

Department of Civil Service

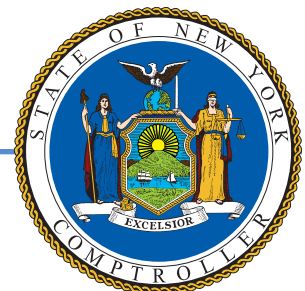
New York State Health Insurance Program: Incorrect Payments by CVS Caremark for Medicare Rx Drug Claims That Were Improperly Paid Under the Commercial Plan

Report 2022-S-24 | September 2023

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability



Audit Highlights

Objective

To determine whether CVS Caremark paid claims under the correct prescription drug plan. The audit covered the period January 2015 through March 2022.

About the Program

The New York State Health Insurance Program (NYSHIP), administered by the Department of Civil Service (Civil Service), is one of the nation's largest public sector health insurance programs. NYSHIP covers over 1.2 million 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, serving about 1.1 million members.

Civil Service contracts with CaremarkPCS Health, L.L.C. (CVS Caremark) to administer the prescription drug program for the Empire Plan. This program includes the Empire Plan Medicare Rx drug plan (Medicare Rx Plan) for retired members and their dependents who have Medicare, and a Commercial Plan for members and their dependents who do not have Medicare. Claims paid under the Medicare Rx Plan are eligible for enhanced drug manufacturer discounts and federal subsidies that are not available for claims paid under the Commercial Plan. Accordingly, ensuring that claims for Medicare-enrolled individuals are paid under the Medicare Rx Plan allows for a significant cost avoidance for the State.

CVS Caremark communicates with the Centers for Medicare & Medicaid Services (CMS) to ensure Medicare enrollment information is accurate so claims are paid under the correct plan (Medicare Rx or Commercial). CVS Caremark also relies on information from Civil Service's health insurance enrollment system to determine which plan should pay member claims.

Key Findings

For the audit period, we identified claims totaling \$12,358,531 that were incorrectly paid under the Commercial Plan instead of the Medicare Rx Plan. We found the misprocessing of claims was largely due to data transfer issues between Civil Service, CVS Caremark, and CMS. During the audit period, Civil Service and CVS Caremark were able to identify the issue and develop a process to reconcile the data in their respective systems to reduce the risk of processing and paying claims under the incorrect plan.

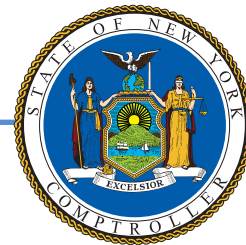
Key Recommendations

To Civil Service and CVS Caremark:

- Review the \$12,358,531 in claims identified in this report as incorrectly paid under the Commercial Plan to determine which claims to reprocess under the Medicare Rx Plan.
- Consider and evaluate additional controls, as needed, to prevent the processing and payment of claims under the incorrect plan and continue to perform periodic reconciliations.

To CVS Caremark:

- Reprocess under the Medicare Rx Plan those claims that were identified as incorrectly paid under the Commercial Plan, as warranted.



**Office of the New York State Comptroller
Division of State Government Accountability**

September 13, 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 E. Waterside Drive, Unit 2710
Chicago, IL 60601

Dear Commissioner Hogues and Ms. Byron:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the 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 the New York State Health Insurance Program entitled *Incorrect Payments by CVS Caremark for Medicare Rx Drug Claims That Were Improperly Paid Under the Commercial Plan*. 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,

Division of State Government Accountability

Contents

- Glossary of Terms** 4
- Background** 5
- Audit Findings and Recommendations** 6
 - Data Transfer Issues 6
 - Reprocessing of Improperly Paid Claims 7
 - Recommendations 7
- Audit Scope, Objective, and Methodology** 8
- Statutory Requirements** 9
 - Authority 9
 - Reporting Requirements 9
- Agency Comments - Department of Civil Service** 10
- Agency Comments and State Comptroller’s Comment - CVS Caremark** 12
- Contributors to Report** 17

Glossary of Terms

| Term | Description | Identifier |
|------------------|--|-------------------|
| Civil Service | Department of Civil Service | <i>Auditee</i> |
| CVS Caremark | CaremarkPCS Health, L.L.C. | <i>Auditee</i> |
| | | |
| CMS | Centers for Medicare & Medicaid Services | <i>Agency</i> |
| Commercial Plan | Empire Plan coverage provided for members who do not qualify to have Medicare as their primary health insurance coverage | <i>Key Term</i> |
| Empire Plan | Primary health benefits plan for NYSHIP | <i>Key Term</i> |
| Medicare Rx Plan | Empire Plan coverage provided for members who qualify to have Medicare as their primary health insurance coverage | <i>Key Term</i> |
| NYBEAS | New York Benefits Eligibility and Accounting System | <i>System</i> |
| NYSHIP | New York State Health Insurance Program | <i>Program</i> |
| Reply Code | Transaction Reply Code | <i>Key Term</i> |

Background

The New York State Health Insurance Program (NYSHIP), administered by the Department of Civil Service (Civil Service), is one of the nation's largest public sector health insurance programs. NYSHIP covers over 1.2 million active and retired State, participating local government, and school district employees, and their dependents. The Empire Plan is the primary health insurance plan for NYSHIP, serving about 1.1 million members. The Empire Plan provides its members with four types of health insurance coverage: prescription drug, medical/surgical, mental health and substance use, and hospital coverage.

Civil Service contracts with CaremarkPCS Health, L.L.C. (CVS Caremark) to administer the prescription drug program for the Empire Plan. This program includes a Commercial Plan for members and their dependents who do not qualify for Medicare, and the Empire Plan Medicare Rx drug plan (Medicare Rx Plan) for retired members and their dependents who do qualify for Medicare. The Medicare Rx Plan is a Medicare Part D prescription drug plan with supplemental wrap coverage designed to mirror the benefits and drug coverage under the Commercial Plan. Typically, the Medicare Rx Plan receives additional payments on drug claims such as federal subsidies and enhanced drug manufacturer discounts that the Commercial Plan is not entitled to. These payments represent a significant portion of the overall cost of the Medicare Rx Plan, generally leaving the Medicare Rx Plan responsible for a lesser amount of the cost and reducing the overall cost to the State. Therefore, it is important to maintain accurate enrollment data to ensure member claims are paid under the appropriate plan.

Civil Service, CVS Caremark, and the Centers for Medicare & Medicaid Services (CMS) all have roles in ensuring accurate enrollment data as members transition between coverage under the Commercial and Medicare Rx Plans. CVS Caremark relies on information generated by the New York Benefits Eligibility and Accounting System (NYBEAS), the State's online health insurance enrollment system, to determine which plan (Commercial or Medicare Rx) should pay member claims. Civil Service is responsible for maintaining NYBEAS and promptly certifying each member's eligibility status to CVS Caremark and providing CVS Caremark with a daily update file of NYBEAS changes. CVS Caremark also has access to NYBEAS to confirm eligibility information.

During the audit period, January 2015 through March 2022, CVS Caremark processed over \$20 billion in total pharmacy claims on behalf of all Empire Plan members.

Audit Findings and Recommendations

For the audit period, January 2015 through March 2022, we identified \$12.36 million in claims for Medicare-qualified members and their Medicare-qualified dependents that were incorrectly paid under the Commercial Plan instead of the Medicare Rx Plan. These incorrect payments were primarily due to data transfer issues between Civil Service and CVS Caremark. A coordinated and cooperative effort is required by Civil Service, CVS Caremark, and CMS to ensure that member Medicare enrollment information is accurate so that prescription drug benefits are paid under the correct plan.

Data Transfer Issues

Accurate enrollment information is required to ensure a smooth transition between coverage under the Commercial and Medicare Rx Plans. CVS Caremark requests member enrollment information from CMS, which provides the enrollment status information via Transaction Reply Codes (reply codes). CVS Caremark updates its claims payment system, as warranted, and sends the reply codes to Civil Service, which then requests that CVS Caremark disenroll the Medicare-qualified members from the Commercial Plan. A breakdown in these transactions can increase the risk that claims will be processed and paid under the incorrect plan.

We identified 27,803 claims totaling \$12.36 million that were incorrectly paid under the Commercial Plan on behalf of 359 Medicare-qualified members and dependents. Civil Service officials indicated that a series of data transfer issues between Civil Service and CVS Caremark surrounding the processing of reply codes resulted in delays to Commercial Plan disenrollment.

In 2019, Civil Service and CVS Caremark began performing periodic reconciliations to detect inconsistencies in member data between NYBEAS and CVS Caremark's claims processing systems. The following table illustrates the impact of the systems' reconciliation process. The amount paid for claims processed under the incorrect plan, during the audit period, dropped from a high of \$4,333,602 (7,769 claims) in 2018, before this process was in place, to \$210,228 (304 claims) in 2020, the first full year the process was used. The reconciliation process detected discrepancies between NYBEAS and CVS Caremark's systems in 320 (89%) of the 359 members identified in this audit.

Distribution of Incorrectly Paid Claims for the Audit Period by Year

| Year | Number of Claims | Amount Paid Under Incorrect Plan |
|---------------|------------------|----------------------------------|
| 2015 | 1,981 | \$600,428 |
| 2016 | 5,340 | 1,753,206 |
| 2017 | 8,545 | 3,115,355 |
| 2018 | 7,769 | 4,333,602 |
| 2019 | 3,415 | 2,106,323 |
| 2020 | 304 | 210,228 |
| 2021 | 385 | 183,968 |
| 2022* | 64 | 55,421 |
| Totals | 27,803 | \$12,358,531 |

*January through March

According to Civil Service and CVS Caremark officials, as of January 2020, Civil Service provides CVS Caremark with daily correction reports. These reports identify member eligibility record changes made on the nightly file to ensure that NYBEAS and the CVS Caremark eligibility systems are in sync.

Reprocessing of Improperly Paid Claims

Civil Service officials indicated claims paid under the incorrect plan can be reprocessed by CVS Caremark within certain time frames. In their response to our preliminary report, CVS Caremark officials stated they paid claims in accordance with eligibility information supplied by Civil Service. However, they are prepared to reprocess any claims incorrectly paid under the Commercial Plan provided Civil Service furnishes the information required. We recommend all claims identified in this report be reviewed and reprocessed, as warranted, to maximize cost savings to the State.

Recommendations

To Civil Service and CVS Caremark:

1. Review the \$12,358,531 in claims identified in this report as incorrectly paid under the Commercial Plan to determine which claims to reprocess under the Medicare Rx Plan.
2. Consider and evaluate additional controls, as needed, to prevent the processing and payment of claims under the incorrect plan and continue to perform periodic reconciliations.

To CVS Caremark:

3. Reprocess under the Medicare Rx Plan those claims that were identified as incorrectly paid under the Commercial Plan, as warranted.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine whether CVS Caremark paid claims under the correct prescription drug plan. The audit covered the period January 2015 through March 2022.

To accomplish our objective and assess related internal controls, we reviewed coverage rules for the Commercial and Medicare Rx Plans and interviewed officials from Civil Service and CVS Caremark. We analyzed pharmacy claims for the audit period and compared the dates of service to the member's eligibility record in NYBEAS. We considered any Commercial Plan payments made for a member while eligibility records reflected active Medicare Rx Plan coverage to be paid under the incorrect plan. We believe the data used are sufficiently reliable for the purposes of this audit.

To select claims for review, we matched pharmacy claims data to eligibility data extracts. We then compared dates of service and plan coverage codes on the claim to the member's eligibility information. For claims that appeared to have been paid under the incorrect plan, we totaled the claims per person and selected only the claims for individuals who had at least \$7,000 in what appeared to be claims paid under the incorrect plan in a year; this resulted in 827 members being selected for further review. Because we selected a judgmental sample, the results cannot be projected to the population.

Statutory Requirements

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.

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. These duties could be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our professional judgment, these duties do not affect our ability to conduct this independent performance audit of Civil Service's oversight and administration of CVS Caremark's payments for pharmacy services.

Reporting Requirements

We provided a draft copy of this report to Civil Service and CVS Caremark officials for their review and formal comment. We considered Civil Service's and CVS Caremark's comments in preparing this final report and have included them in their entirety at the end of it. In their responses, Civil Service and CVS Caremark officials concurred with the audit recommendations and indicated that actions have been and will be taken to address them.

Within 180 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Civil Service shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Agency Comments - Department of Civil Service



Department of
Civil Service

KATHY HOCHUL
Governor

TIMOTHY R. HOGUES
Commissioner

August 24, 2023

Andrea Inman
Audit Director
Office of the State Comptroller
110 State Street – 11th Floor
Albany, NY 12236-0001

Re: Draft Audit Report 2021-S-24, Issued July 27, 2023

Dear Ms. Inman:

Thank you for sharing the draft report and findings for OSC's 2022-S-24 audit titled New York State Health Insurance Program: Incorrect Payments by CVS Caremark for Medicare Rx Drug Claims That were Improperly Paid Under the Commercial Plan and for providing the claims data from your findings.

As noted in the report, the Department has worked diligently since 2019 to address the issues associated with the findings and we are pleased OSC found a dramatic improvement resulted from those efforts.

Regarding Recommendation 1, the Department agrees. During the audit, Department staff reviewed a large portion of the identified claims and agreed that nearly all of them needed to be reprocessed. Once the report is issued, the Department will work with CVS to ensure the eligible claims are reprocessed under the Medicare Rx Plan, as warranted.

Regarding Recommendation 2, the Department agrees. The Department consistently looks for more effective ways to reduce the risks associated with enrollment data transfers. The Department shares daily correction reports with CVS while the monthly Commercial Plan enrollment reconciliations and the quarterly Medicare Rx Plan reconciliations will continue.

Thank you again for the opportunity to provide feedback on this draft report.

Sincerely,

Daniel Yanulavich, Director
Employee Benefits Division

Empire State Plaza, Agency Building 1, Albany, NY 12239 | www.cs.ny.gov

cc: Rebecca Corso
Jian Paolucci
Paul Alois
Laurie Burns
Gary Czosnyowski
Kristen Garabedian
Leif Engstrom

Empire State Plaza, Agency Building 1, Albany, NY 12239 | 518-457-2487 | www.cs.ny.gov

The New York State Department of
Civil Service
Claims Audit Response
Dated August 2023

Regarding:

Office of the State Comptroller
Draft Audit Report

Dated July, 2023



©2023 CVS Caremark. All rights reserved. This document contains confidential and proprietary information CVS Caremark and cannot be reproduced, distributed or printed without written permission CVS Caremark.

INTRODUCTION

Office of the State Comptroller (OSC) performed an audit of The New York State Department of Civil Service (Civil Service), a client of CVS Caremark®. Office of the State Comptroller's objective was to determine the financial accuracy of claims paid during the period of January 2015 through March 2022.

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.

OSC Finding 1: Data Transfer Issues

Accurate enrollment information is required to ensure a smooth transition between coverage under the Commercial and Medicare Rx Plans. CVS Caremark requests member enrollment information from CMS, which provides the enrollment status information via Transaction Reply Codes (reply codes). CVS Caremark updates its claims payment system, as warranted, and sends the reply codes to Civil Service, which then requests that CVS Caremark disenroll the Medicare-qualified members from the Commercial Plan. A breakdown in these transactions can increase the risk that claims will be processed and paid under the incorrect plan.

We identified 27,803 claims totaling \$12.36 million that were incorrectly paid under the Commercial Plan on behalf of 359 Medicare-qualified members and dependents. Civil Service officials indicated that a series of data transfer issues between Civil Service and CVS Caremark surrounding the processing of reply codes resulted in delays to Commercial Plan disenrollment.

In 2019, Civil Service and CVS Caremark began performing periodic reconciliations to detect inconsistencies in member data between NYBEAS and CVS Caremark's claims processing systems. The following table illustrates the impact of the systems' reconciliation process. The amount paid for claims processed under the incorrect plan, during the audit period, dropped from a high of \$4,333,602 (7,769 claims) in 2018, before this process was in place, to \$210,228 (304 claims) in 2020, the first full year the process was used. The reconciliation process detected discrepancies between NYBEAS and CVS Caremark's systems in 320 (89%) of the 359 members identified in this audit.

| Year | Number of Claims | Amount Paid Under Incorrect Plan |
|---------------|------------------|----------------------------------|
| 2015 | 1,981 | \$600,428 |
| 2016 | 5,340 | 1,753,206 |
| 2017 | 8,545 | 3,115,355 |
| 2018 | 7,769 | 4,333,602 |
| 2019 | 3,415 | 2,106,323 |
| 2020 | 304 | 210,228 |
| 2021 | 385 | 183,968 |
| 2022* | 64 | 55,421 |
| Totals | 27,803 | \$12,358,531 |

*January through March

According to Civil Service and CVS Caremark officials, as of January 2020, Civil Services provides CVS Caremark with daily correction reports. These reports identify member eligibility record changes made on the nightly file to ensure that NYBEAS and the CVS Caremark eligibility systems are in sync.

Reprocessing of Improperly Paid Claims

Civil Service officials indicated claims paid under the incorrect plan can be reprocessed by CVS Caremark within certain time frames. In their response to our preliminary report, CVS Caremark officials stated they paid claims in accordance with eligibility information supplied by Civil Service. However, they are prepared to reprocess any claims incorrectly paid under the Commercial Plan provided Civil Service furnishes the information required. We recommend all claims identified in this report be reviewed and reprocessed, as warranted, to maximize cost savings to the State.

Recommendations

To Civil Service and CVS Caremark:

1. Review the \$12,358,531 in claims identified in this report as incorrectly paid under the Commercial Plan to determine which claims to reprocess under the Medicare Rx Plan.
2. Consider and evaluate additional controls, as needed, to prevent the processing and payment of claims under the incorrect plan and continue to perform periodic reconciliations.

To CVS Caremark:

3. Reprocess under the Medicare Rx Plan those claims that were identified as incorrectly paid under the Commercial Plan, as warranted.

©2023 CVS Caremark. All rights reserved. This document contains confidential and proprietary information CVS Caremark and cannot be reproduced, distributed or printed without written permission CVS Caremark.

CVS Caremark Response:

CVS Caremark reviewed the finding in relation to data transfer issues, accounting for \$12.36 million paid under the Commercial Plan on behalf of Medicare-qualified members and dependents, identified by the auditor.

When CVS Caremark receives enrollment information from the Centers for Medicare and Medicaid Services (CMS), those details are then submitted to the State via a Feedback File (FBF) which includes Transaction Reply Codes (TRCs). After receipt of that reporting, it is the State's responsibility to request any applicable disenrollment from the Commercial line of business for those Medicare-primary members. To assist in review of the Feedback Files, a legend is generated and made available to the client on the Employer Group Waiver Plan (EGWP) side. This legend provides breakdown of TRC codes, including a description definition and definition of each code referenced. Any updates resulting in new versions of this legend are shared with the client, with the most current version provided to our Civil Service partners effective 2016.

In addition to Feedback Files, Summary Load Reports (SLRs) are also sent to the client on a regular basis and reflect the status of each member record. During the course of the audit, OSC submitted to CVS Caremark sample claims where the State indicated that confirmation of enrollment was not provided from CVS Caremark, and therefore termination of Commercial benefits was not submitted. After review, CVS Caremark was able to provide the FBF name and corresponding TRC code submitted for a majority of the sample members indicated. For those members where FBF name was not readily available in the archives, CVS Caremark was able to confirm member status was provided to client via dated SLRs.

It is our view that we are in compliance with the contract, and there are no material financial discrepancies related to the finding. CVS Caremark is prepared to submit for reprocessing of claims that adjudicated through the Commercial line of business instead of EGWP, pending receipt of the applicable information by Civil Service. After CVS Caremark identified an issue in the States submittance of eligibility in 2019, we initiated performance of periodic reconciliation and have continued this full file compare process. As indicated in the table referenced above, this implementation has resulted in significant reduction of the number of claims incorrectly paid. CVS Caremark is committed to process enhancements where applicable and will continue to monitor for available improvements moving forward.

SUMMARY

Based on CVS Caremark's review of the finding, CVS Caremark is adjudicating claims in accordance with the eligibility that has been supplied. If the State chooses to request CVS Caremark reprocess any claims that adjudicated under the incorrect line of business based on the eligibility that was provided by the State, CVS Caremark Account Team is available to submit for reprocessing provided the State supply the necessary information required.

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

©2023 CVS Caremark. All rights reserved. This document contains confidential and proprietary information CVS Caremark and cannot be reproduced, distributed or printed without written permission CVS Caremark.

Upon confirmation from Civil Service that the results are accepted, and the audit can be closed, CVS Caremark will close the audit. 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 2015 – March 2022 and will not be subject to any further audits for this time period by or on behalf of Civil Services.

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.

©2023 CVS Caremark. All rights reserved. This document contains confidential and proprietary information CVS Caremark and cannot be reproduced, distributed or printed without written permission CVS Caremark.

Contributors to Report

Executive Team

Andrea C. Miller - *Executive Deputy Comptroller*

Tina Kim - *Deputy Comptroller*

Stephen C. Lynch - *Assistant Comptroller*

Audit Team

Andrea Inman - *Audit Director*

Paul Alois - *Audit Manager*

Laurie Burns - *Audit Supervisor*

Gary Czosnykowski - *Examiner-in-Charge*

Kristen Garabedian - *Examiner-in-Charge*

Steven Cody - *Staff Examiner*

Mary McCoy - *Supervising Editor*

Contact Information

(518) 474-3271

StateGovernmentAccountability@osc.ny.gov

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

