

The New York State Department of Civil
Service
Temporary Holding Account Rebate Revenue
Final Audit Response
April 2020

Regarding:

Office of the State Comptroller
Final Audit Report

October 2019

CVS/caremark™

INTRODUCTION

Office of the State Comptroller performed an audit on behalf of The New York State Department of Civil Service (Civil Service), a client of CVS/caremark. Office of the State Comptroller was retained to determine the financial accuracy of rebates paid during the period of January 1, 2014 through December 31, 2018.

CVS/caremark has reviewed and researched the findings reported by Office of the State Comptroller to determine whether, in our view, there are outstanding financial liabilities owed to our client and/or opportunities for process improvement. Below is our response to the findings reported by Office of the State Comptroller.

FINDINGS

There was one (1) general finding within the Office of the State Comptroller report.

Office of the State Comptroller Finding 1: Temporary Holding Account Rebate Revenue

In January 2014, CVS Health created a temporary holding account (Account) for certain prescription drug claims to allow Empire Plan members access to uninterrupted prescription benefit coverage while their Medicare Part D enrollment was pending. The Account was designated as non-rebate-eligible and, therefore, Civil Service received no commercial rebates on the claims in the Account. CVS Health officials explained this was done to prevent claims from being counted twice between the commercial and Medicare D plans.

In two prior audits, *Accuracy of Drug Rebate Revenue Remitted to the Department of Civil Service* (audit report numbers 2018-S-50 and 2016-S-41), we determined Civil Service was due \$241,929 and \$160,834, respectively, in rebates for certain claims held in the Account. As a result of our audit work, effective January 1, 2019, the Account was reclassified as rebate-eligible, and now claims in the Account earn commercial rebates.

For the period January 1, 2014 through December 31, 2018, we identified \$428,958 in additional rebates owed to Civil Service for claims held in the Account. This additional rebate revenue was not included in our prior audits. CVS Health officials agree Civil Service is due these rebates.

We identified the additional rebate revenue as follows. We analyzed NYSHIP paid claims and Rebate Payment Detail Reports for drug manufacturers that were not reviewed in our prior audits and identified 2,213 rebate-eligible claims in the Account for 66 drug manufacturers that should have been invoiced for rebates. CVS Health officials agreed Civil Service is due \$198,045 in rebates for these claims.

We also calculated the rebates due to Civil Service for the manufacturers included in our two prior audits for claims outside of the original audit time period and for additional rebates due on some claims reported in our prior audits. CVS Health officials agreed Civil Service is due:

- \$147,723 in rebates for the six manufacturers reviewed in audit 2016-S- 41; and
- \$83,190 in rebates for the six manufacturers reviewed in audit 2018-S- 50.

Projected Additional Rebate Revenue

CVS Health officials indicated the non-rebate-eligible designation was removed from the Account effective January 1, 2019, ensuring rebate-eligible claims in the Account would be properly invoiced and the rebates remitted to Civil Service. We reviewed Rebate Payment Detail Reports, Rebated Claims Files, and Civil Service's bank statements and verified that rebates were invoiced and remitted to Civil Service for first quarter 2019 claims in the Account. Due to the corrective actions taken by CVS Health as a result of our audits, we project additional rebate revenue of \$1.27 million for the subsequent contract covering the period, January 1, 2019 through December 31, 2023.

Recommendations

- Remit \$428,958 to Civil Service for rebate-eligible claims in the temporary holding account that were not invoiced by CVS Health.
- Ensure all future rebate revenue attributable to rebate-eligible claims in the temporary holding account is properly remitted to Civil Service in a timely manner.

CVS/caremark Response

The temporary holding account was implemented in January 2014 to allow Medicare Part D beneficiaries to have uninterrupted prescription benefit coverage while enrollment into the Employer Group Waiver Plan (EGWP) was pending. Centers for Medicare and Medicaid Services (CMS) eligibility guidelines dictate that enrollment into the plan is not immediate, and enrollment must be received and accepted by CMS greater than twenty eight (28) days prior to the first day of the prospective month. As the New York State Health Insurance Plan transitioned PBM vendors to CVS/caremark effective January 1, 2014, there were approximately three hundred (300) members that were missing eligibility information from the previous vendor, and would not have active coverage without the creation of this account.

The account was set as non rebate eligible (NRE) as a preventive measure to avoid any rebate invoicing issues or double counting of claims. As such, CVS/caremark did not invoice manufacturers for these claims, since in some cases, claims would have been moved to the member's EGWP account and be invoiced once the member's Medicare Part D eligibility was accepted by CMS and the EGWP account was active. The NRE designation was removed for the current contract January 1, 2019 through December 31, 2023, and claims for this account are currently earning rebates as intended.

CVS/caremark researched the disputed temporary holding account claims and determined the following:

- **Prior Audits**
Eligible claims for several manufacturers were not invoiced for the time period of January 1, 2014 through December 31, 2018. Civil Service is due an additional \$404,686.01.
- **Current Audit**
The current audit included a review of manufacturers not included in the prior audits. CVS/caremark collaborated with the Office of the State Comptroller to identify an

additional two thousand two hundred (2,213) eligible claims that were not invoiced. Civil Service is due an additional \$198,044.54.

- **Outside Original Audit Scope**

Office of the State Comptroller requested that CVS/caremark revise their analyses from the prior audits to include claims through December 31, 2018. It was also determined the original calculations did not include price protection and administrative fees. The analyses were revised and Civil Service is due an additional \$230,912.81.

At the conclusion of the audit, Civil Service will be reimbursed \$428,957.35 for the current audit and claims outside of the original audit scope. Civil Service will be reimbursed \$404,686.01 for the prior audits once approval is received to close these periods.

It is our view that we are now in compliance with the contract and there are no additional financial discrepancies related to the finding.

SUMMARY

Based on CVS/caremark's review of the findings, Civil Service is due an additional \$428,957.35 for rebate eligible claims during the time period of January 1, 2014 through December 31, 2018. Civil Service will be reimbursed at the conclusion of the audit.

Civil Service will be reimbursed \$404,686.01 for the prior audits once approval is received to close these periods.

Upon confirmation from Civil Service that the results are accepted and the audit can be closed, a credit will be issued to your invoice in the amount of \$428,957.35. This payment represents a remittance for the previously stated findings pursuant to rebates reviewed by Office of the State Comptroller covering dates of service from January 1, 2014 through December 31, 2018. By closing the audit, Civil Service agrees that CVS/caremark has no further liability with respect to claims adjudicated by CVS/caremark, and related services, for the period from January 1, 2014 through December 31, 2018, and will not be subject to any further audits for the manufacturers included in the audit scope, for this time period by or on behalf of Civil Service.

State Comptroller's Comment: The Office of the State Comptroller (OSC) conducts independent audits pursuant to its constitutional and statutory authority. CVS/caremark cannot unilaterally restrict OSC's ability to audit.