

THOMAS P. DINAPOLI  
COMPTROLLER



110 STATE STREET  
ALBANY, NEW YORK 12236

STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

December 28, 2015

Mr. Jason O'Malley  
Director  
New York State Empire Plan  
Empire BlueCross BlueShield  
11 Corporate Woods Boulevard  
Albany, NY 12211

Re: Empire BlueCross BlueShield: Selected  
Payments for Special Items for the  
Period July 1, 2012 Through  
December 31, 2012  
Report 2015-F-22

Dear Mr. O'Malley:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of Empire BlueCross BlueShield to implement the recommendations contained in our audit report, *Empire BlueCross BlueShield: Selected Payments for Special Items for the Period July 1, 2012 Through December 31, 2012* (Report 2013-S-28).

**Background, Scope, and Objectives**

The New York State Health Insurance Program (NYSHIP) provides health insurance coverage to active and retired State, participating local government, and school district employees and their dependents. The Empire Plan (Plan) is the primary health benefits plan for NYSHIP. The Plan covers inpatient and outpatient hospital coverage, medical/surgical coverage, Centers of Excellence (for transplants, infertility, and cancer treatments), home care services, equipment and supplies, mental health and substance abuse services, and prescription drugs.

The New York State Department of Civil Service contracts with Empire BlueCross BlueShield (Empire) to administer the hospitalization portion of the Plan, which includes coverage for inpatient and outpatient services provided by hospitals, skilled nursing facilities, and hospice. Empire processes and pays Plan claims for hospital services in accordance with agreements Empire negotiates with member hospitals. Payments for hospital services are generally based on standard fee schedules that are negotiated between Empire and its member providers. Hospitals may be entitled to additional payments for special items (implants, drugs, and blood) that are

not covered by the standard fee schedules. Agreements with many of Empire's member hospitals limit the payments for special items. However, agreements with other hospitals do not have similar limitations. For the period July 1, 2012 through December 31, 2012, Empire paid over \$63 million for 39,993 claims for special items.

We issued our initial audit report on January 16, 2014. Our objective was to determine whether Empire paid claims for special items according to the provisions of the agreements between Empire and its member hospitals. We also sought to determine if payments for certain special items, in relation to the hospitals' actual purchase and acquisition costs, were reasonable. Our initial audit examined selected payments for special items made by Empire during the six-month period July 1, 2012 through December 31, 2012. Our audit found that Empire did not have adequate controls to ensure special items were paid according to contract provisions. As a result, Empire made a net overpayment of \$898,541 on 96 claims from hospitals that had contracts with Empire that limited the amounts that could be charged for special items. We made three recommendations to Empire to recover the overpayments we identified and implement certain controls to ensure that payments for special items are accurate and properly supported by appropriate documentation.

The objective of this follow-up review was to assess the extent of implementation, as of September 1, 2015, of the three recommendations included in our initial audit report.

### **Summary Conclusions and Status of Audit Recommendations**

Empire officials made considerable progress in implementing the recommendations we made in our initial audit report, which included recovering \$639,896 in overpayments. Of the initial report's three audit recommendations, one was implemented and two were partially implemented.

### **Follow-Up Observations**

#### **Recommendation 1**

*Recover the net overpayment of \$898,541 for the improperly paid claims.*

Status - Partially Implemented

Agency Action - Empire officials have taken significant steps to recover the overpayments from the hospitals for the improperly paid claims. As of September 1, 2015, Empire had recovered \$639,896 of the overpayments, and an additional \$16,609 was to be recovered. Subsequent to the completion of our initial audit, several hospitals provided Empire with additional documentation in support of the questioned claims. For many of these claims, Empire's review of this documentation resulted in a reduction of the overpayment amount.

We reviewed a sample of these claims and the additional documentation provided by hospitals and were satisfied with Empire's determinations.

### **Recommendation 2**

*Ensure that the future agreements with hospitals contain language which: specifies the basis of reimbursement for the purchase and acquisition (including transportation, handling and other processing costs) of special items; and requires hospitals to provide appropriate supporting documentation (including invoices for special items) upon request.*

Status - Partially Implemented

Agency Action - Empire officials have made significant progress ensuring that hospital agreements contain language that specifies the basis of reimbursement for the purchase and acquisition of special items and requires hospitals to provide appropriate supporting documentation. Empire officials stated that the new language is added to a hospital agreement when each contract comes up for renewal. Consequently, updating all hospital agreements is a gradual ongoing process.

As of August 2015, 109 hospital agreements contained the new language and Empire was negotiating with another three hospitals regarding the addition of the language. However, 35 hospital agreements did not yet contain the new language. Empire paid 23 of these 35 hospitals over \$27 million for special items during 2014.

### **Recommendation 3**

*Complete the development and implementation of internal controls (including the proposed computer-assisted techniques) to ensure that payments for special items are made according to hospital agreements and are supported by appropriate documentation.*

Status - Implemented

Agency Action - Empire officials have completed the development and implementation of internal controls that are designed to enhance their controls over special item payments. Specifically, Empire entered into agreements with two private companies to identify overpayments for special items. One agreement addresses reimbursements for drugs, and the other addresses reimbursements for implants. One company will review Empire's payments for drugs to ensure compliance with drug reimbursement provisions included in Empire's agreements with hospitals. The second company will identify payments for implants that were reimbursed above the average cost based on the service provided.

Major contributors to this report were Ed Durocher and Emily Proulx.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We thank management and staff of Empire BlueCross BlueShield for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

David Fleming  
Audit Manager

cc: Mr. David Boland, Department of Civil Service  
Mr. Ronald Kuiken, Department of Civil Service  
Mr. Jeffrey Stein, Department of Civil Service