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

Division of State Government Accountability

United HealthCare: Overpayments for Services Provided by Eastern Orange Ambulatory Surgery Center

New York State Health Insurance Program

Report 2015-S-53 May 2016

Executive Summary

Purpose

To determine whether Eastern Orange Ambulatory Surgery Center, LLC waived Empire Plan members' out-of-pocket costs, and if so, to quantify the overpayments made by United HealthCare resulting from this practice. The audit covered the period January 1, 2011 through March 31, 2015.

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, as well as their dependents. The Empire Plan is the primary health benefits plan for NYSHIP, covering a range of services from inpatient hospital care to outpatient surgical procedures and physician office visits. The New York State Department of Civil Service contracts with United HealthCare (United) to process and pay medical claims from health care providers for services provided to Empire Plan members.

United contracts with in-network participating providers who agree to accept payments, at rates established by United, to furnish medical services to Empire Plan members. Members pay a nominal co-payment to the participating provider for the services rendered. Members may also choose to receive services from out-of-network (or "non-participating") providers. United reimburses claims from non-participating providers at amounts that are generally higher (and often significantly higher) than the rates participating providers agree to accept for the same services. Consequently, to encourage members to use less costly participating providers, the Empire Plan requires members to pay higher out-of-pocket costs (deductibles and co-insurance) when they use non-participating providers.

In accordance with the Empire Plan's requirements, when United processes a non-participating provider's claims, it is with the understanding that Empire Plan members are liable for a portion of the claimed amount, representing members' out-of-pocket cost-sharing obligations. However, if a non-participating provider does not collect (i.e., waives) a member's out-of-pocket costs, it will result in United making an excessive payment on the claim.

Our audit focused on claims submitted to United by Eastern Orange Ambulatory Surgery Center, LLC (Eastern Orange), a non-participating provider located in Cornwall, New York. During the period January 1, 2011 through March 31, 2015, United paid claims totaling $6.6 million for services provided by Eastern Orange to Empire Plan members.

Key Findings

- Eastern Orange routinely waived Empire Plan members' required out-of-pocket cost-sharing obligations for services provided. Consequently, United made overpayments on claims submitted by Eastern Orange. Further, by not collecting members' out-of-pocket costs, Eastern Orange negated the incentive for members to use participating providers. This likely resulted in additional increased costs to the Empire Plan and, consequently, to taxpayers.

- From a random sample, we identified overpayments totaling $217,187 that resulted from claims that were excessive due to the routine waiving of members' cost-sharing obligations. Based on a statistical projection of the sample overpayments to the population of Eastern Orange's claims, we determined United overpaid $1,378,178 during the period January 1, 2011 through March 31, 2015.
- On one claim, for example, Eastern Orange charged $11,295 and, based on this, United allowed $7,400 for the service. As a result, United paid $5,920 on the claim and the member's out-of-pocket portion of the claim should have been $1,480. However, Eastern Orange accepted the $5,920 as payment-in-full and waived the $1,480 due from the member. Eastern Orange wrote off all charges in excess of United's payment from the member's patient account. Because Eastern Orange accepted $5,920 as the full payment, United should have only paid $4,736 on the claim. This resulted in an overpayment by United of $1,184 ($5,920 - $4,736).
- Prior to our audit, United identified Eastern Orange as a provider who routinely waived members' out-of-pocket costs. To limit the negative financial impact to the Empire Plan, United reduced its payments on Eastern Orange's claims. However, Eastern Orange continued its practice of waiving members' out-of-pocket costs and accepted United's reduced payments as payment-in-full. This caused United to continue to make overpayments. At the time of our audit fieldwork, United was negotiating with Eastern Orange to join the Empire Plan's participating provider network. If these negotiations are successful, United's (and the State's) exposure to inflated costs from members' waived out-of-pocket costs will be reduced.

Key Recommendations

- Recover the $1,378,178 in overpayments from Eastern Orange and refund the State accordingly.
- Work with the Department of Civil Service to pursue an appropriate course of action designed to prevent Eastern Orange from waiving Empire Plan members' out-of-pocket costs. Continue efforts to bring Eastern Orange into the Empire Plan's participating provider network.

Other Related Audits/Reports of Interest

United HealthCare: New York State Health Insurance Program – Overpayments for Services at the Capital Region Ambulatory Surgery Center (2007-S-72)
United HealthCare: New York State Health Insurance Program – Overpayments for Services at the Endoscopy Center of Long Island (2007-S-73)
United HealthCare: New York State Health Insurance Program – Overpayments for Services at the South Shore Ambulatory Surgery Center (2008-S-11)

State of New York
Office of the State Comptroller

Division of State Government Accountability

May 5, 2016

Mr. Carl A. Mattson
Vice President, Empire Plan
United HealthCare National Accounts
13 Cornell Road
Latham, NY 12110

Dear Mr. Mattson:

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 *United HealthCare: Overpayments for Services Provided by Eastern Orange Ambulatory Surgery Center.* 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

Table of Contents

State Government Accountability Contact Information:
Audit Director: Andrea Inman
Phone: (518) 474-3271
Email: StateGovernmentAccountability@osc.state.ny.us
Address:
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

This report is also available on our website at: www.osc.state.ny.us

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, as well as their dependents. The Empire Plan is the primary health benefits plan for NYSHIP. The Empire Plan covers a comprehensive range of services including, but not limited to, inpatient and outpatient hospital services, surgical procedures, home care services, medical equipment and supplies, mental health and substance abuse services, and prescription drugs. The New York State Department of Civil Service contracts with United HealthCare (United) to process and pay medical claims for services provided to Empire Plan members. The State reimburses United for the payments it makes under the Empire Plan, and it pays United an administrative fee.

United contracts with in-network health care providers who agree to accept payments, at rates established by United, to furnish medical services to Empire Plan members. United remits payments directly to these "participating" providers based on claims they submit for the services provided. Members pay a nominal co-payment to the participating provider for the services rendered.

Members may also choose to receive services from out-of-network (or "non-participating") providers. To limit its costs (and those of the State), United pays non-participating provider claims the "reasonable and customary" rate for the service, which is defined as the lowest of: the actual charge for the service; or the usual charge by the provider for the same or similar service; or the usual charge of other providers in the same or similar geographic area for the same or similar service. However, reasonable and customary rates are generally higher (and often significantly higher) than the rates United pays to participating providers for the same services.

To encourage members to use less costly participating providers, the Empire Plan requires members to pay higher out-of-pocket costs (including deductibles and co-insurance) when they use non-participating providers. After the member meets an annual deductible, United pays the member 80 percent of the allowed reasonable and customary cost of the service, and the member is responsible for the remaining 20 percent of the cost (i.e., the co-insurance). When United pays a claim submitted by a non-participating provider, the payment is generally made to the Empire Plan member, and the member is then responsible for paying the provider. The member is also responsible for settling any other unpaid balance with the non-participating provider, including any out-of-pocket amounts owed.

Our audit focused on claims submitted to United by Eastern Orange Ambulatory Surgery Center, LLC (Eastern Orange). With respect to the Empire Plan, Eastern Orange is a non-participating provider. Eastern Orange is located in Cornwall (Orange County), New York. During the period January 1, 2011 through March 31, 2015, United paid $6.6 million in claims submitted by Eastern Orange for services rendered to Empire Plan members.

Audit Findings and Recommendations

Waiving of Members' Out-of-Pocket Costs

In accordance with the Empire Plan's requirements, when United processes a provider's claims for services provided to Empire Plan members, it is with the understanding that members are liable for a portion of the claimed amount, representing members' out-of-pocket cost obligations. However, our audit found that Eastern Orange routinely waived Empire Plan members' required payment of out-of-pocket cost obligations for services provided. Consequently, Eastern Orange's billed amounts to United were inflated by the amount of the waived member out-of-pocket costs, which caused United to make excessive payments for these claims. Using statistically valid methods, we determined United made $1,378,178 in overpayments on Eastern Orange's claims during the period January 1, 2011 through March 31, 2015. Also, by not collecting members' out-of-pocket costs, Eastern Orange negated the incentive for members to use participating providers. This likely resulted in increased costs to the Empire Plan and, consequently, to taxpayers.

In 2010, United identified Eastern Orange as a non-participating provider who routinely waived Empire Plan members' out-of-pocket costs. Therefore, to limit the negative financial impact to the Empire Plan, United processed and paid Eastern Orange's claims at reduced amounts. However, Empire Plan members are still responsible for out-of-pocket costs based on the reduced payment amounts. We found, however, that Eastern Orange accepted United's reduced payments as payment-in-full, and continued to waive Empire Plan members' out-of-pocket costs. As a result, Eastern Orange's billed amounts were inflated, which caused United to continue to make overpayments.

According to United officials, United has been negotiating with Eastern Orange to join the Empire Plan's participating provider network. If Eastern Orange joins the Empire Plan's network, United will pay Eastern Orange's claims based on participating provider rate schedules, and Empire Plan members will be responsible for a nominal co-payment. Consequently, United's (and the State's) exposure to inflated costs from members' waived out-of-pocket costs would be reduced.

During our audit scope, we found that, most often, Eastern Orange did not collect Empire Plan members' required out-of-pocket cost obligations and wrote off the corresponding amounts from the patients' accounts. Because Eastern Orange did not collect members' out-of-pocket cost obligations, they should have reduced their claims to United by the amounts of those out-of-pocket costs. Thus, United should have only paid 80 percent of the amount Eastern Orange intended to accept as payment-in-full. By not collecting the members' out-of-pocket costs, Eastern Orange waived Empire Plan members' portion of the claim, causing United to make overpayments.

For example, on one claim Eastern Orange charged $11,295 and United allowed $9,250 (as the reasonable and customary rate) for the service. Because United identified Eastern Orange as a provider that waived members' out-of-pocket costs, United reduced the amount allowed by 20 percent ($1,850) and calculated Eastern Orange's payment on $7,400 ($9,250 - $1,850). United, therefore, paid $5,920 (80 percent of $7,400) and the member's out-of-pocket portion of the claim should have been $1,480. However, Eastern Orange accepted United's reduced payment of $5,920 as payment-in-full and waived the $1,480 due from the member. Eastern Orange wrote off all charges in excess of United's payment from the patient's account. Therefore, Eastern Orange's actual charge for the service should have been $5,920, and United should have paid $4,736 (80 percent of $5,920). This resulted in an overpayment by United of $1,184 ($5,920 - $4,736).

To determine the amount of the overpayments for the audit period, we selected claims submitted by Eastern Orange in which United was the primary payer and members' out-of-pocket cost obligations were included on the claims. From January 1, 2011 through March 31, 2015, we identified 1,280 claims totaling $5.8 million meeting these criteria. To determine whether Eastern Orange waived members' out-of-pocket costs, we selected a random sample of 152 of the 1,280 claims. We reviewed Eastern Orange's financial records for the 152 sampled claims and determined Eastern Orange waived all or a portion of the Empire Plan members' out-of-pocket costs for 148 (97 percent) of the 152 claims. Our review of the financial records also found that Eastern Orange wrote off the corresponding out-of-pocket costs from the patients' accounts for the 148 claims. In the remaining four instances, we concluded that out-of-pocket costs were not waived. Nevertheless, based on our overall audit testing, we concluded that Eastern Orange routinely waived members' out-of-pocket costs.

Based on our random sample, we identified overpayments totaling $217,187 that resulted from excessive claims. In submitting claims, Eastern Orange routinely submitted excessive charges, and did not reduce their claims by the amounts of members' out-of-pocket cost obligations that were waived. A projection of these overpayments to the entire population of claim payments, using statistically valid sampling methods (including a 95 percent single-sided confidence level), resulted in an audit overpayment of $1,378,178.

We note that the submission of an insurance claim with false information, such as excessive service charges, may constitute insurance fraud pursuant to State Law. The New York State Insurance Department (now known as the New York State Department of Financial Services) concluded that it may be a fraudulent billing practice and violation of the State Insurance Law when a provider routinely waives out-of-pocket cost obligations and accepts amounts from the insurer as payment-in-full. Officials at the New York State Department of Civil Service and the New York State Department of Financial Services are concerned about the impact of fraudulent and/or abusive billing practices in the Empire Plan. Officials have been concerned that providers who routinely waive Empire Plan members' out-of-pocket costs do so intentionally to benefit from the higher reimbursement rates for non-participating providers.

Additionally, waiving cost-sharing obligations negates a member's incentive to use lower-cost in-network participating providers, which can result in additional costs to the State. By not collecting members' total out-of-pocket cost obligations, Eastern Orange negated Empire Plan members' financial incentive (lower out-of-pocket costs) to use in-network participating providers, which likely resulted in additional increased costs to the Empire Plan and, consequently, to taxpayers.

Prior to this audit, the Office of the State Comptroller had issued a series of audit reports about non-participating providers who routinely waived members' out-of-pocket cost obligations. (For examples of those reports, please see the Other Related Audits/Reports of Interest referenced in this report's Executive Summary.) As a result of those prior audits, United, with the assistance of State oversight authorities, recovered overpayments and brought several of the providers in question into its network of participating providers. By doing so, this helped to reduce the incidence of waiving of members' out-of-pocket costs and likely saved material amounts of taxpayer dollars.

Recommendations

1. Recover the $1,378,178 in overpayments from Eastern Orange and refund the State accordingly.

2. Work with the Department of Civil Service to pursue an appropriate course of action designed to prevent Eastern Orange from waiving Empire Plan members' out-of-pocket costs. Continue current efforts to bring Eastern Orange into the Empire Plan's participating provider network.

Audit Scope and Methodology

The objective of our audit was to determine whether Eastern Orange waived Empire Plan members' out-of-pocket costs, and if so, to quantify the overpayments made by United resulting from this practice. The audit covered the period January 1, 2011 through March 31, 2015.

To accomplish our audit objective, and assess internal controls related to our audit objective, we interviewed United officials and reviewed a random sample of 152 claims submitted by Eastern Orange. We reviewed Eastern Orange's financial records to determine if they routinely failed to collect the out-of-pocket costs for Empire Plan members, and consequently submitted improper claims to United. Based on the overpayments identified in the sample, we used a statistically valid projection to determine the total overpayments made during the audit period.

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 to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these 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 under 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 United officials for their review and comment. Their comments were considered in preparing this final report.

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

Contributors to This Report

Andrea Inman, Audit Director
David Fleming, Audit Manager
Laura Brown, Audit Supervisor
Cynthia Herubin, Examiner-in-Charge
Tracy Glover, Senior Examiner
Connie Walker, Senior Examiner

Division of State Government Accountability

Andrew A. SanFilippo, Executive Deputy Comptroller
518-474-4593, asanfilippo@osc.state.ny.us

Tina Kim, Deputy Comptroller
518-473-3596, tkim@osc.state.ny.us

Brian Mason, Assistant Comptroller
518-473-0334, bmason@osc.state.ny.us

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.