

THOMAS P. DINAPOLI
COMPTROLLER



110 STATE STREET
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

February 25, 2020

Mr. Jason O'Malley
Regional Vice President, Sales
Empire BlueCross
11 Corporate Woods Boulevard
Albany, NY 12211

Re: Empire BlueCross BlueShield:
Controls Over Payments for
Special Items
Report 2019-F-39

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 to implement the recommendations contained in our audit report, *Empire BlueCross BlueShield: Controls Over Payments for Special Items* (Report [2016-S-57](#)).

Background, Scope, and Objective

The New York State Health Insurance Program (NYSHIP), administered by the Department of Civil Service (Civil Service), covers active and retired State, participating local government and school district employees, and their dependents. The Empire Plan is the primary health benefits plan for NYSHIP. Civil Service contracts with Empire BlueCross (Empire) to administer the hospital portion of the Empire Plan.

Empire processes claims for hospital services according to contracts it negotiates with member hospitals. Empire's contracts with member hospitals include rate schedules for the payment of inpatient and outpatient hospital services. Hospitals may be entitled to additional payments for special medical items (implants, drugs, and blood) that are not covered by fee schedules. Contracts with many of Empire's member hospitals limit payment amounts for special items; however, some contracts do not have such limitations.

We issued our initial audit report on June 22, 2017. The audit objectives were to determine if Empire: implemented sufficient controls over the identification and recovery of overpayments made to hospitals for special items; and took sufficient steps to minimize the State's risk of excessive payments resulting from contracts with hospitals that did not

include language that limits the reimbursement of special items. The audit covered the period January 1, 2013 through December 31, 2016. The original audit found that, as a result of Empire's new contracts with two vendors, Empire recovered overpayments totaling \$6,313,534 for special items. These actions represented a significant step in addressing the problems our office identified. However, we found Empire needed to further enhance its efforts by assessing more hospitals and incorporating risk assessment methodologies to better target high-risk payments. We also found Empire needed to ensure all hospital contracts: specified reimbursement limits for special items, expanded audit look-back periods, and required hospitals to provide certain supporting documentation upon request.

The objective of our follow-up was to assess the extent of implementation, as of November 15, 2019, of the two recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

Empire officials made significant progress in addressing the problems we identified in the original audit. In particular, Empire recovered \$11.5 million on behalf of the Empire Plan and implemented both of the report's audit recommendations.

Follow-Up Observations

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.

Status – Implemented

Agency Action – Empire has enhanced its internal controls to verify providers are billing appropriately and are reimbursed according to the terms of their facility contracts. Some enhancements include claim queries to identify non-implant items billed as implants and reviews of corresponding medical records to verify coding and documentation. Empire also reviews claims to confirm that facilities are reimbursed according to their contracts with Empire. These reviews focus on items such as type of service and diagnosis code, medical necessity, and high-dollar claims. Empire engages in additional processes to ensure proper payments to facilities, such as reviews of provider billing patterns, and educates providers on proper billing and coding practices.

As of October 2019, Empire recovered \$11.5 million on behalf of the Empire Plan through enhanced data mining and audit activities.

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.

Status – Implemented

Agency Action – Empire has made progress in ensuring hospital contracts include language to define and limit reimbursement for special items. As of July 2019, Empire had contracts with 162 hospitals, of which 15 did not contain limiting language for reimbursements of special items (reduced from 32 at the time of the original audit). The other 147 contracts contained limiting language for the additional reimbursement of special items. Further, the number of hospital contracts with expanded audit look-back periods increased, and standard contract language requires hospitals to provide supporting documentation upon request. At the end of our follow-up review, Empire was continuing its efforts to ensure all hospital contracts contained the language we recommended.

Major contributors to this report were Paul Alois, Laura Brown, Arnold Blanck, and Constance Walker.

We thank the management and staff of Empire for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Andrea Inman
Audit Director

cc: Mr. James DeWan, Department of Civil Service
Mr. Ronald Kuiken, Department of Civil Service
Mr. Leif Engstrom, Department of Civil Service
Mr. Daniel Yanulavich, Department of Civil Service
Ms. Dominique Choute, Department of Civil Service
Ms. Angela Blessing, Empire BlueCross
Ms. Janna Liberty, Empire BlueCross