

# PROVIDER REIMBURSEMENT REVIEW BOARD HEARING DECISION

98-D44

**PROVIDER** -At Home Health, Inc.  
Oak Park, Illinois

**DATE OF HEARING-**  
January 31, 1997

Provider No. 14-7273

Cost Reporting Period Ended -  
March 31, 1994

**vs.**

**INTERMEDIARY** -  
Blue Cross and Blue Shield Association/  
Blue Cross and Blue Shield of Illinois

**CASE NO.** 96-0320

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ISSUE:

Was the Intermediary's adjustment reducing allowable owner's compensation correct?

STATEMENT OF THE CASE AND PROCEDURAL HISTORY:

At Home Health, Inc. ("Provider") is a home health agency ("HHA") located in Oak Park, Illinois. On its fiscal year ended ("FYE") March 31, 1994 cost report, the Provider claimed approximately \$159,000 in owners' compensation. Blue Cross and Blue Shield of Illinois d/b/a The Health Services Corporation ("Intermediary") disallowed a portion of the Provider's claimed owner's compensation. The Provider filed a timely appeal with the Provider Reimbursement Review Board ("Board") pursuant to 42 C.F.R. §§ 405.1835-.1841 and has met the jurisdictional requirements of those regulations. The Medicare reimbursement effect is approximately \$58,000.

The Provider is related to another HHA located in Merrillville, Indiana. Both the Provider and the related HHA are owned and operated by a husband and wife, who serve as its Executive Vice President/Chief Financial Officer and President/Chief Executive Officer, respectively. The owners claimed a total of \$243,460 in aggregate compensation for the two HHAs. The owner's compensation was assigned to the two HHAs based on time records.<sup>1</sup> The owners claimed an aggregate amount of approximately \$159,000 as the Provider.

The Intermediary conducted a reasonableness determination of the Provider owner's compensation. It relied on the compensation levels determined during a survey conducted by Dr. Randall B. Dunham ("Dunham Survey") in 1983, which they updated for inflation. It also compared the Dunham compensation level to compensation levels it derived from its own survey and those developed from a survey conducted by the National Association of Home Care ("NAHC"). The Dunham Survey yielded the highest compensation levels and the Intermediary used it to determine the reasonableness of the Provider's owners' compensation. The Intermediary allowed the Provider a total of \$159,700 for both HHAs. The Intermediary split up the allowable compensation using the Provider's time study and thus only allowed approximately \$97,000 in owners' compensation for the Provider out of the \$159,000 claimed.<sup>2</sup> The Intermediary adjustment resulted in a disallowance of approximately \$58,000.<sup>3</sup>

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<sup>1</sup> Tr. at 46-48.

<sup>2</sup> Provider Supplemental Position Paper at 4-5.

<sup>3</sup> Intermediary Position Paper at 4.

The Provider serves the following Illinois counties: Cook, Lake, McHenry and DuPage.<sup>4</sup> In FYE 1994, the Provider rendered 16,438 visits.<sup>5</sup>

The Provider was represented by Charles Mackelvie, Esquire, of Mackelvie and Associates. The Intermediary was represented by Bernard M. Talbert, Esquire, of the Blue Cross and Blue Shield Association.

#### PROVIDER'S CONTENTIONS:

The Provider contends that the Dunham Survey utilized by the Intermediary does not represent total compensation ranges paid to executives. The Provider indicates that it only reflects base salary paid and not benefits, which are 30 percent of salary. See Northside Home Health Care v. Blue Cross and Blue Shield Association/Health Care Service Corporation, PRRB Decision No. 79-D97, December 19, 1979, Medicare and Medicaid Guide (CCH) ¶ 30,413, declined rev. HCFA Administrator, February 14, 1980.<sup>6</sup> The Provider notes that the Dunham Survey was last updated in 1983 and has since been updated by the Intermediary using an inflation factor. The Provider argues that the Dunham Survey is outdated and should not be used. In addition, the Provider asserts that there are problems with using the Intermediary's survey conducted in 1992, or the NAHC data. The Provider indicates that a more recent 1990 Survey conducted by Dr. Dunham in four southern states should be used.<sup>7</sup> In the alternative, the Provider contends that the Intermediary should have used a higher inflation factor to adjust the 1983 Dunham Survey. The Provider suggests that the inflation factor for medical care and medical care service costs be used instead of the Consumer Price Index ("CPI") and Prospective Payment System ("PPS") factors.

The Provider notes that the manual instruction at HCFA Pub. 15-1 § 905.1 requires the Intermediary to obtain compensation data by surveying providers and to establish ranges of compensation for comparable institutions. The Provider indicates that the matter is not discretionary and that there have been no national or intermediary surveys in accordance with the methodology since 1974.<sup>8</sup> The Provider points out that the Secretary may proscribe "other appropriate means" to determine reasonable compensation, but has not done so by either regulation or manual instruction. 42 C.F.R. § 413.102(c)(2).

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<sup>4</sup> Provider Supplemental Position Paper at 4.

<sup>5</sup> Intermediary Position Paper at 3.

<sup>6</sup> Also see Tr. at 214 and Provider Exhibit 14.

<sup>7</sup> Provider Exhibit 14. The States include Kentucky, North and South Carolina and Tennessee.

<sup>8</sup> Tr. at 109-112.

The Provider points out that intermediaries differ in their methodologies and they can be erratic and unpredictable. According to the Provider, the Intermediary admitted that it does not follow HCFA Pub. 15-1 §§ 900 et seq.<sup>9</sup>

The Provider points to cases where local intermediaries have adopted methodologies that may not be applicable to their local areas, are not adjusted utilizing regional or local update factors, or, cannot produce data to support the appropriateness of the methodology they are using. See Comprehensive Home Health Care I, Inc. v. Sullivan, No. 99-9-CIV-7 (E.D.N.C. 1990), Medicare and Medicaid Guide (CCH) ¶ 38,915; Total Care, Inc. v. Blue Cross and Blue Shield Association/Blue Cross and Blue Shield of South Carolina, PRRB Case No. 91-D65, August 22, 1992, Medicare and Medicaid Guide (CCH) ¶ 39,588, declined rev. HCFA Administrator, October 8, 1991 (“Total Care”); Alexander’s Home Health Agency v. Blue Cross and Blue Shield Association/Blue Cross and Blue Shield of Mississippi, PRRB Case No. 88-D30, September 2, 1988, Medicare and Medicaid Guide (CCH) ¶ 37,439, aff’d HCFA Administrator, October 31, 1988, Medicare and Medicaid Guide (CCH) ¶ 37,504 (“Alexander’s”); El Paso Nurses Unlimited, Inc. v. Blue Cross and Blue Shield Association/Blue Cross and Blue Shield of Texas, PRRB Case No. 89-D2, November 3, 1988, Medicare and Medicaid Guide (CCH) ¶ 37,505, declined rev. HCFA Administrator, December 6, 1988 (“El Paso”); Stat Home Health Care, Inc. v. Blue Cross and Blue Shield Association/Blue Cross of California, PRRB Case No. 96-D7, January 30, 1996, Medicare and Medicaid Guide (CCH) ¶ 44,011, declined rev. HCFA Administrator, March 15, 1996; and Home Health Services of Greater Philadelphia v. Prudential Insurance Company, PRRB Case No. 88-D19, April 14, 1988, Medicare and Medicaid Guide (CCH) ¶ 37,077, declined rev. HCFA Administrator, May 27, 1988.

The Provider indicates that absent guidance from the Secretary, the Health Care Financing Administration (“HCFA”), or the Regional Office, the Intermediary has the burden of showing that its method was statistically valid and the source of its authority for ignoring the methodology in the general instructions. The Provider asserts that the Intermediary cannot produce either in the instant case.

The Provider claims that its owners received reasonable compensation in FYE 1994. The Provider notes that the Intermediary allowed the owners \$151,175 in FYE 1992. The Provider claims that the 1990 Dunham Survey adjusted for the Chicago market allows \$275,000 for FYE 1994 and that this does not include the 30 percent employee benefit package.<sup>10</sup> The lack of the benefit package in the earlier Dunham Survey has been recognized. See Harriet Holmes Health Care Services, Inc. v. Blue Cross and Blue Shield Association/Blue Cross and Blue Shield of Iowa, PRRB Case No. 88-D17, March 1, 1988, Medicare and Medicaid Guide (CCH) ¶ 37,026, declined rev. HCFA Administrator, April 15,

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<sup>9</sup> Tr. at 109-112 and 131.

<sup>10</sup> See Provider Post Hearing Brief at 18.

1988. The Provider asserts that using the Dunham study from 1990 and appropriately adjusting it for inflation and the Chicago market yields results that match the compensation paid the Provider's owners.

The Provider indicates that the use of the 1983 Dunham Survey violates the Medicare regulation and is not "other appropriate means" for determining compensation. The Provider indicates that the regulations require compensation be compared and contrasted with compensation paid other agencies of similar size and scope of services in the same geographical area. The Intermediary did not poll HHAs.<sup>11</sup> The 1983 Dunham Survey is not representative of the 1994 universe of HHAs. The Intermediary also indicated that it only reviewed 10 percent of the HHAs by W-2s.<sup>12</sup> The Provider also claims that the Intermediary failed to evaluate the owners duties and responsibilities and compare and contrast them with their peers.<sup>13</sup> The Provider indicates that their duties were greater and the Provider in general had less administrative staff than other HHAs. The Provider also indicates that the Intermediary did not recognize that the owners managed two HHAs. Other intermediaries have also recognized that quality and cost of services must be considered in determining compensation. See South Suburban Home Health Service, Inc. v. Blue Cross and Blue Shield Association/Blue Cross and Blue Shield of Iowa, PRRB Case No. 80-D1, January 2, 1980, Medicare and Medicaid Guide (CCH) ¶ 30,446, aff'd in part and rev'd in part HCFA Administrator, March 1, 1980, Medicare and Medicaid Guide (CCH) ¶ 30,471.

The Provider asserts that the Intermediary has refused to utilize the Dunham Survey as enacted, and use of undisclosed secret data violates the Medicare Act and regulation. The Provider notes that the regulations state that "[t]he intermediary must include in each notice appropriate reference to laws, regulations, HCFA Rulings, or program instructions to explain why the intermediary's determination of the amount of program reimbursement for the period differs from the amount the provider claimed." 42 C.F.R. § 405.1803(b) (emphasis added). The Intermediary has not produced sufficient explanation of either (1) the validity of the use of the emasculated version of the Dunham Survey or (2) its authorization for utilizing its method under the rules. By failing to support its actions it has violated Medicare law and regulations. Likewise, the Provider claims that the Intermediary has failed to comply with prehearing discovery because it did not produce the documentation despite the Provider's timely request.<sup>14</sup>

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<sup>11</sup> Tr. at 118-119.

<sup>12</sup> Tr. at 118-119.

<sup>13</sup> Tr. at 49 and 53.

<sup>14</sup> See Provider Exhibit 21 and HCFA Pub. 15-1 § 2924.2.

The Provider asserts that the Intermediary has no authority to unilaterally create limits on owners' compensation. HCFA Pub. 15-1 § 905.1 directs the Intermediary to: (1) identify compensation paid to individuals other than owners by comparable institutions in the same geographic area; (2) furnish this data to the HCFA regional office where it is to be consolidated with data obtained by other intermediaries to produce ranges of reasonable compensation to be used in the same area; and (3) apply a set of criteria based on the qualifications and responsibilities of the owner to determine his placement within the range. According to the Provider, both the Intermediary witness and counsel admitted that these rules were not followed.<sup>15</sup> The Provider maintains that the Intermediary did not have authority to adopt its own system and therefore cannot use the system it developed.

The Provider further asserts that the Intermediary did not prove that its owner's compensation was "substantially out of line" with that of other HHAs. See 42 C.F.R. § 413.9. The Intermediary relied upon a secret study which it has not produced. In the Intermediary's position paper, a 1991 and 1992 compensation survey was included.<sup>16</sup> There was a wide range of compensation from a low of \$26,000 to a high of \$405,000. It is not clear what compensation was included or whether any of the salaries were disallowed. The Provider asserts that the Intermediary has to prove that the compensation is out of line, and not merely above the median value. See Holy Cross Hospital v. Blue Cross and Blue Shield Association/New Mexico Blue Cross and Blue Shield, PRRB Case No. 92-D14, February 14, 1992, Medicare and Medicaid Guide (CCH) ¶ 40,066, aff'd HCFA Administrator, April 13, 1992, Medicare and Medicaid Guide (CCH) ¶ 40,421; Memorial Hospital/Adair County Health Center, Inc. v. Bowen, 639 F.Supp 434 (D.D.C. 1986), aff'd 829 F.2d 111 (D.C. Cir. 1987); and Alexander's, supra.

The Provider argues that the Intermediary's methodology was statistically invalid. The Intermediary did not show creditable amounts of data of other similar providers by name or with back-up information. In addition, the 1983 Dunham Survey did not have the 30 percent employee benefits added to it.<sup>17</sup> The Intermediary's method establishes a cap or maximum allowable compensation which is per se not authorized. The reliance on the NAHC data is also inappropriate because no ranges of compensation are given, only means. If one assumes that a reasonable range of values existed above those means, the high figure of that range could easily have included the amount paid to the Provider's owners. There is also no analysis of services, utilization, or other factors as required by the regulation. The 1983 Dunham data is obviously dated and the Intermediary has not shown that HHA costs inflated

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<sup>15</sup> Tr. at 112 and 131.

<sup>16</sup> Intermediary Exhibit 1.

<sup>17</sup> See Durham's testimony in prior Board Case at Provider Exhibit 15 at 15-19, p. 76.

at the rate they provided in their methodology. All of these problems lead to the conclusion that the Intermediary did not make a comparison with comparable providers.

The Board has previously rejected similar methodologies for determining owners' compensation. See Total Care, Inc., supra. In El Paso, supra, the Board did not permit the use of Denver regional data in Texas. In Stat Home Health Care, supra, the Board did not allow the Intermediary to limit owners' compensation without a proper survey. The Board should not permit it in the instant case.

#### INTERMEDIARY'S CONTENTIONS:

The Intermediary contends that compensation costs recognized by the Medicare program must be reasonable. 42 C.F.R. § 413.9. The regulations that specifically address owners' compensation indicate that compensation must be reasonable. § 413.103(b)(2). They state that "[r]easonableness requires that the compensation allowance: (i) be such an amount as would be paid for comparable institutions. (ii) depend upon the facts and circumstances of each case." Id. The program guidelines for reasonableness of owners' compensation are addressed in HCFA Pub. 15-1 § 904, and require that an owner's compensation be compared with the marketplace. The Intermediary notes that the comparison group would be the compensation levels paid by HHAs for administrative services. HCFA Pub. 15-1 § 905.1 outlines the procedures that intermediaries should follow to determine reasonableness of compensation. These procedures include conducting surveys and establishing ranges. The intermediaries are to use the ranges both for final settlement and setting interim rates. The Intermediary states that it has complied with these obligations in the instant case.

The Intermediary has for many years utilized the compensation ranges formulated by Dr. Randall Dunham in the Dunham Survey. These ranges have been updated annually by an inflation factor. The Intermediary also had conducted an independent survey of the freestanding Illinois HHA providers. In addition, the Intermediary reviewed the survey of freestanding HHAs conducted by NAHC. The Intermediary indicates that its survey and NAHC data support the ranges in the Dunham Survey. The Intermediary indicates that the owners' compensation claimed by the Provider is substantially out of line with the compensation found in the Dunham Survey.

The Intermediary indicates that its survey was conducted to ensure that compensation levels in the Dunham survey were not outdated. The Intermediary surveyed HHAs in the states of Illinois, Indiana and Ohio. Data was received on CEO's/administrator, COOs/assistant administrator, CFOs/controller and Directors of Nursing. The positions at issue in the instant case deal with the administrator and assistant administrator. The compensation levels have data on size of HHA, county, and wage ranges within the HHA. The Intermediary presented

data from metropolitan Chicago and all Illinois.<sup>18</sup> Data includes salary, bonus, and deferred compensation payments. As in the Dunham Survey, fringe benefits were excluded.

The NAHC Survey was performed in 1992 and provides information on compensation of home health executives by region, size and type of agency. Agencies are ranked by revenues. The Intermediary compared the Provider with the NAHC survey category of freestanding proprietary Illinois providers.

The three survey comparisons are presented below.<sup>19</sup>

	<u>Dunham</u>		<u>Intermediary</u>		<u>NAHC</u>	
	<u>1991</u>	<u>1992</u>	<u>1991</u>	<u>1992</u>	<u>1991</u>	<u>1992</u>
Admin.	77,789	80,910	71,570	78,483	58,813	72,647
Assit. Admin.	54,854	60,193	52,155	66,078	58,177	64,813
Total	132,733	141,103	123,725	144,561	116,990	
	137,460					

The Intermediary points out that the other surveys support the Dunham survey, and that the Dunham survey had the highest compensation levels. The Intermediary used the Dunham survey and granted a further adjustment for inflation. When comparing the compensation of the Provider's owners to the Dunham compensations, one finds the Provider substantially out of line.

The Intermediary indicates that it does not use a variety of erratic and confusing methodologies to determine HHA compensation. It has used the Dunham for some time and utilizes the other annual surveys to check on accuracy of the information. The Intermediary also points out that since 1981, the Dunham amounts have been fairly updated by an annual inflation factor equal to that used to update the payments of hospitals under PPS.

The Intermediary indicates that it has fulfilled its responsibility to determine reasonableness. It has obtained, by survey, a range of compensation for comparable institutions and applied these to the Provider in making the final settlement. See HCFA Pub. 15-1 §§ 902.7, 904 and 905.1. The Intermediary's adjustment should be affirmed.

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<sup>18</sup> See Intermediary Exhibit 1.

<sup>19</sup> See Intermediary Position Paper at 15.

CITATIONS OF LAWS, REGULATIONS AND PROGRAM INSTRUCTIONS:1. Laws - 42 U.S.C.:

§ 1395x(v)(1)(A) - Reasonable Cost

2. Regulations - 42 C.F.R.:

§ 405.1803(b) - Intermediary Determination and Notice of Amount of Program Reimbursement; Requirements for Intermediary Notices

§ 413.9 - Cost Related to Patient Care

§ 413.102 - Compensation of Owners

3. Program Instructions - Provider Reimbursement Manual, Part I (HCFA Pub. 15-1):

§ 900 et seq. - Compensation of Owners

§ 2924.2 - Prehearing Discovery

4. Cases:

Alexander's Home Health Agency v. Blue Cross and Blue Shield Association/Blue Cross and Blue Shield of Mississippi, PRRB Case No. 88-D30, September 2, 1988, Medicare and Medicaid Guide (CCH) ¶ 37,439, aff'd HCFA Administrator, October 31, 1988, Medicare and Medicaid Guide (CCH) ¶ 37,504.

Comprehensive Home Health Care I, Inc. v. Sullivan, No. 99-9-CIV-7 (E.D.N.C. 1990), Medicare and Medicaid Guide (CCH) ¶ 38,915.

El Paso Nurses Unlimited, Inc. v. Blue Cross and Blue Shield Association/Blue Cross and Blue Shield of Texas, PRRB Case No. 89-D2, November 3, 1988, Medicare and Medicaid Guide (CCH) ¶ 37,505, declined rev. HCFA Administrator, December 6, 1988.

Harriet Holmes Health Care Services, Inc. v Blue Cross and Blue Shield Association/Blue Cross and Blue Shield of Iowa, PRRB Case No. 88-D17, March 1, 1988, Medicare and Medicaid Guide (CCH) ¶ 37,026, declined rev. HCFA Administrator, April 15, 1988.

Holy Cross Hospital v. Blue Cross and Blue Shield Association/New Mexico Blue Cross and Blue Shield, PRRB Case No. 92-D14, February 14, 1992, Medicare and Medicaid Guide (CCH) ¶ 40,066, aff'd HCFA Administrator, April 13, 1992, Medicare and Medicaid Guide (CCH) ¶ 40,421.

Home Health Services of Greater Philadelphia v. Prudential Insurance Company, PRRB Case No. 88-D19, April 14, 1988, Medicare and Medicaid Guide (CCH) ¶ 37,077, declined rev. HCFA Administrator, May 27, 1988.

Memorial Hospital/Adair County Health Center, Inc. v. Bowen, 639 F.Supp 434 (D.D.C. 1986), aff'd 829 F.2d 111 (D.C.Cir. 1987).

Northside Home Health Care v. Blue Cross and Blue Shield Association/Health Care Service Corporation, PRRB Decision No. 79-D97, December 19, 1979, Medicare and Medicaid Guide (CCH) ¶ 30,413, declined rev. HCFA Administrator, February 14, 1980.

South Suburban Home Health Service, Inc. v. Blue Cross and Blue Shield Association/Blue Cross and Blue Shield of Iowa, PRRB Case No. 80-D1, January 2, 1980, Medicare and Medicaid Guide (CCH) ¶ 30,446, aff'd in part and rev'd in part HCFA Administrator, March 1, 1980, Medicare and Medicaid Guide (CCH) ¶ 30,471.

Stat Home Health Care, Inc. v. Blue Cross and Blue Shield Association/Blue Cross of California, PRRB Case No. 96-D7, January 30, 1996, Medicare and Medicaid Guide (CCH) ¶ 44,011, declined rev. HCFA Administrator, March 15, 1996

Total Care, Inc. v. Blue Cross and Blue Shield Association/Blue Cross and Blue Shield of South Carolina, PRRB Case No. 91-D65, August 22, 1992, Medicare and Medicaid Guide (CCH) ¶ 39,588, declined rev. HCFA Administrator, October 8, 1991.

Upper Peninsula Home Nursing v. Blue Cross and Blue Shield Association/Blue Cross and Blue Shield United of Wisconsin, PRRB Case No. 97-D28, January 30, 1997, Medicare and Medicaid Guide (CCH) ¶ 45,062, declined rev. HCFA Administrator, March 7, 1997.

#### FINDINGS OF FACT, CONCLUSIONS OF LAW AND DISCUSSION:

The Board, after consideration of the facts, parties' contentions, evidence presented, testimony elicited at the hearing, and post hearing brief, finds and concludes as follows:

The Board notes that the Intermediary has an obligation under the regulations and manual to develop information that can be used to evaluate the reasonableness of owners' compensation.

The Board finds four studies in the record to consider in reaching a decision on reasonable compensation. Three of those studies have significant flaws and cannot be used. One method, the 1983 Dunham Survey, though somewhat dated, provides a reasonable basis, when indexed for inflation, for determining owners' compensation. The Board notes that the Intermediary updated the Dunham Survey with an inflation factor but that the Provider claims that a higher inflation rate, either the inflation rate for medical care or medical care services, should be used. The Board did not find sufficient evidence that either of these higher inflation rates should be applied to HHA costs. Thus, the Board finds that the use of the 1983 Dunham Survey, updated with the inflation figures used by the Intermediary, was a valid method in determining reasonableness.

The Board notes that the HCFA Pub. 15-1 § 900 et seq. specifies guidelines for determining the reasonableness of owners' compensation. The Intermediary is required to obtain information on compensation paid by comparable institutions in the same geographic area. In assessing comparability, the Intermediary is to consider factors such as the duties and responsibilities of the owners, size and type of institution, and its geographic location. A range of compensation for positions at comparable institutions is to be established and used to determine reasonableness.

In the instant case, the Intermediary has relied upon the Dunham Survey performed in 1983, updated for inflation. The Board notes that it has previously found the surveys conducted by Dr. Dunham to be a reasonable method to develop comparable compensation rates. See Upper Peninsula Home Nursing v. Blue Cross and Blue Shield Association/Blue Cross and Blue Shield United of Wisconsin, PRRB Case No. 97-D28, January 30, 1997, Medicare and Medicaid Guide (CCH) ¶ 45,062, declined rev. HCFA Administrator, March 7, 1997 and Harriet Holmes, supra.

The Board finds that, in this particular case, the only data source that can be used is the 1983 Dunham Survey. All the other data sources proposed by the parties were insufficient to determine reasonableness of owner compensation and there was no adequate basis to substitute the inflation factor used by the Intermediary to update the Dunham Survey. The Board agrees with the Provider's contention that the Intermediary survey did not provide sufficient information to determine its value, and that neither the Intermediary's survey nor the NAHC data provide comparable salary "ranges." Therefore, the Board finds that neither the Intermediary survey, nor the NAHC data should be used to determine reasonableness of owner's compensation. The Board also has concerns with the use of the 1990 Dunham study from another geographic area. The Board did not find an adequate explanation in the record of how that study was adjusted so the information would be relevant to the geographic area in the instant case. The Board further notes that it did not find sufficient information in the record to support the Provider's contention that the inflation rate applicable to HHA costs matches that of medical care or medical care service.

The Intermediary is required to determine the reasonableness of owner's compensation. The Board finds that the 1983 Dunham Survey, adjusted for inflation, as used by the Intermediary, was adequate for determining the reasonableness of owner's compensation. The record did not contain any information that could be substituted for the 1983 Dunham Survey, or proof that the inflation factor used by the Intermediary to update it was incorrect.

DECISION AND ORDER:

The Intermediary's adjustment reducing owner's compensation was correct. The Intermediary's adjustment is affirmed.

Board Members Participating:

Irvin W. Kues  
James G. Sleep  
Henry C. Wessman, Esquire

Date of Decision: April 23, 1998

FOR THE BOARD:

Irvin W. Kues  
Chairman