



An Anthem Company

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September 20, 2017

Mr. David Fleming  
Audit Manager  
Office of the New York State Comptroller  
110 State Street  
Albany, NY 12236

Re: OSC Audit 2016-S-57

Dear Mr. Fleming:

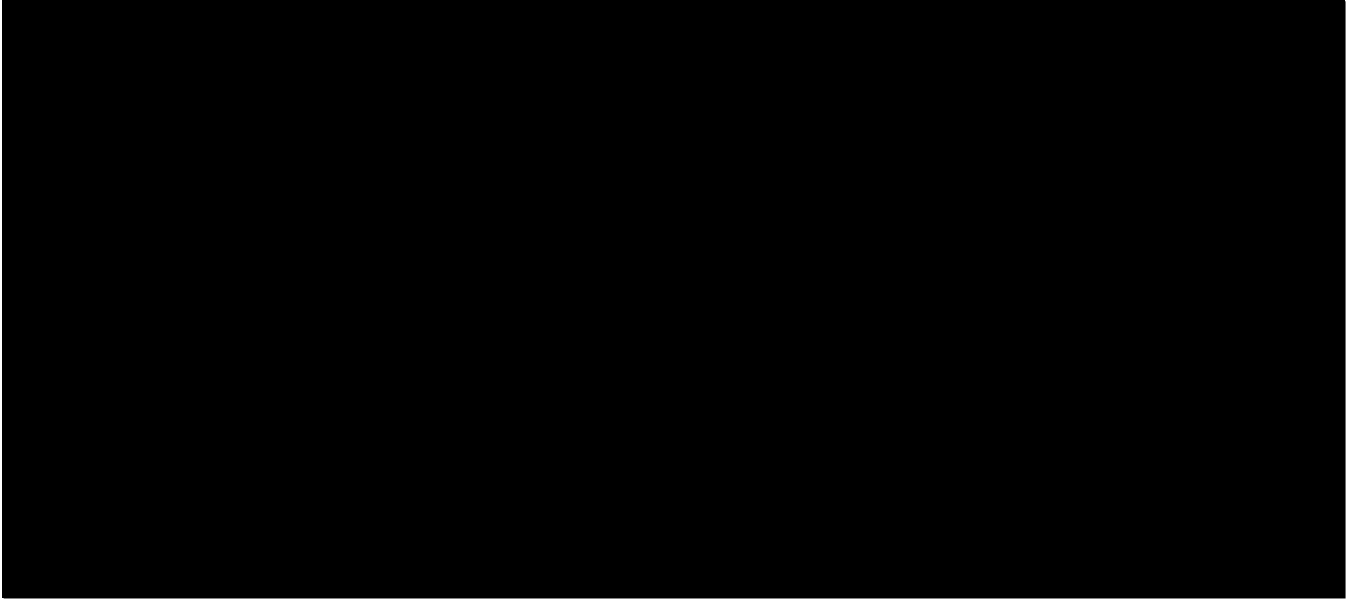
We have reviewed the information in the final report for Audit 2016-S-57 and appreciate the opportunity to respond to your recommendations. For the remainder of this response, we will refer to Empire BlueCross BlueShield as "Empire" and the New York State Office of the State Comptroller as "OSC".

*Recommendation #1: Enhance internal controls designed to ensure payments for special items are made in accordance with hospital contracts. Such efforts should include reviews of a greater number of hospitals and payments, and could incorporate statistical sampling (including extrapolation techniques) as well as risk-based approaches to better target high-risk payments.*

### Payment Controls for Implant

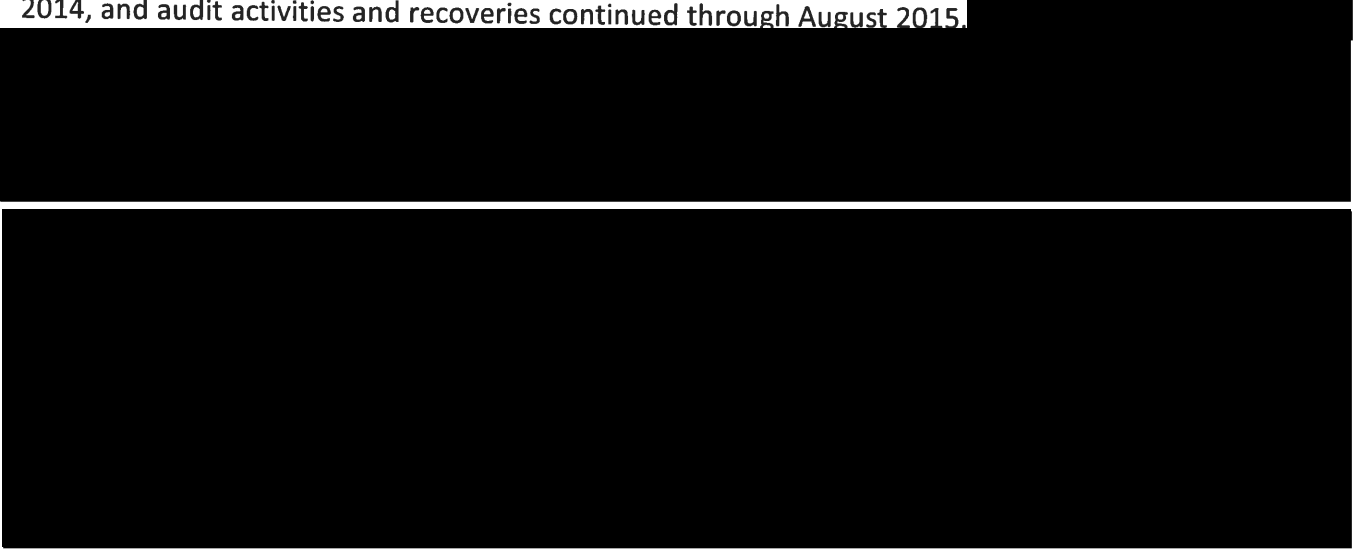
Empire has worked diligently and with good faith to enhance our controls over payments for special items and measure our success not only in the dollars we recover and, perhaps more importantly, when we see evidence of changes in billing patterns. This should be the ultimate goal of any audit. Initially, Empire performed implant audits in-house using internal resources; however, this function was transferred to Company A in 2012. In 2016, for several reasons, the business decision was made to conduct these audits internally on a go forward basis. As would be expected, this shift in responsibility resulted in a recalibration of our auditing processes and required the development of an initial strategy regarding the audit schedule and the associated hospitals which would be included in the initial audits.

The implant audits are now performed by Empire's Provider Audit Department [REDACTED] [REDACTED] Documentation supporting the hospital's cost for the implant is requested in accordance with facility contracts so that the amount reimbursed for the implant can be compared against the hospital's cost, thus ensuring compliance with the terms of the hospital agreement. [REDACTED] [REDACTED]



Any audit that is reliant upon the submission of detailed documentation, oftentimes several years' old, from hospitals or [redacted] hospital systems, is labor intensive, and hampered by delays in securing adequate documentation. Once all of the documentation is reviewed and the findings communicated to the hospital, there then can be a lengthy dialog between the two parties as findings are agreed to, disputed or otherwise resolved.

The final report noted that the 2016 recoveries from Empire's internal implant audit were small compared to the overpayments OSC identified in their audit of 2012 claims. The OSC audits of 2012 claims (2012-S-132 and 2013-S-28) began in September 2012. The final report was issued January 2014, and audit activities and recoveries continued through August 2015.



## Payment Controls for Drugs

Empire engages an outside vendor (Company B) to conduct High Cost Drug audits, which consist of a review of claims where a separate reimbursement for drugs was made. Company B utilizes proprietary software to analyze data in the aggregate and identify outliers. From that result, documentation is requested from the hospital to support a review of the identified outliers. [REDACTED]

[REDACTED] One of the components of this type of audit is a comparison of the drug reimbursement against the hospital's cost for the drug, which is also the focus of OSC audits. [REDACTED]

[REDACTED]

[REDACTED]

The chief focus of Empire's Program Integrity Team is to ensure proper payments are made to legitimate providers for reasonable services provided to eligible members. Their area of responsibility includes provider audits as well as data-mining to identify potential recoveries, claim edits and coordination of provider education.

The [REDACTED] separate and distinct processes described in this response all evaluate the billing and payment of special items, which has been OSC's primary audit focus since 2009. [REDACTED]

[REDACTED] Collectively, these processes along with the network of controls that fall under the purview of our Program Integrity Team give Empire a broad perspective on the billing patterns and reimbursement of special items and offers the hospitals a fair and comprehensive assessment of their performance based on not one, but a variety of controls.

*Recommendation #2: Continue efforts to ensure all hospital contracts include language that: defines and limits reimbursement for all special items, expands audit look-back periods, and requires hospitals to provide appropriate supporting documentation (including invoices) upon request.*

## Hospital Contracts

Empire continues to make this a priority in every hospital negotiation. Each hospital or hospital system negotiation has its own unique set of circumstances and priorities which makes each different and increasingly complex in an environment dominated by hospital mergers and acquisitions.

Over the last several years that OSC has maintained this recommendation, there have been discussions between our offices regarding the critical importance of Empire renewing agreements with key hospitals and hospital systems to avoid significant increases in spend for the Empire Plan that would be incurred by out-of-network expense. We balance this goal with the critical need to maintain the stability of our hospital network and attempt to execute on the strategy of having limiting language around reimbursement of special items in every hospital agreement. [REDACTED]

[REDACTED] In some cases, the ultimate necessity of keeping these hospitals in-network outweighs the importance of including this language in the contract.

In summary, the combination of controls outlined in this letter addresses every hospital that receives separate reimbursement for drugs or implants. Additionally, our ongoing efforts to define and limit reimbursement for special items, expand audit look-back periods and require hospitals to provide appropriate supporting documentation have given Empire the ability to audit and recover overpayments with minimal disruption to our hospital relationships. That, in turn, supports the extensive and robust hospital network that the Empire Plan requires.

We hope this response underscores Empire's ongoing commitment to The State of New York and the implementation of OSC's recommendations. We appreciate the partnership we have with your office and expect it to continue in the future.

Thank you for the courtesy extended throughout the audit process.

Sincerely,



Jason O'Malley  
Director, NYS Account  
Empire BlueCross BlueShield

Cc: Mr. David Boland, Department of Civil Service  
Mr. Ronald Kuiken, Department of Civil Service  
Mr. Jeffrey Stein, Department of Civil Service  
Ms. Ethel Graber, Empire BlueCross BlueShield  
Ms. Angela Blessing, Empire BlueCross BlueShield