



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

UnitedHealthcare: Overpayments for Out-of-Network Anesthesia Services Provided at In-Network Ambulatory Surgery Centers

New York State Health Insurance Program



Report 2017-S-35

August 2018

Executive Summary

Purpose

To determine whether UnitedHealthcare overpaid for out-of-network anesthesia services provided at Ambulatory Surgery Centers that were contractually required to use in-network anesthesia providers. The audit covered the five-year period January 1, 2012 through December 31, 2016.

Background

The New York State Health Insurance Program (NYSHIP), administered by the State Department of Civil Service (Civil Service), provides health insurance coverage to active and retired State, participating local government, and school district employees, as well as their dependents. The Empire Plan is the primary health benefits plan for NYSHIP. The Empire Plan provides its members with four types of health insurance coverage: medical/surgical, hospital, prescription drugs, and mental health and substance abuse. Civil Service contracts with UnitedHealthcare (United) to administer the medical/surgical portion of the Empire Plan. Medical/surgical benefits cover a range of services including, but not limited to: physician office visits, diagnostic testing, outpatient surgery, physical therapy, and home care services. United processes and pays claims from health care providers for services provided to Empire Plan members, and Civil Service reimburses United for the payments it makes.

United contracts with in-network (participating) health care providers who agree to accept payments, at rates established by United, to furnish medical/surgical services to Empire Plan members. Members may also choose to receive services from out-of-network (non-participating) providers. United's contracts with certain in-network Ambulatory Surgery Centers (ASCs) contain contract provisions that require all anesthesia services provided to Empire Plan members at their facilities to be performed by in-network providers. This acts to reduce Empire Plan costs because United's payments for services by in-network providers are generally lower than the rates United pays to out-of-network providers for the same services.

Key Findings

- We identified overpayments totaling \$991,357 that occurred because United paid for out-of-network anesthesia services provided at ASCs that were contractually required to use in-network anesthesia providers.

Key Recommendations

- Recover the \$991,357 in overpayments and refund Civil Service accordingly.
- Enhance controls designed to prevent as well as identify and recover improper payments for out-of-network anesthesia services provided at in-network ASCs, including instructing providers on the proper use and billing of out-of-network anesthesia services.

Other Related Audits/Reports of Interest

[UnitedHealthcare: Improper Payments for Medical Services Designated By Modifier Code 59 \(2013-S-82\)](#)

[Preventing Inappropriate and Excessive Costs in the New York State Health Insurance Program \(2016-D-1\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

August 13, 2018

Carl A. Mattson
Vice President, Empire Plan
UnitedHealthcare
13 Cornell Road
Latham, NY 12110

Dear Mr. Mattson:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of UnitedHealthcare entitled *Overpayments for Out-of-Network Anesthesia Services Provided at In-Network Ambulatory Surgery Centers*. The audit was performed 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.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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State Government Accountability Contact Information:

Audit Director: Andrea Inman

Phone: (518) 474-3271

Email: StateGovernmentAccountability@osc.ny.gov

Address:

Office of the State Comptroller
 Division of State Government Accountability
 110 State Street, 11th Floor
 Albany, NY 12236

This report is also available on our website at: www.osc.state.ny.us

Background

The New York State Health Insurance Program (NYSHIP) was established in 1957 under New York State Civil Service Law. NYSHIP is one of the nation's largest public sector health insurance programs, covering over 1.2 million active and retired State, participating local government, and school district employees, and their dependents. The New York State Department of Civil Service (Civil Service) administers NYSHIP.

The Empire Plan is the primary health benefits plan for NYSHIP. The Empire Plan provides its members with four types of health insurance coverage: medical/surgical, hospital, prescription drugs, and mental health and substance abuse. Civil Service contracts with UnitedHealthcare (United) to administer the medical/surgical portion of the Empire Plan. Medical/surgical benefits cover a range of services including, but not limited to: physician office visits, diagnostic testing, outpatient surgical procedures, physical therapy, home care services, and durable medical equipment. United processes and pays claims from health care providers for services provided to Empire Plan members. Civil Service reimburses United for all payments it makes under the Empire Plan.

United contracts with in-network (participating) providers who agree to accept payments, at rates established by United, to furnish medical/surgical services to Empire Plan members. Members pay a nominal co-payment to the in-network provider for the services rendered. Ambulatory Surgery Centers (ASCs) are health care facilities focused on providing same-day surgical care, including diagnostic and preventive procedures. United contracts with ASCs to provide these services to Empire Plan members at agreed upon rates. Certain ASCs have contract provisions that require all anesthesia services provided to Empire Plan members at their facilities to be performed by in-network anesthesia providers. This acts to reduce Empire Plan costs because United's payments for services provided by in-network providers are generally less than United's payments for services provided by out-of-network (non-participating) providers.

United's payments for anesthesia services are based on service codes and units of time (number of minutes administering anesthesia) reported on medical claims submitted by providers. Our audit focused on anesthesia services provided at ASCs from January 1, 2012 through December 31, 2016.

Audit Findings and Recommendations

Overpayments for Out-of-Network Anesthesia Services

For the audit period, we identified \$991,357 in overpayments for out-of-network anesthesia services that should have been performed by in-network anesthesia providers. Our review was as follows.

We analyzed United's claim payment data for 108 in-network ASCs for the period January 1, 2012 through December 31, 2016. We selected 42 ASCs that were paid more than \$1 million during the audit period. The 42 ASCs accounted for \$135.7 million of the \$157 million United paid to in-network ASCs. We then selected out-of-network anesthesia claims for patients who also had payments to one of the selected ASCs on the same day. We removed claims that paid secondary to another payer, and claims under \$500.

We identified \$2,205,338 in payments for out-of-network provider anesthesia services performed at ASCs that were contractually required to use in-network anesthesia providers. We selected seven ASCs that were each associated with out-of-network anesthesia services exceeding \$150,000. These out-of-network anesthesia services performed at the seven ASCs accounted for \$2,171,711 of the \$2,205,338 in payments.

To determine the overpaid portion of the \$2,171,711, we re-calculated United's payment based on the amount United would have paid if in-network anesthesia services had been used as required. We compared the re-calculated amount to the amount United paid for the out-of-network anesthesia services. We determined United overpaid \$991,357 for these out-of-network services during the period January 1, 2012 through December 31, 2016. The overpayments occurred because United paid for more costly out-of-network provider anesthesia services, instead of the lower-cost in-network provider anesthesia services the ASCs were contractually required to use.

When United processes claims submitted for anesthesia services performed at an ASC that is contractually required to use in-network anesthesia providers, it is with the understanding and belief that the anesthesia services were performed by in-network anesthesia providers. United monitors in-network ASCs' use of out-of-network anesthesia providers through monthly compliance reports. However, according to United officials, \$730,478 of our identified overpayments relate to an anesthesia provider who submitted claims with certain incorrect information. Consequently, these claims were not captured on United's compliance reports. United officials stated they have reached out to this provider to ensure proper billing practices going forward.

Two out-of-network anesthesia providers accounted for \$243,233 of the remaining overpayment of \$260,879 (\$991,357-\$730,478). The overpayments for these two providers occurred in 2012 and 2013, the first two years of our five-year audit period. United contracted with both anesthesia providers in 2013. Therefore, they were in-network providers and we did not identify any overpayments for these two anesthesia providers after the effective date of their contracts with United.

Recommendations

1. Recover the \$991,357 in overpayments and refund Civil Service accordingly.
2. Enhance controls designed to prevent as well as identify and recover improper payments for out-of-network anesthesia services provided at in-network ASCs, including instructing providers on the proper use and billing of out-of-network anesthesia services.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine whether United overpaid for out-of-network anesthesia services provided at ASCs that were contractually required to use in-network anesthesia providers. The audit covered the five-year period January 1, 2012 through December 31, 2016.

To accomplish our audit objective, and assess internal controls related to our audit objective, we interviewed United officials and reviewed United's out-of-network utilization reports. We also obtained and reviewed United's contracts with in-network ASCs. We analyzed United's paid claim data and identified out-of-network anesthesia services provided at in-network ASCs. We judgmentally selected 42 ASCs that were paid more than \$1 million during our audit period. We identified out-of-network anesthesia claims for patients who also had payments to one of the selected ASCs on the same day. We removed claims that paid secondary to another payer, and claims under \$500. We selected seven ASCs with associated out-of-network anesthesia services exceeding \$150,000. We calculated overpayments based on the difference between United's payments for the out-of-network provider anesthesia services and the amount United would have paid for in-network provider anesthesia services.

We conducted our 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed 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.

Reporting Requirements

We provided preliminary copies of the matters contained in this report to United officials for their review and comment. United officials generally agreed with our findings and conclusions. Their comments were considered in preparing this report.

Within 90 days of the final release of this report, we request that United officials report to the State Comptroller advising what steps were taken to implement the recommendations included in this report.

Contributors to This Report

Andrea Inman, Audit Director
David Fleming, Audit Manager
Cynthia Herubin, CIA, CGAP, Audit Supervisor
Laurie Burns, CFE, Examiner-In-Charge
Christi Martin, Senior Examiner

Division of State Government Accountability

Andrew A. SanFilippo, Executive Deputy Comptroller
518-474-4593, asanfilippo@osc.ny.gov

Tina Kim, Deputy Comptroller
518-473-3596, tkim@osc.ny.gov

Ken Shulman, Assistant Comptroller
518-473-0324, kshulman@osc.ny.gov

Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews, and evaluations of New York State and New York City taxpayer-financed programs.