at \$1,109,000.

The administrator of the Association advised us, however, that the Association was questioning SSA's method of computing the overpayments and that the Association's agreement with SSA to settle the overpayment had been based on the condition that the settlement would be on no less favorable terms than those of settlements of the same type of overpayments with similar institutions or organizations. The agreement provides for the liquidation of the overpayment by March 1973.

As of November 1971 the Association had reduced its overpayment liability to \$705,100 by a payment of \$300,000 in March 1970 and by payments of \$103,900 between November 1970 and October 1971--one half of the Medicare payments received from Blue Shield during that period.

As discussed in chapter 3, SSA in October 1971 directed Blue Shield to suspend all current part B payments. The suspension resulted from a dispute between the Association and the governing commission concerning which of the two organizations had the right to bill Medicare under part B for the services of the hospital's salaried physicians. As a consequence the Association had not further reduced its \$705,100 liability for the Medicare overpayments.

NATURE AND PURPOSE OF
ASSOCIATION'S EXPENDITURES

In addition to spending the \$403,900 for refunding the Medicare overpayments, the Association spent \$913,794 during fiscal years 1970 and 1971, as shown below.

	Fiscal year ended November 30,		
	<u>1970</u>	<u>1971</u>	<u>Total</u>
Operating expenses	\$177,043	\$201,276	\$378,319
Patient-care and health education programs	<u>293,387</u>	<u>242,088</u>	<u>535,475</u>
Total	<u>\$470,430</u>	<u>\$443,364</u>	<u>\$913,794</u>

Statements of the Association's operating expenses and expenditures under its patient-care and health education programs are presented in appendixes I and II, respectively. In fiscal year 1970 the Association's income of about \$205,600 exceeded its operating expenses of \$177,000 by only \$28,600 because, as previously explained, billings to private insurers were not started until July 1970 and because Medicare payments were not resumed until November 1970.

Operating expenses

About \$128,500, or 73 percent, of the Association's operating expenses for fiscal year 1970 and about \$153,600, or 76 percent, of such expenses for 1971 represented salaries of its administrative and clerical staff. This staff consisted of 14 employees at November 30, 1970, and 17 employees at November 30, 1971.

The Association's operating expenses for the 2 fiscal years included legal fees totaling about \$19,700, of which \$14,900 was paid in 1970 and \$4,800 was paid in 1971. These legal fees pertained to (1) negotiations with Blue Shield and SSA concerning the Medicare overpayment claim, (2) negotiations concerning a contractual relationship between the Governing Commission and the Association, and (3) a ruling from the Internal Revenue Service regarding tax exemption

status for persons donating their services to a non-profit organization.

Association's programs for patient care and health education

The Association spent about \$293,400 in the fiscal year ended November 30, 1970, and about \$242,100 in fiscal year 1971 for programs in support of patient care and health education at the Cook County Hospital and in the community.

These program expenditures during the foregoing fiscal years are summarized below.

<u>Program</u>	<u>Fiscal year ended</u> <u>November 30</u>		<u>Total</u>
	<u>1970</u>	<u>1971</u>	
Scholarships and education	\$ 20,819	\$ 65,442	\$ 86,261
House staff development	146,731	50,304	197,035
Department development	55,528	69,053	124,581
Hospital director's emergency fund	17,710	5,967	23,677
Special appropriations	<u>52,599</u>	<u>51,322</u>	<u>103,921</u>
	<u>\$293,387</u>	<u>\$242,088</u>	<u>\$535,475</u>

The nature and general purpose of the programs and related expenditures are as follows:

Scholarship and education

The expenditures of \$86,261 for scholarships and education were for fellowship grants to needy students in the Chicago area who were studying health sciences.

The administrator of the Association informed us that 16 students were participating in this fellowship program as of November 30, 1970, and that 32 students were participating as of November 30, 1971. A total of 39 students were assisted under the program from its inception in June 1968. Of the students who graduated with the assistance of the Association, five were on the Cook County Hospitals's house staff as residents or interns.

House staff development

Of the \$146,731 spent for hospital house staff development in 1970, about \$133,700 was for group insurance premiums for hospital interns and residents and their dependents. The 1971 expenditures of \$50,304 for house staff development included only \$26,000 for group insurance premiums because in January 1971 the Governing Commission assumed the cost of this program.

The administrator of the Association informed us that the group insurance program provided (1) life insurance, accidental death and dismemberment coverage, weekly indemnity coverage, and hospital and medical benefits for hospital residents and interns and (2) hospital and medical benefits for their dependents. The purpose of this program was to help attract to Cook County Hospital the best medical school graduates available.

Other house staff development expenditures included \$7,100 and \$4,800 in 1970 and \$9,000 and \$15,200 in 1971 for secretarial help and office expenses, respectively, for the interns' and residents' association.

Department development

The Association has provided financial assistance to the various departments at the Cook County Hospital in response to specific requests for funds initiated by the department chairmen. The expenditures in fiscal year 1970 of \$55,528 included \$32,400 for hospital equipment, \$14,200 for visual teaching aids, and \$5,900 for staff attendance at scientific meetings.

The Association administrator informed us that, at the request of the hospital administrator, the Association had purchased urgently needed equipment for which no hospital funds were available. Title to this equipment was transferred to the hospital.

In 1971 the expenditures of \$69,053 included \$33,700 for hospital staff attendance at scientific meetings, \$14,400 for books and journals, \$7,900 for visual teaching aids, \$5,000 for visiting lecturers, and \$4,800 for postgraduate courses.

Hospital director's emergency fund

The hospital director is responsible for decisions on the specific purposes for which the emergency fund is to be used. Before expenditures can be made from this fund, the director is required to certify that county funds are unavailable for the proposed purpose and to obtain the concurrence of the Association that funds should be spent for the specific purpose proposed.

The expenditures of \$17,710 for fiscal year 1970 included \$12,700 for equipment and \$4,700 for improvements at the Cook County Hospital. The expenditures of \$5,967 in fiscal year 1971 included \$4,100 for a Christmas party in December 1970 for the employees of the hospital. The party expenses consisted of about \$3,500 for food (principally, cold cuts, cheese, and potato salad), about \$500 for decorations and chair rentals, and about \$100 for prizes.

We were advised by the administrator of the Association that Christmas parties were to boost the morale of the non-professional hospital employees. He said that the practice of requesting the Association to finance Christmas parties for nonprofessional hospital employees had been established because the Cook County comptroller had refused to approve payment of expenses which had been incurred by the hospital in fiscal year 1970 for this purpose.

Special appropriations--Cook County Hospital

The expenditures of \$52,599 in fiscal year 1970 included \$16,600 for medical records library assistants' salaries, \$15,300 for an administrative assistant's salary in the division of medicine, \$7,400 for the rental of equipment for nuclear medicine, \$6,100 for administrative salary supplements in the division of financial controls, and \$3,600 for a Christmas party for nonprofessional hospital employees.

The expenditures of \$51,322 in fiscal year 1971 included \$27,300 for two administrative assistants in the division of medicine, \$13,800 for the rental of nuclear medicine equipment, \$2,300 for legal fees, and \$2,200 for an administrative assistant in the division of anesthesiology.

Additional information pertaining to certain expenditures from the Association's special appropriations, in which the Congressman expressed particular interest, follows.

Hospital administrative assistants--The hospital director and the hospital administrator are responsible to the Governing Commission for management of the Cook County Hospital. Division and department directors are responsible to the hospital director and the hospital administrator. At the request of the hospital director, the Association paid the salaries for persons employed for special projects at the hospital, such as improving the medical records library. At the request of hospital division directors and without approval of the hospital director or administrator, the Association paid the salaries of persons employed as their administrative assistants. Association expenditures for this purpose totaled about \$44,800, consisting of \$15,300 in fiscal year 1970 and \$27,300 in fiscal year 1971 for administrative assistants in the division of medicine and \$2,200 in fiscal year 1971 for an administrative assistant in the division of anesthesiology.

The administrator of the Association informed us that:

- The Association had paid the salaries of two administrative assistants for the division of medicine when hospital funds were not available for that purpose. As of December 1971, these positions had been discontinued and the assistants and the division director for whom they were working had resigned.
- The Association had paid the salary of an administrative assistant in the division of anesthesiology, pending processing of her employment by the hospital. This employee had resigned at the end of fiscal year 1971 to accept other employment.

He informed us also that in January 1972 the Association was paying the salary of a part-time administrative assistant for the department of urology in the division of surgery with the approval of the Governing Commission.

According to an official of the Governing Commission, the Association employed the administrative assistants in the hospital's divisions of medicine and anesthesiology without approval of the Governing Commission. This official further stated that the director of the division of anesthesiology, who was also president of the Association, had appointed an applicant as an administrative assistant who did not qualify for such a position by commission standards. As previously discussed this employee resigned at the end of fiscal year 1971.

Christmas party--The Association spent \$3,600 in fiscal year 1970 for the December 1969 Christmas party for the non-professional employees of the hospital--principally for food such as cold cuts, cheese, and potato salad. As previously explained the Cook County comptroller had refused to approve payment of expenses incurred by the hospital for this purpose.

The Association administrator advised us that the Association had not been requested to finance the cost of any Christmas party for hospital employees in 1971.

Legal fees--According to the Association records, the expenditures of \$2,300 for legal fees in fiscal year 1971 were for services to (1) the medical staff of the hospital concerning a study of a proposed revision of the bylaws of the medical staff, including an analysis of their effect on the relationship of the medical staff to the Association (about \$800) and (2) the Association in connection with its dispute with the Governing Commission concerning the billing to Medicare and other insurers for the services of the salaried physicians (about \$1,500).

CHAPTER 3

NATURE OF DISPUTE BETWEEN THE ASSOCIATION AND THE GOVERNING COMMISSION

The dispute between the Association and the Health and Hospitals Governing Commission of Cook County concerns which of the two organizations has the right to bill Medicare under part B and other third-party insurers for the professional services of the hospital's full- and part-time salaried physicians.

The Association's authority to bill part B of Medicare in the names of its member physicians is derived from the assignment each physician makes at the time he applies for membership in the Association. (See app. III.)

In October 1971 the hospital's medical staff of 645 physicians (excluding residents and interns) consisted of 149 salaried physicians and 496 voluntary physicians. The Association membership as of that date consisted of 515 physicians--94 of the hospital's salaried physicians and 421 of its voluntary physicians.

The salaries of the physicians on the hospital's medical staff had been claimed by the hospital for reimbursement as a hospital cost under the hospital insurance (part A) portion of the Medicare program. The claim was based on the contention of the hospital administration and the medical staff that the salaried physicians were paid by the hospital for administrative, supervisory, and teaching (part A) services and not for direct patient-care (part B) services.

In October 1968 the Medicare intermediary for part A (Blue Cross) accepted this contention. Had the intermediary held that the salaries had been paid to the physicians for their patient care--as well as for their other duties--their compensation would have been apportioned between parts A and B of the program. Thus the part B payments would have been made to the hospital on the basis of the part of the physicians' salaries attributable to patient care rather than to the Association on the basis of the schedule of fees that was used.

On October 2, 1971, the Governing Commission adopted a resolution to the effect that as of December 1, 1970, the hospital's salaried physicians were being paid for administrative (part A) and patient-care (part B) duties. The resolution provided, in part:

"That all staff physicians at Cook County Hospital who are employed on a full-time salaried basis, so that their salaries cover patient care as well as administrative teaching, and/or research duties, are hereby deemed to be hospital-based physicians for purposes of the Commission seeking part B payments for Medicare."

"That part-time salaried physicians are also considered hospital-based if their prescribed duties include patient care ***."

On October 8, 1971, the Governing Commission advised Blue Shield of the foregoing resolution and asserted its right to control all billing processes at the hospital. The Governing Commission pointed out that its resolution did not affect the Association's billings for its members who were voluntary physicians at the hospital. The Governing Commission stated:

"The basic reason for this action is to avoid further conversion of public funds paid as salaries to physicians into revenues of a private corporation, however commendable its purposes. If 'Associated Physicians' does not carry as part of its cost structure appropriate shares of Physicians support, it is improper for their agency to bill full fees for services the Commission is paying the doctor to perform ***."

On the basis of the Association's prior Medicare billings, a significant part of its Medicare revenues could be affected by the Governing Commission's resolution. Our analysis of the payments to the Association by Blue Shield during the period January to November 1971 indicated that about 68 percent had been made in the names of salaried physicians at the hospital and that about 32 percent had been made on behalf of the voluntary staff.

An associate director of the Governing Commission advised us that the Governing Commission had taken similar action with regard to the Association's billings to private insurers for the professional services of the salaried physicians at the hospital.

On October 5, 1971, the Association wrote to Blue Shield to remind it that only the Association had been authorized to bill part B of Medicare on behalf of its member physicians. For a hospital to bill Medicare for part B services by a physician under SSA instructions, it is required to obtain the physician's authorization to do so.

In view of this dispute, SSA on October 22, 1971, advised Blue Shield that part B Medicare payments should not be made to either the Association or the Governing Commission until both parties could resolve their differences as to which was to be paid.

The administrator of the Association advised us in February 1972 that the Association was challenging the Governing Commission's claim to the part B Medicare payments and was attempting to negotiate a solution to the dispute with the Governing Commission.

CHAPTER 4

INFORMATION ON MEDICARE LAW AND

POSSIBLE EFFECT OF PROPOSED LEGISLATION

ON ASSOCIATION'S ACTIVITIES

Medicare law is silent regarding the precise method of paying for the services of supervisory and teaching physicians who work in a hospital. HEW and SSA, however, have issued various regulations and instructions on the subject. Generally these regulations and instructions have set forth the proposition that it is not the function of the Federal Government under the Medicare program to determine the arrangements which a hospital and its hospital-based physicians may enter for compensating the physicians but that the hospital and its physicians should be free to negotiate all aspects of their arrangements to their mutual satisfaction.

As previously discussed the part B Medicare payments made to the Association were for the professional services provided to Medicare patients at the hospital by physicians on the hospital medical staff who had authorized the Association to bill Blue Shield on their behalves and to use the money as the Association saw fit. We are aware of nothing in the Medicare regulations that would require the physicians or the Association to turn the part B payments over to the Governing Commission, unless the physicians agree to such an arrangement.

EFFECT OF PROPOSED LEGISLATION

On June 22, 1971, the House of Representatives passed House bill 1 (the Social Security Amendments of 1971) which, as of April 1972 was being considered in the Senate. Two provisions of this bill would restrict the Association's activities in billing Medicare for the services of its member physicians. The same provisions were included in the Senate's amended version of House bill 17550 (the Social Security Amendments of 1970), which was passed on December 29, 1970. House bill 17550 was not enacted into law, however, because the Ninety-first Congress adjourned before the

differences in the bills could be resolved by a House and Senate conference committee. A discussion of the provisions of House bill 1 follow.

Prohibition against the reassignment of claims

Under the present law payment for physicians' services (part B) under the Medicare program is made to (1) the beneficiary on the basis of an itemized bill or (2) the physician who provided the service on the basis of an assignment by the beneficiary to the physician of the beneficiary's right to reimbursement.

The present law is silent concerning the reassignment by physicians of their rights to receive payment for services furnished under part B of the Medicare program. Some physicians reassign their rights to receive payment to other organizations--such as the Association--which then submit the physicians' claims to such carriers as Blue Shield. The billing organizations receive the payments for such services directly. As pointed out in the report of the House Committee on Ways and Means on House bill 1 (H. Rept. 231, 92d Cong.), such reassignments have caused administrative difficulties in determining reasonable charges and in recovering overpayments.

According to the Committee's report, section 236 of House bill 1 is intended to overcome these difficulties by prohibiting payment under the program to anyone other than the patient, his physician, or another person who provided the service, unless the physician or other person is required, as a condition of his employment, to turn his fees over to his employer or unless the physician or other person has an arrangement with the facility in which the services were provided under which the facility bills for the services.

The Committee report on House bill 1 further states (1) that it is not the intent that the prohibition in section 236 should apply to payments to hospitals that are based on the reasonable cost of the services and (2) that section 236 would not preclude a physician or other person who provided the services and accepted an assignment from having the payment mailed to anyone or any organization he wishes but that the payment would be to him in his name.

The effect of the foregoing provision would be to prohibit Medicare carriers from making payments to the Association under blanket assignments from its member physicians.

New bases for paying services of supervisory and teaching physicians at the hospital

Section 227 of House bill 1 provides for reimbursing hospitals for supervisory and teaching physicians' services to "nonprivate" Medicare patients on a cost basis under part A of the Medicare program rather than on a fee-for-service basis under part B.

The proposed legislation provides also for paying for the services of unpaid voluntary medical staff for the actual time contributed at the equivalent salary rate of full-time salaried physicians. Such equivalent costs would be billed to Medicare by the organized medical staff of the hospital and would be paid to a fund designated by the organized medical staff, provided that the Secretary of Health, Education, and Welfare receives written assurance that (1) such payments would be used solely for the improvement of care of hospital patients or for educational or charitable purposes and (2) persons who were furnished with such services or any other persons would not be charged for such services.

In our opinion the effect of section 227 of House bill 1 would be to change the method of charging for physicians' services at Cook County Hospital from a fee-for-service basis to a cost basis for the salaried staff physicians and to an equivalent-cost basis for the voluntary staff physicians.

APPENDIX II

BEST DOCUMENT AVAILABLE

THE ASSOCIATED PHYSICIANS OF THE COOK COUNTY HOSPITAL
CHICAGO, ILLINOIS

STATEMENT OF EXPENDITURES FOR PATIENT-CARE AND HEALTH EDUCATION PROGRAMS
FOR THE FISCAL YEARS ENDED NOVEMBER 30, 1970 AND 1971

Program and expense categories	Fiscal years ended	
	11-30-70	11-30-71
SCHOLARSHIP AND EDUCATION:		
Martin Luther King, Jr., fellowships	\$ 20,819	\$ 65,442
HOUSE STAFF--COOK COUNTY HOSPITAL:		
Interns' and residents' group insurance	133,700	26,027 ^a
Interns' and residents' association:		
House staff secretary	7,097	9,036
Office expense and supplies	4,825	15,241
Equipment for hospital	836	
Association activities	180	
Salary supplement for secretary	83	
Books and journals	10	
	<u>146,731</u>	<u>50,304</u>
DEPARTMENT DEVELOPMENT--COOK COUNTY HOSPITAL:		
Books and journals	2,296	14,365
Attendance at scientific meetings	5,942	33,726
Postgraduate courses		4,766
Visiting lecturers	707	4,998
Slides, illustrations, and teaching aids	14,150	7,934
Professional dues	(25)	332
Equipment for hospital	32,364	1,627
Recruitment of hospital staff		97
Office expense and supplies		71
Examination fees		650
Sundry	94	487
	<u>55,528</u>	<u>69,053</u>
COOK COUNTY HOSPITAL DIRECTOR'S EMERGENCY FUND:		
Christmas party--1970		4,078
Equipment for hospital	12,714	
Hospital improvements	4,713	
Recruitment of hospital staff	123	152
Sundry	160	1,737
	<u>17,710</u>	<u>5,967</u>
SPECIAL APPROPRIATIONS--COOK COUNTY HOSPITAL:		
Record system for anesthesiology	3,185	
Rental of dual magnascanner for nuclear medicine	7,413	13,837
Administrative salary supplement, Division of Financial Controls	6,050	
Administrative assistants' salaries, Division of Medicine	15,278	27,300
Medical records library assistants' salaries	16,598	
Christmas party--1969	3,600	
Equipment for hospital	425	
Sundry	50	
Salary supplements for part-time administrative assistants, Division of Surgery		1,831
Administrative assistant's salary, Department of Anesthesiology		2,221
President's fund		482
Health-care seminars		972
25-year plaques		2,080
Legal fees		2,333
Maintenance of equipment		266
	<u>52,599</u>	<u>51,322</u>
Total	<u>\$293,387</u>	<u>\$242,088</u>

^aDiscontinued as of January 1971. (See p. 13.)

PURPOSES OF THE ASSOCIATED
PHYSICIANS OF THE COOK COUNTY HOSPITAL

According to section 1.1 of the restated bylaws of the Association, its general purposes are stated as follows:

"The purposes of the corporation as stated in its certificate of incorporation are to carry on and promote medical and scientific education and research; to educate and train doctors, nurses, technicians and other persons to the extent related or incident to modern hospital and medical care and services; to promote improved and expanded medical treatment and hospital facilities; to receive and promote the making of gifts, donations and bequests and devises of monies and properties of every kind and nature to, and for the use and benefit of, the corporation; to apply for, receive and acquire grants of assistance, property and services, of any kind, from any governmental or public agency; and to conduct all lawful activities incident to or desirable in connection with the foregoing purposes; provided, however that no part of the activities of the corporation shall be carrying on propaganda or other wise attempting to influence legislation."

The authority of the Association to bill in the names of its member physicians is derived from the assignment each physician makes at the time he applies for membership. The assignment, which may be revoked by written notice, provides as follows:

"The undersigned further hereby assigns, transfers and sets over to the Associated Physicians of the Cook County Hospital, for distribution for the benefit of medical and scientific education and research, and other purposes defined in the Articles of Incorporation, as determined by the Board of Directors of the Associated Physicians of the Cook County Hospital pursuant to the By-Laws of the Association, all of his right, title, and interest in and to

professional fees for professional services rendered to patients at the Cook County Hospital in the course of his responsibilities as a member of the Attending Staff of the Hospital; these are fees which may become payable to him (1) under the provisions of Title XVIII Part B and Title XIX of the Health Insurance for the Aged Act (P.L. 89-97, 1965); (2) third party reimbursements; and (3) direct payments. This assignment is conditional upon the agreement of the Associated Physicians of the Cook County Hospital to indemnify and save the undersigned harmless from any claim against the undersigned by or on behalf of the Internal Revenue Service, or other taxes on or with respect to professional fees covered by this assignment."

ROMAN C. PUCINSKI
11TH DISTRICT, ILLINOIS

CHAIRMAN:
GENERAL SUBCOMMITTEE
ON EDUCATION

COMMITTEES:
EDUCATION AND LABOR
VETERANS' AFFAIRS

Congress of the United States
House of Representatives
Washington, D.C. 20515

November 11, 1971

Mr. Elmer B. Staats
Comptroller General of the U.S.
General Accounting Office
Washington, D.C. 20548

Dear Mr. Staats:

I would be most grateful to you if you would give me a full report on the Federal monies given to the Associated Physicians of Cook County at the Cook County Hospital in Chicago, and the dispersal of these funds for the years 1970 and so far in 1971.

It is my understanding that some of these funds are being used to pay additional salaries to administrative assistants of doctors at County Hospital, even though the hospital governing board has overruled such additional positions.

I also understand Federal funds are being used to pay for lawyers' fees incurred in the association's legal dispute with the County Hospital.

It is also my understanding that some \$4000 of Federal funds have been spent for a Christmas party last year.

It is my intention to recommend that the administration of this fund be turned over to the Cook County Hospital Commission. I would be most grateful for any information you can give me as to whether or not such a recommendation comes within the provisions of the Social Security Act.

Your expeditious cooperation in this matter is greatly appreciated.

Sincerely yours,



Roman C. Pucinski
Member of Congress

RCP:rld