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

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Division of State Government Accountability

## **Empire BlueCross BlueShield Selected Payments for Special Items for the Period January 1, 2012 Through June 30, 2012**

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# **New York State Health Insurance Program**

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# Executive Summary

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## Purpose

To determine whether Empire BlueCross BlueShield (Empire) paid claims for special items according to the provisions of the agreements between Empire and its member hospitals. The audit covered the period from January 1, 2012 through June 30, 2012.

## Background

The New York State Health Insurance Program (NYSHIP) provides health coverage to active and retired State, participating local government and school district employees and their dependents. The Department of Civil Service contracts with Empire to administer the hospitalization portion of the Empire Plan (Plan), which includes coverage for inpatient and outpatient hospital services.

Empire processes Plan claims for hospital services in accordance with agreements they negotiate with member hospitals. Payments for hospital services are generally based on standard fee schedules. However, hospitals may be entitled to additional payments for special items that are not covered by the standard fee schedules. Many of Empire's agreements with member hospitals limit charges for special items, while agreements with other hospitals do not have such limitations. From January 1, 2012 to June 30, 2012, Empire paid over \$71 million for 38,381 claims for special items.

## Key Findings

- Empire did not have adequate controls to ensure special items were paid according to contract provisions. As a result, Empire made a net overpayment of \$391,894 on 81 of the 100 claims we tested. The overpayment of \$391,894 was 22 percent above the amount Empire should have paid for the items in question. For one hospital, Empire paid \$68,382 for three claims for special items. However, documents provided by the hospital supported payments of only \$31,189. Thus, Empire overpaid the hospital \$37,193 (\$68,382 - \$31,189) for the claims.
- Using statistically valid methods and a 90 percent confidence level, the projected overpayments for the population of special items totaled at least \$2.1 million.
- Empire officials advised us they have engaged a consultant to review claims with charges for special items. The consultant will subject special item claims to a computer algorithm, and those which exceed the algorithm's cost parameters will be flagged for review, adjustment, and recovery.

## Key Recommendations

- Recover the net overpayment of \$391,894 for the improperly paid claims.
- Ensure that the future agreements with hospitals contain language which: specifies the basis of reimbursement for the purchase and acquisition of special items; and requires hospitals to provide appropriate support documentation upon request.
- Complete the development and implementation of internal controls to ensure that payments for special items are made according to hospital agreements and are supported by appropriate documentation.

**Other Related Audits/Reports of Interest**

[New York State Health Insurance Program: Empire BlueCross BlueShield - Selected Payments for Special Items for the Period April 1, 2011 Through June 30, 2011 \(2011-S-42\)](#)

[New York State Health Insurance Program: Empire BlueCross BlueShield - Selected Payments for Special Items for the Period July 1, 2011 Through December 31, 2011 \(2012-S-3\)](#)

**State of New York**  
**Office of the State Comptroller**

**Division of State Government Accountability**

December 13, 2013

Mr. Jason O'Malley  
Director, New York State Empire Plan  
Empire BlueCross BlueShield  
11 Corporate Woods Boulevard  
Albany, NY 12211

Dear Mr. O'Malley:

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 the New York State Health Insurance Program entitled *Empire BlueCross BlueShield: Selected Payments for Special Items for the Period January 1, 2012 Through June 30, 2012*. This audit was performed pursuant to the State Comptroller's authority under 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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This report is also available on our website at: [www.osc.state.ny.us](http://www.osc.state.ny.us)

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## Background

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The New York State Health Insurance Program (NYSHIP) provides health coverage to active and retired State, participating local government and school district employees, and their dependents. The Empire Plan (Plan) is the primary health benefits plan for NYSHIP. The Plan covers inpatient and outpatient hospital coverage, medical/surgical coverage, Centers of Excellence (for transplants, infertility and cancer treatments), home care services, equipment and supplies, mental health and substance abuse services, and prescription drugs.

The Department of Civil Service (Department) contracts with Empire BlueCross BlueShield (Empire) to administer the hospitalization portion of the Plan, which includes coverage for inpatient and outpatient services provided by a hospital, skilled nursing facility, and hospice. Empire processes Plan claims for hospital services according to agreements they negotiate with member hospitals. These member hospitals are located in 28 eastern and southeastern New York State counties and 10 bordering counties in New Jersey and Connecticut. Empire also processes Plan claims for services provided by hospitals outside Empire's service area. These claims are submitted by hospitals to their local plans for payment. The local plans are then reimbursed by Empire.

Payments for hospital services are generally based on standard fee schedules that are negotiated between Empire and its member providers. Hospitals may be entitled to additional payments for special items (e.g., implants, drugs and blood) that are not covered by standard fee schedules. Agreements with many of Empire's member hospitals often limit payments for special items. However, agreements with other hospitals do not have similar limitations. For the period January 1, 2012 through June 30, 2012, Empire paid 613,809 claims totaling over \$1 billion for services provided to Plan members. This included payments totaling over \$71 million for 38,381 claims for special items.

## Audit Findings and Recommendations

### Excessive Payments to Hospitals with Contracts that Limit Charges for Special Items

From the 100 claim payments we reviewed, there were errors on 81 claims resulting in a net overpayment of \$391,894. Specifically, we determined that 72 claims were overpaid by a total of \$433,222, and 16 were underpaid by a total of \$41,328. (Seven claims included both overpayments and underpayments.) Given the frequency and amounts of the improper payments, we conclude that Empire needs to significantly improve its processing controls over claims for special items. Table 1 summarizes the results of the 100 claim payments we reviewed.

**Table 1**

<b>Nature of Claim Payment Determination</b>	<b># of Sample Payments</b>	<b>Amounts Paid for Special Items</b>	<b>Amount Over (Under) Paid</b>
Payments Exceeded Contract Allowances (Overpayments)	64	\$ 1,484,132	\$ 369,149
Items Not Provided to Patient	5	\$ 58,008	\$ 51,123
Items Not Considered a Special Item	1	\$ 1,506	\$ 1,506
No or Incomplete Supporting Documentation Provided	2	\$ 11,444	\$ 11,444
<b>Subtotal for Overpaid Claims</b>	<b>72</b>	<b>\$ 1,555,090</b>	<b>\$ 433,222</b>
Payments Below Contract Allowances (Underpayments)	16	\$ 309,568	(\$ 41,328)
Adjustment for Items in Multiple Categories	(7)	0	0
<b>Subtotal for Exceptions</b>	<b>81</b>	<b>\$ 1,864,658</b>	<b>\$ 391,894</b>
Paid Correctly	19	\$ 344,461	0
<b>Totals (See Note)</b>	<b>100</b>	<b>\$ 2,209,119</b>	<b>\$ 391,894</b>

(Note: The 100 claim payments included 84 that were selected randomly and 16 that were selected judgmentally. See Exhibit for results of testing according to method of selection.)

Of the 72 overpayments, 64 were overpaid by \$369,149 because Empire paid more than the amounts allowed per its agreements with the hospitals. In general, Empire's hospital agreements limited the amounts the hospital could charge Empire for special items. Nevertheless, the hospitals billed Empire excessive amounts for certain items, and Empire paid these excessive claims. For

one hospital, for example, Empire paid a total of \$68,382 for special items on the hospital's three claims in our sample. However, documents provided by the hospital supported a total payment of only \$31,189. Therefore, Empire overpaid the hospital \$37,193 (\$68,382 - \$31,189) for the three claims. Table 2 provides examples of excessive claim payments to four other hospitals.

**Table 2**

<b>Hospital</b>	<b>Amount Empire Paid</b>	<b>Amount Empire Should Have Paid per Contract</b>	<b>Amount Empire Overpaid</b>	<b>Percent Overpaid by Empire</b>
A	\$62,435	\$20,400	<b>\$42,035</b>	206%
B	\$46,353	\$11,915	<b>\$34,438</b>	289%
C	\$46,255	\$32,440	<b>\$13,815</b>	43%
D	\$97,960	\$26,911	<b>\$71,049</b>	264%

As the examples in the table illustrate, several of the overpayments we identified were material and resulted in significant profits for the hospitals.

We also disallowed:

- \$51,123 for portions of five claim payments because the hospitals billed for items that were not provided to the patients;
- \$11,444 for portions of two payments because the supporting documentation provided by the hospitals was incomplete; and
- \$1,506 for one claim payment because the hospital billed for an item that was not a special item.

The overpayments we identified occurred because Empire did not have adequate controls in place to ensure special items were paid according to the terms of its agreements with the hospitals. Specifically, Empire did not request or therefore review supporting documentation for special items prior to payment. In response to our prior audits' preliminary findings, Empire officials advised us that provisions limiting reimbursement for special items are intended to function in the aggregate, and therefore, there could be some limited deviation from contract terms in the payment of certain special item claims.

Nevertheless, as our report details, the amounts of overpayments identified significantly exceeded the amounts of underpayments for special items. For the 100 claims we reviewed, the net overpayment (\$391,894) was 22 percent above the amount Empire should have paid for the items in question. This amount is material, and consequently, there is significant risk that Empire's payments for special items were, in the aggregate, excessive. The 100 claim payments we reviewed included 84 payments that were randomly selected. Further, 68 of these 84 payments were improper, resulting in a net overpayment of \$382,630 (see Exhibit). An extrapolation of the overpayments from the random sample of 84 payments to the population of paid claims, using



statistically valid methods and a 90 percent confidence level, results in a projected overpayment of at least \$2.1 million. Moreover, we believe Empire could have prevented many of the excessive payments we identified, if it had sufficient controls to ensure that payments for special items were correct.

Empire officials advised us they have engaged a consultant to review claims with charges for special items. According to Empire officials, the consultant has developed a computer algorithm to capture charges for special items according to the nature of the item provided. Using this data, Empire has established cost parameters for individual special items. Special item claims will be subjected to the algorithm, and those which exceed the algorithm's cost parameters are flagged for review, adjustment, and recovery as warranted. Empire is currently implementing a process to transfer special item claim payment data to the consultant.

## Recommendations

1. Recover the net overpayment of \$391,894 for the improperly paid claims.
2. Ensure that the future agreements with hospitals contain language which: specifies the basis of reimbursement for the purchase and acquisition (including transportation, handling and other processing costs) of special items; and requires hospitals to provide appropriate support documentation (including invoices for special items) upon request.
3. Complete the development and implementation of internal controls (including the proposed computer-assisted techniques) to ensure that payments for special items are made according to hospital agreements and are supported by appropriate documentation.

## Audit Scope and Methodology

Our audit objective was to determine whether Empire paid claims for special items according to the provisions of the agreements between Empire and its network hospitals. Our audit covered the period from January 1, 2012 through June 30, 2012.

For the period January 1, 2012 through June 30, 2012, Empire paid 613,809 claims totaling over \$1 billion for services provided to Plan members. This included payments totaling nearly \$71.5 million for 38,381 claims for special items. We eliminated 36,802 claims totaling nearly \$60.2 million because the claims was either for a hospital whose contract does not contain provisions that limit reimbursement for special items or because the claim amount was less than \$2,500. From the remaining 1,579 claims totaling over \$11.3 million, we selected a stratified random sample of 84 claims and judgmentally selected an additional 16 high dollar claims. These 100 claims were paid to 25 different hospitals. Empire's contracts with all 25 hospitals contained provisions that based reimbursement for special items on invoice costs.

For each selected claim payment, we requested Empire to obtain the corresponding medical records and invoices from the hospitals. We reviewed the medical records to determine whether

the services billed were, in fact, provided. We also compared the invoice cost of special items to the amounts paid by Empire. We considered any payments for charges that exceeded the terms prescribed by the hospital contracts to be overpayments.

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 (some of whom have minority voting rights) to certain boards, commissions and public authorities. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these management functions do not affect our ability to conduct independent audits of program performance.

## Authority

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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

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We provided preliminary copies of the matters contained in this report to Empire officials for their review and comments. Their comments have been taken into consideration in preparing this report.

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

## Contributors to This Report

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### 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.

# Exhibit

## Summary of Claim Payment Review According to Sample Selection Methodology

Nature of Claim Payment Determination	Random Sample of 84 Payments			Judgmental Sample of 16 Payments		
	# of Sample Payments	Amount Paid for Special Items	Amount Over (Under) Paid	# of Sample Payments	Amount Paid for Special Items	Amount Over (Under) Paid
Payments Exceeded Contract Allowances (Overpayments)	54	\$1,109,821	\$341,353	10	\$ 374,311	\$ 27,796
Items Not Provided to Patient	5	\$ 58,008	\$ 51,123	0	0	0
Items Not Considered a Special Item	1	\$ 1,506	\$ 1,506	0	0	0
No or Incomplete Supporting Documentation Provided	2	\$ 11,444	\$ 11,444	0	0	0
<b>Subtotal for Overpaid Claims</b>	<b>62</b>	<b>\$1,180,779</b>	<b>\$ 405,426</b>	<b>10</b>	<b>\$ 374,311</b>	<b>\$ 27,796</b>
Payments Below Contract Allowances (Underpayments)	13	\$ 220,101	\$ (22,796)	3	\$ 89,467	\$ (18,532)
Adjustment for Items in Multiple Categories	(7)	0	0	0	0	0
<b>Subtotal for Exceptions</b>	<b>68</b>	<b>\$1,400,880</b>	<b>\$ 382,630</b>	<b>13</b>	<b>\$ 463,778</b>	<b>\$ 9,264</b>
Paid Correctly	16	\$ 221,984	0	3	\$ 122,477	0
<b>Totals</b>	<b>84</b>	<b>\$1,622,864</b>	<b>\$ 382,630</b>	<b>16</b>	<b>\$ 586,255</b>	<b>\$ 9,264</b>