



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

Division of State Government Accountability

Empire BlueCross and Blue Shield: Payments to John T. Mather Memorial Hospital

**New York State Health Insurance Program
Department of Civil Service**



Report 2010-S-51

April 2012

Executive Summary

Purpose

To determine: (1) whether Empire BlueCross and BlueShield's (Empire's) payments to John T. Mather Memorial Hospital were made according to the provisions of its agreement with the hospital; and (2) whether Empire's payments for certain special items were reasonable. The audit covers the period January 1, 2007 through June 30, 2010.

Background

The New York State Health Insurance Program (NYSHIP) provides health insurance 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 and includes prescription drug coverage. The Department of Civil Service contracts with Empire to provide hospitalization coverage under the Plan.

The Long Island Health Network (Health Network) is comprised of ten hospitals, including John T. Mather Memorial Hospital (Mather). Empire's agreement with the Health Network allows the hospitals to be reimbursed for special items (e.g. implants, drugs, and blood) that are not included on Empire's standard rate schedules. Although the base hospital stay and related procedures covered under the agreement are reimbursed at rates prescribed in fee schedules, Mather can submit claims for certain items (not on fee schedules) separately as "special items."

Key Findings

- We found Empire did not have appropriate controls to protect the State from excessive billings. As a result, Mather was allowed to substantially mark up the amounts billed. We estimate Mather was reimbursed almost 300 percent of the purchase price for special items with an estimated total profit of \$707,351 on 138 claims we reviewed.

Key Recommendations

- Ensure the agreement with Mather includes language which prescribes the basis of payment for special items. Such language should preclude the submission of excessive claims and require Mather to provide appropriate supporting documentation (including invoices for special items) upon request.

Other Related Audits/Reports of Interest

[New York State Health Insurance Program: Payments Made to Hudson Valley Hospital Center \(2009-S-99\)](#)

[New York State Health Insurance Program: Payments Made to Stony Brook University Medical Center \(2009-S-27\)](#)

[New York State Health Insurance Program: Payments Made for Special Items at Selected Hospitals \(2010-S-74\)](#)

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

Division of State Government Accountability

April 23, 2012

Mr. Jason O'Malley
Director, New York State Empire Plan
Empire BlueCross and BlueShield
11 Corporate Woods Boulevard
Albany, New York 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 *Payments to John T. Mather Memorial Hospital*. 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,

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

Table of Contents

Background	4
Audit Findings and Recommendations	5
Excessive Billings	5
Recommendations	7
Audit Scope and Methodology	7
Authority	8
Reporting Requirements	8
Contributors to the Report	9

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Background

The New York State Health Insurance Program (NYSHIP) provides health insurance 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 Department of Civil Service contracts with Empire to administer the hospitalization portion of the Plan. Empire processes Plan claims for hospital services in accordance with agreements between Empire and member hospitals.

Empire entered into an agreement with the Long Island Health Network (Health Network) on April 1, 2006. The Health Network is comprised of ten hospitals, including John T. Mather Memorial Hospital (Mather). The agreement allows the hospitals to be reimbursed for special items (e.g. implants, drugs, and blood) that are not included on Empire's standard rate schedules. Although the base hospital stay and related procedures covered under the agreement are reimbursed at rates prescribed in fee schedules, Mather can submit claims for certain items (not on fee schedules) separately as "special items."

For the period January 1, 2007 through June 30, 2010, Empire paid \$74.8 million for 50,591 claims submitted by Mather for services provided to Plan members. The claim payments included 44,863 special items totaling \$9.5 million.

Audit Findings and Recommendations

Excessive Billings

Empire lacked adequate policies and procedures to ensure that payments for certain special items claimed by Mather were appropriate. As a result, Mather substantially marked-up the amounts claimed for certain items, and Empire paid these excessive amounts. Empire's contract did not define the amount Mather could bill for special items. Therefore, Mather officials refused to provide documentation of the amounts they actually paid for the items. Consequently, to the extent practical, we had to obtain purchase prices for Mather's special items from other sources.

We obtained cost data for 11 of the special items that Mather billed to Empire. Although the 11 items cost \$10,517, Mather charged Empire \$64,550 for them. Based on Mather's charges, Empire paid Mather \$29,047 (or 296 percent of the items' costs). Thus, Mather made a profit of \$18,530 (\$29,047 - \$10,517) on the 11 items. Moreover, if Empire paid Mather 296 percent of the cost for all 138 special items we sampled, Mather could have made a windfall of as much as \$707,000 on these items.

For the 138 claims for special items we reviewed, Empire paid Mather almost \$1.1 million. The largest special item claim payment was \$46,016, and the average payment was \$7,741. The claim payments technically complied with the agreement between Empire and Mather. However, the agreement had no provision to limit Mather's charges for special items. Consequently, Empire did not challenge Mather's claims for special items, and Mather made exorbitant profits on several of them. For example, one particular special item cost \$708, but Empire paid Mather \$3,023 (more than four times the cost) for that item. The following table summarizes the payments Empire made to Mather and the profits Mather realized on the remaining ten items we analyzed.

RECORD NUMBER	AMOUNT EMPIRE PAID	ITEM COST	AMOUNT PAID OVER COST	PERCENTAGE OF COST PAID
106-A	\$12,739	\$5,142	\$7,597	248
106	\$4,880	\$1,650	\$3,230	296
144	\$2,918	\$1,075	\$1,843	271
181	\$1,911	\$486	\$1,425	393
132	\$1,012	\$519	\$493	195
132-A	\$810	\$284	\$526	285
141	\$741	\$253	\$488	292
134	\$437	\$215	\$222	203
57	\$359	\$125	\$234	287
132-B	\$217	\$60	\$157	361

As the table illustrates, Empire generally paid Mather two to three times what it cost to acquire the special items for which we were able to obtain cost data.

Empire officials were unaware that the amounts Mather claimed for special items significantly exceeded Mather's costs to buy them. Empire officials further indicated that they expect Empire's payments for special items to be reasonably close to the hospital's costs, and, as such, hospitals should not make excessive profits on these items. However, Empire did not have controls in place to ensure that Mather's charges for special items were fair and reasonable. Rather, Empire relied primarily on Mather to charge the appropriate amounts.

We also identified excessive payments for special items in a prior audit report entitled *Payments Made to Hudson Valley Hospital Center* (Report Number 2009-S-99, issued on October 28, 2010). In that report, we concluded that Hudson Valley made a profit of \$885,680 (or 385 percent) on 50 claim payments we reviewed. Empire officials said they strive to include provisions in agreements that limit reimbursement amounts for special items and this will be part of future negotiations with the Health Network. We encourage Empire to continue these efforts. In the meantime, Empire needs to improve its oversight of hospital charges for special items and better monitor claims for such items to ensure that payments are not excessive.

We further note that the agreement between Empire and the Health Network limited the audit look-back period, and therefore, the Health Network does not have to provide Empire with

supporting documentation for payments which predate a certain point in time. However, there is no such time limitation prescribed in the agreement between Empire and the Department of Civil Service. Further, this limitation significantly restricts the ability of Empire and the State Comptroller to post-audit claim payments. As a result of our audit, Empire agreed to address and remedy contract provisions that limit the State's audit authority in future contract negotiations.

Recommendations

1. Ensure the agreement with Mather includes language which prescribes the basis of payment for special items. Such language should preclude the submission of excessive claims and require Mather to provide appropriate support documentation (including invoices for special items) upon request.
2. Develop and implement internal controls to ensure that payments for special items are consistent with contract provisions and are supported by appropriate documentation.
3. Ensure future contracts do not include provisions (such as defined look back periods) which could limit the State's audit capability.

Audit Scope and Methodology

Our audit determined: (1) whether Empire's payments to Mather were made according to the provisions of its agreement with the hospital and (2) whether Empire's payments for certain special items were reasonable. Our audit covered the period January 1, 2007 through June 30, 2010.

To accomplish our objectives, we selected a random sample of claims for review. We excluded about 20,000 claim payments less than \$500. From the remaining 30,491 claim payments totaling \$71.4 million, we selected a random sample of 183 claims totaling \$4.9 million. Of the 183 claims selected, 138 included payments for certain special items totaling \$1 million. We reviewed claim detail and hospital agreements provided by Empire and medical records provided by Mather to determine if the claims in our sample were paid appropriately. We also obtained pricing data for specific special items from a commonly used purchasing source for hospitals.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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 systems; 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

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

We provided preliminary copies of the matters contained in this report to Empire officials for their review and formal comments. We considered Empire's comments 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 this report.

Contributors to the Report

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