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January 4, 2023

Timothy R. Hogues
Commissioner
Department of Civil Service
Empire State Plaza, Building 1
Albany, NY 12239

Cheryl A. Byron
Division Head, CVS/caremark
CVS Health
420 East Waterside Drive, Unit 2710
Chicago, IL 60601

Re: New York State Health Insurance
Program: Payments by CVS Health
for Pharmacy Services for Ineligible
Members
Report 2022-F-29

Dear Commissioner Hogues and Ms. Byron:

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 the Department of Civil Service and CVS Health to implement the recommendations contained in our audit report, *New York State Health Insurance Program: Payments by CVS Health for Pharmacy Services for Ineligible Members* (Report [2020-S-17](#)).

Background, Scope, and Objective

The New York State Health Insurance Program (NYSHIP), administered by the Department of Civil Service (Civil Service), provides health insurance coverage to over 1.2 million active and retired State, local government, and school district employees, and their dependents. The Empire Plan is the primary health insurance plan for NYSHIP, covering 1.1 million members. Civil Service contracts with CVS Health (CVS) to administer the Empire Plan's pharmacy benefits.

Civil Service maintains the New York Benefits Eligibility and Accounting System (NYBEAS), the system of record for member enrollment and eligibility information. Typically, organizations that participate in NYSHIP have health benefits administrators (HBAs) that process eligibility transactions in NYBEAS. Civil Service provides CVS with a daily update file of NYBEAS changes, and CVS has access to NYBEAS to confirm eligibility information. Timely and accurate member eligibility information is crucial to ensure members are disenrolled promptly and to prevent payment of ineligible claims on their behalf.

We issued our initial audit report on September 29, 2021. The audit objective was to determine whether CVS paid pharmacy claims for Empire Plan members who were not eligible. The audit covered the period January 1, 2014 through December 31, 2019. We determined overpayments of \$30,695,221 were paid on 132,051 claims for ineligible members due to data transfer issues between the NYBEAS and CVS systems and retroactive disenrollments of members. We also found Civil Service paid CVS \$170,359 in administrative fees for the 132,051 ineligible claims.

The objective of our follow-up was to assess the extent of implementation, as of November 21, 2022, of the six recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

Civil Service and CVS have made progress addressing the issues identified in the initial audit. While none of the \$30,695,221 in improper payments has been recovered, Civil Service and CVS are working to develop a procedure for the recovery of these and future improper payments. In addition, continued reconciliation of eligibility data files between the Civil Service and CVS eligibility systems helps to ensure claims are paid only for eligible members. Civil Service continues to provide training programs to remind HBAs of their responsibilities. Of the report's six recommendations, two were implemented, three were partially implemented, and one was no longer applicable.

Follow-Up Observations

To Civil Service and CVS:

Recommendation 1

Review the \$30,695,221 in improper payments to determine the cause of the error, identify responsibility, and recover payments as warranted.

Status – Partially Implemented

Agency Action – Both Civil Service and CVS are actively involved in reviewing the claims to determine an approach to recover any improper payments. Civil Service officials stated the actual recoverable amounts are complicated to calculate due to federal subsidies and manufacturer rebates associated with pharmacy claims. CVS officials assert that they bear no responsibility for the improper claim payments because payments were made in compliance with the contract using eligibility data provided by Civil Service. Civil Service and CVS are working to draft a letter to the parties identified by Civil Service and create a process to begin recovery of those payments.

Recommendation 2

Consider establishing formal guidelines with CVS Health that outline what constitutes reasonable efforts to recover overpayments that result from Civil Service errors per the Contract.

Status – Partially Implemented

Agency Action – As a result of our recommendation, Civil Service is working with CVS to institute a procedure to recover overpayments. CVS is working with a third-party vendor to develop that procedure, including accounting procedures for amounts recovered. According to Civil Service and CVS officials, the process is in the final stages, with

CVS and the third-party vendor meeting regularly to finalize the procedure for Civil Service's approval. Despite guidelines and procedures being developed, Civil Service has not established formal definitions of what constitutes a reasonable effort to recover overpayments that result from Civil Service errors.

Recommendation 3

Continue to perform periodic reconciliations, and establish or strengthen additional controls as needed, to prevent the payment of ineligible claims.

Status – Implemented

Agency Action – Civil Service and CVS continue to perform periodic reconciliations on the eligibility files. According to Civil Service officials, controls were refined in February 2022 to automatically provide Office of Information Technology Services (ITS) personnel, who assist in maintaining NYBEAS, with a report that indicates whether the daily update file was successfully sent from NYBEAS to CVS' system or not. This ensures that ITS personnel are alerted to unsuccessfully transmitted files so that corrections are made promptly, and the eligibility systems are as up to date and in sync as possible.

To Civil Service:

Recommendation 4

Continue to take steps to ensure HBAs are properly informed of their responsibilities (including the importance of timely and accurate coverage updates) and monitor whether HBAs are up to date on relevant training.

Status – Implemented

Agency Action – The Civil Service Employee Benefits Division continues to provide HBAs with a series of webinars throughout the year, which includes administrative and technical guidance, benefit rules overview, HBA responsibilities (including timeliness and accuracy of enrollment information), and available resources for HBAs. Civil Service maintains attendance records for these trainings.

To CVS:

Recommendation 5

Reimburse Civil Service for all claims incorrectly paid due to CVS Health's errors, and make a reasonable effort to recover the remaining overpayments.

Status – Partially Implemented

Agency Action – CVS officials maintain that they adjudicated claims in accordance with the contract using member eligibility data provided by Civil Service and bear no responsibility for the incorrectly paid claims identified in the original audit. However, CVS is working with Civil Service and a third-party vendor to develop a process to recover overpayments. Civil Service officials corroborated CVS' statement regarding the development of a recovery process. Civil Service did not provide evidence to refute the position that CVS is not responsible for the overpayments.

Recommendation 6

Reimburse Civil Service for the portion of the \$170,359 in administrative fees associated with ineligible claims paid due to CVS Health's errors.

Status – Not Applicable

Agency Action – CVS officials maintain that the improperly paid claims identified in the initial audit were adjudicated in compliance with the contract, and that neither the improper payments nor administrative fees associated with those payments were the result of CVS error. Civil Service did not provide evidence to contradict that position.

Major contributors to this report were Paul Alois, Laurie Burns, Gary Czosnykowski, and Kristen Garabedian.

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 the management and staff of Civil Service and CVS for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Andrea Inman
Audit Director

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