Department of Civil Service

New York State Health Insurance Program: Payments by Empire BlueCross for Hospital Services for Ineligible Members

Report 2019-S-32 | August 2020

OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability

Audit Highlights

Objective

To determine whether Empire BlueCross paid hospital claims for members who were not eligible. The audit covered the period January 1, 2014 through December 31, 2018.

About the Program

The Department of Civil Service (Civil Service) administers the New York State Health Insurance Program (NYSHIP), which provides health insurance coverage to over 1.2 million active and retired State, local government, and school district employees, and their dependents. NYSHIP's primary health benefits plan is the Empire Plan, which serves about 1.1 million of the members. Civil Service contracts with Empire BlueCross (Empire) to administer the plan's hospital benefits. From January 1, 2014 through December 31, 2018, Empire processed and paid about 6 million hospital claims totaling $13 billion.

A coordinated effort is required by Civil Service, Empire, employer health benefits administrators (HBAs), and members to maintain accurate and up-to-date eligibility records; however, Civil Service is ultimately responsible for ensuring these groups fulfill their duties. Civil Service maintains the New York Benefits Eligibility and Accounting System (NYBEAS) as the system of record for member enrollment and eligibility information, and notifies Empire of any changes in a member's status.

Many contracts that Empire negotiates with hospitals limit recoveries to one year or less for claims paid on behalf of members who are retroactively disenrolled (i.e., when a member is disenrolled after the date their coverage ended; for example, action can be taken to disenroll a member on December 31, 2018, but the disenrollment period goes back to June 1, 2018). For contracts that do not include this retroactive disenrollment language, claims may be recovered for six years.

Key Findings

The audit identified 3,177 claims totaling $18.2 million that were paid for hospital services provided during periods when members were not eligible. The claims were paid due to various reasons, including retroactive disenrollments. For retroactive disenrollments, it took an average of nearly 400 days to cancel members' coverage due to delays by Civil Service, HBAs, and members. In one example, Empire paid $186,000 in ineligible claims because it took more than eight years to retroactively disenroll the member. Overpayments also occurred due to errors in Empire's processing of certain claims. Of the $18.2 million, Empire recovered $11.5 million and $2.1 million was beyond recoverability time frames, leaving $4.6 million to be recovered.

Key Recommendations

To Civil Service:

- Review the $4.6 million in claims paid for ineligible members and make recoveries, as warranted.
- Take corrective steps to help ensure NYBEAS reflects accurate eligibility information and updates are made promptly.
- Monitor the accuracy of Empire's eligibility data and recovery of claims paid for disenrolled members.

To Empire:

- Ensure eligibility information used to process claims is complete and accurate and reconciles with current NYBEAS information.
- Take corrective steps to ensure all claims paid for ineligible members are identified and recoveries are made, where appropriate.

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

August 18, 2020

Lola W. Brabham
Commissioner
Department of Civil Service
Empire State Plaza, Building 1, 20th Floor
Albany, NY 12239

Jason O'Malley
Regional Vice President, Sales
Empire BlueCross
11 Corporate Woods Boulevard
Albany, NY 12211

Dear Ms. Brabham and 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 *Payments by Empire BlueCross for Hospital Services for Ineligible Members*. 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

Term	Description	Identifier
Civil Service	Department of Civil Service	*Auditee*
DEVA	Dependent eligibility verification audit	*Key Term*
Empire	Empire BlueCross	*Auditee*
Empire Plan	Primary health benefits plan for NYSHIP	*Key Term*
HBA	Health benefits administrator	*Key Term*
NYBEAS	New York Benefits Eligibility and Accounting System	*System*
NYSHIP	New York State Health Insurance Program	*Program*
Retroactive disenrollment	Occurs when a member is disenrolled after the date their coverage ended	*Key Term*

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 benefits plan for NYSHIP, serving about 1.1 million members. The Empire Plan provides its members with four types of health insurance coverage: hospital, medical/surgical, prescription drug, and mental health and substance abuse services. Civil Service contracts with Empire BlueCross (Empire) to administer the hospital portion of the Empire Plan, which includes coverage for inpatient and outpatient services provided by a hospital, skilled nursing facility, or hospice.

Civil Service is responsible for maintaining the New York Benefits Eligibility and Accounting System (NYBEAS), which is the system of record for member enrollment and eligibility information, and promptly certifies to Empire the eligibility status of members. Civil Service provides Empire with a daily update file of NYBEAS changes, and Empire also has access to NYBEAS to confirm eligibility information. Typically, each organization that participates in NYSHIP (e.g., State agencies, local government employers, and school districts) has at least one health benefits administrator (HBA) responsible for processing eligibility transactions (new or changes) in NYBEAS. Civil Service also has the ability to enter information into NYBEAS. If a NYBEAS disenrollment is entered after the date the change in eligibility takes effect, it is considered a retroactive disenrollment. For example, an employee who was enrolled in the Empire Plan accepts new employment and notifies their HBA to end coverage effective June 1, 2019; however, if the HBA does not enter the transaction into NYBEAS until December 31, 2019 (a seven-month delay), this is considered a retroactive disenrollment back through June 1, 2019.

As of September 2019, Empire had contracts with 163 member hospitals. Empire's hospital contracts often include conditions for the recovery of claims paid for members who are retroactively disenrolled, typically limiting the recovery period for such claims to one year or less. For contracts that do not include this language, recoverability is based on Empire's Provider Manual, which allows six years from the end of the year in which the claim was submitted for recovery.

Audit Findings and Recommendations

To maintain the most accurate and up-to-date eligibility records, a coordinated and cooperative effort is required by Civil Service, Empire, HBAs, and members. However, Civil Service is ultimately responsible for overseeing NYSHIP and ensuring each of these groups is fulfilling their duties.

We found Civil Service has not done enough to ensure that eligibility information is updated timely in NYBEAS, and this resulted in claims being paid for ineligible members. These delays also affected the ability to recover claims paid for ineligible members. Claims that are not recovered increase the overall cost of the NYSHIP program, which can result in higher premiums and costs for members and employers.

During the audit period, January 1, 2014 to December 31, 2018, we identified $18.2 million that was paid on behalf of 846 members who were not eligible. Due to efforts by Empire and Civil Service, $11.5 million of the $18.2 million was recovered before and during the audit fieldwork. Of the remaining $6.7 million in unrecovered improper payments, $5.6 million was the result of retroactive disenrollments and $1.1 million was paid as a result of errors by Empire.

Unrecovered Claims Paid for Ineligible Members

Claims Paid for Members Who Were Retroactively Disenrolled

We compared claims paid by Empire to NYBEAS eligibility records and found that $5.6 million was paid for ineligible members as a result of retroactive disenrollments. We further compared coverage cancellation dates from NYBEAS to Empire's recoverability time frames. As a direct result of retroactive disenrollments, we determined NYSHIP lost out on the ability to recover $2.1 million, leaving only about $3.5 million that could still be recovered.

Recovering Claims That Occur During Retroactive Disenrollment Periods

When a member is retroactively disenrolled by either Civil Service or an HBA, Empire makes efforts to recover claims paid during the period of ineligibility; however, the recovery period may be limited by hospital contracts. We found Civil Service does not have an adequate process for identifying payments made for retroactively disenrolled members and monitoring corresponding recoveries, and instead relies on Empire to identify these claims and make recoveries.

When Empire receives a retroactive disenrollment, it processes the change and its system identifies claims paid during the period for which the member was no longer eligible. Ineligible claims are then manually reviewed to determine if they may be recovered based on the contract with the hospital where the member received services. However, we found Empire does not identify all recoverable claims through this process. Additionally, even when Empire identifies claims for recovery, many

remain unrecovered. We estimate Empire did not identify and/or recover $1.5 million of the $3.5 million in claims we identified because of deficiencies in Empire's processes. Given that Empire failed to identify a significant number of recoverable claims and did not recover claims it identified as recoverable, we conclude Empire lacks sufficient controls over the identification and recovery of claims for retroactively disenrolled members. Because Civil Service relies on Empire's process for identification and recovery, Civil Service cannot – and does not – properly monitor whether the Empire Plan is receiving all recoveries it is due.

Untimely Disenrollment Updates in NYBEAS

We found cancellations are not entered into NYBEAS promptly (or even within recoverability time frames), resulting in many claims for retroactively disenrolled members being unrecoverable by the time Empire is informed of the change in member status. We reviewed NYBEAS records for the 846 members for whom the $18.2 million in claims were paid while they were ineligible and found 734 of these individuals were retroactively disenrolled for reasons such as non-payment of premiums, divorce, or termination of employment. For the 734 members retroactively disenrolled, it took an average of nearly 400 days to cancel their coverage. We identified 263 members, of the 734, who were retroactively disenrolled for more than one year. The one-year retroactive disenrollment period is significant because Empire's hospital contracts typically limit recoverability to one year or less; therefore, these lengthy disenrollments often result in unrecoverable claims. For example, Empire paid $186,000 in ineligible claims for a member who canceled voluntarily. Because it took more than eight years to retroactively disenroll the member, only $3,800 would be eligible for recovery. We found NYBEAS generally did not have sufficient detail to support and explain why these lengthy disenrollments occurred. Additionally, for 19 of the 734 members, NYBEAS lacked adequate support that detailed why the coverage was cancelled.

There are various reasons why eligibility cancellations were not entered into NYBEAS timely, including those related to non-payment of premiums. Of the 734 retroactively disenrolled members, we identified 162 whose benefits were terminated for non-payment of premiums, according to NYBEAS. Civil Service stated that department policy is to disenroll members for non-payment within 90 days, but it took more than 100 days to cancel coverage for 142 of the 162 members. On average, Civil Service took 408 days to cancel member coverage for non-payment, allowing more than $4.5 million (of the $18.2 million) in ineligible claims to be paid. When questioned about these significant delays, Civil Service indicated it lacked a way to systematically identify and cancel coverage for these members, and instead relies on manual processes. Civil Service also indicated it did not have enough staff to comply with the 90-day disenrollment policy. However, after our discussion with agency officials, and during the course of our audit, Civil Service began implementing a process to address these cancellations for non-payment using automated processes.

HBAs also have an important role in ensuring that member records are up-to-date and changes to status – such as death or divorce – are processed promptly

in NYBEAS. However, Civil Service has no mandatory training or requirements for HBAs. Civil Service provides extensive rules, regulations, and guidance, but does nothing to ensure HBAs actually review this guidance and fully understand their responsibilities. We identified numerous instances of HBAs, Civil Service, and members failing to coordinate efforts to ensure timely and accurate updates to NYBEAS. For example, an employee claimed they canceled their ex-spouse's coverage with their previous State employer before starting a job with a different State employer. Because coverage was not canceled by the original employer's HBA, the new employer's HBA had to contact Civil Service to process the cancellation. After the new employer's HBA contacted Civil Service, the retroactive disenrollment was not processed for two additional months, resulting in the ex-spouse being retroactively disenrolled two years after coverage should have been canceled.

Additionally, members are typically responsible for notifying their HBA when any dependent on their plan is no longer eligible for coverage. When they fail to do so, claims may be paid for these ineligible members. To address this, Civil Service occasionally conducts dependent eligibility verification audits (DEVAs) to identify dependents who are no longer eligible for coverage. The last DEVA was conducted in 2016. Based on our review of the 846 members with claims paid past the end of their eligibility, we identified 158 who appear to have been removed as a result of the 2016 DEVA. Because Civil Service backdated all members removed as a result of DEVA to early 2016, we were unable to determine how long these dependents were actually ineligible.

We also found claims went unrecovered even after Civil Service issued a premium refund on behalf of the member. Civil Service's process is to refund up to six months of premiums for any retroactive changes that result in all dependents being removed from a family plan and the remaining member moving to an individual plan. In one instance, a dependent incurred $106,000 in claims during the ineligible period, but Empire did not recover nearly $45,000 of this money even after Civil Service issued a premium refund.

Claims Paid as a Result of Empire Errors

We identified 571 claims totaling $1.1 million that Empire paid after it had been notified of the member's disenrollment. Empire receives a daily update file from Civil Service containing the most recent changes to eligibility records. Despite this, we determined Empire's eligibility system does not reflect all of the updates and neither Civil Service nor Empire has ever completed a full reconciliation of Empire's eligibility data to NYBEAS eligibility data to ensure Empire's eligibility system has accurate, up-to-date information. Therefore, Empire and Civil Service assume that Empire is processing claims using accurate eligibility information. When questioned about the 571 claims, Empire agreed that a majority should not have been paid and found 392 of these claims were paid as a result of lack of sufficient controls in its own internal eligibility process. For example, when Empire updates its internal eligibility system, it manually researches any eligibility records that were unable to

be updated automatically. Occasionally, these manual updates are not made, which causes Empire's eligibility system to be inaccurate. Once we notified Empire of the 571 claims, it immediately took steps to review and update all associated member records to reflect the correct eligibility information. At the end of our audit fieldwork, Empire and Civil Service continued to review the remaining 179 claims to determine how they were paid while the members lacked eligibility.

Recovered Claims Paid for Ineligible Members

Of the $18.2 million we identified in claims paid for ineligible members during our audit period, $11.5 million was recovered by Empire before and during our audit using a number of identification methods, including Empire's internal claims recovery process. Any claims paid for ineligible members, whether due to errors made by Empire or to retroactive disenrollments, result in significant risk of monetary loss to NYSHIP. Because the plan is self-funded, losses directly increase the cost to taxpayers and members. Civil Service and Empire must work together closely to prevent this risk and the associated losses. First, they must reduce the number of claims paid for ineligible members to reduce the potential for future losses. Then they must also ensure prompt recovery of any claims that are paid for ineligible members.

Recommendations

To Civil Service:

1. Review the $4.6 million ($3.5 million + $1.1 million) in claims paid for ineligible members and make recoveries, as warranted.
2. To ensure NYBEAS reflects accurate eligibility status, take steps including:
    a. Implementing a process that ensures timely cancellation of members who do not pay their premiums in accordance with Civil Service policy;
    b. Implementing a more frequent process for dependent eligibility verification;
    c. Establishing a framework to ensure all HBAs are thoroughly trained and are working to ensure timelier processing of changes to eligibility information;
    d. Engaging more effectively with members to ensure they promptly notify HBAs and Civil Service of changes to eligibility status; and
    e. Ensuring NYBEAS has adequate support for changes to eligibility, particularly retroactive disenrollments.
3. To ensure Empire properly pays claims for members who have changes in eligibility, take steps including:

a. Conducting periodic reconciliations of Empire's eligibility data to NYBEAS eligibility data; and

b. Identifying claims paid for disenrolled members, with emphasis on retroactively disenrolled members, and monitor Empire's corresponding recoveries.

To Empire:

4. Take corrective steps to ensure eligibility information used to process claims is complete and accurate based on the daily update files from Civil Service and that it reconciles with current NYBEAS information.

5. Take corrective steps to identify all claims paid for ineligible members and make recoveries, where appropriate.

Audit Scope, Objective, and Methodology

The objective of the audit was to determine whether Empire paid hospital claims for members who were not eligible for coverage. The audit covered the period January 1, 2014 through December 31, 2018, during which Empire paid 6,351,286 claims totaling about $13 billion.

To accomplish our audit objective and assess internal controls, we reviewed NYSHIP eligibility policies and interviewed officials from Civil Service and Empire and certain HBAs. We reviewed a sample of hospital claims for 1,363 members (1,095 + 138 + 130; see selection methodology below) and compared the dates of service to the member's eligibility record in NYBEAS. We considered any payments for services rendered during a period when that person was not covered by the Empire Plan to be a claim paid for an ineligible member.

To select claims for review, we matched hospital claims data to eligibility data extracts. We then compared the date of service on the claim to the member's eligibility period. For claims that appeared to have been paid for ineligible individuals, we totaled the claims per person and selected only the claims for individuals who had at least $1,000 in what appeared to be ineligible claims; this resulted in 1,095 members being selected for further review. For claims for which we were unable to match to an eligibility record, we totaled claims based on the member identification number under which the claims were billed. We then reviewed the resulting members with total claims greater than $1,000 during our scope, selecting an additional 138 members. Finally, for claims that did not match an eligibility record and did not have a member identification number, we totaled the value of the claims by identifying characteristics such as name and date of birth and then selected members who represented half the total claims activity in this group: 130 members. Because we selected judgmental samples, the results cannot be projected to the population as a whole.

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. 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.

Reporting Requirements

We provided a draft copy of this report to Civil Service and Empire officials for their review and formal comment. We considered Civil Service's and Empire's comments in preparing this report and have included their responses at the end of it. Civil Service officials also provided attachments with their comments; the attachments were evaluated in preparing this report, but were not included in it because of the size of the attachments. However, they have been retained on file at the Office of the State Comptroller. In their responses, Civil Service and Empire officials generally concurred with most of the audit recommendations and indicated that certain actions have been and will be taken to address them. Our responses to certain Civil Service comments are included in the report's State Comptroller's Comments.

Within 180 days of the 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

NEW YORK STATE OF OPPORTUNITY. Department of Civil Service

ANDREW M. CUOMO
Governor
LOLA W. BRABHAM
Acting Commissioner

June 10, 2020

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

Dear Ms. Inman:

This letter is in response to your May 11, 2020 letter regarding "Department of Civil Service – *New York State Health Insurance Program: Payments by Empire BlueCross for Hospital Services for Ineligible Members*", a recent audit conducted by the Office of the State Comptroller (OSC). This report was identified as Draft Report 2019-S-32.

Before responding to the draft report, it is important for the Department of Civil Service (Department) to state that it understands the sensitivities related to the termination of health insurance benefits, but sometimes it is necessary to do so. To reduce these occurrences, the Department provides programs to help vulnerable members maintain eligibility for benefits. For New York State employees who are on workers' compensation leave, premiums may be deferred for one or two years depending on the circumstances of the injury. For members who have been totally disabled as a result of sickness or injury, the New York State Health Insurance Program (NYSHIP) provides the opportunity to apply to have the premium waived for one year. Information on the waiver program is available at: https://www.cs.ny.gov/employee-benefits/nyship/shared/forms/ps-452.pdf .

The Department treats its role in the administration of NYSHIP with the utmost responsibility and works closely with its Empire Plan vendors, including Empire BlueCross, to ensure correct payment of claims and that no claims are paid on behalf of ineligible members. Further, it works closely with and provides ample resources to the staff at the multiple organizations responsible for maintaining the currency of their employees' information.

As the draft report noted, NYSHIP is one of the nation's largest public sector health insurance programs with approximately 1.1 million members enrolled in the Empire Plan. It includes employees and retirees of New York State and their dependents, as well as the employees and retirees of approximately 900 local governments, school districts, public authorities and other public employers throughout

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

the State. Benefits are also available to dependent survivors of deceased enrollees, former employees who choose to enroll in coverage through the provisions of the Consolidated Omnibus Budget Reconciliation Act (COBRA) for up to 36 months after separation from employment, and Young Adult Option (YAO) enrollees. With this level of size and complexity, it is impracticable to administer NYSHIP without any payment of claims on behalf of ineligible members. As noted in the draft audit, the Department and its vendors have recognized this issue and developed recoupment processes for mitigating these risks.

The Department is pleased that the report found that 99.95% of claims were paid for eligible members over the audit period, which we believe highlights the robust oversight and administration of the program. We were further pleased that the report acknowledged over 60 percent of the identified ineligible claims were recovered through the previously established recoupment processes between the Department and Empire BlueCross. Nevertheless, the Department acknowledges that a limited number of claims were paid incorrectly and has already begun the process of implementing many of the recommendations that were included in the report. The Department appreciates the opportunity to provide feedback on many other areas of the report as well.

Comment 1

Comment 1 – No Mention of Workers' Compensation Premium Deferral Provisions

The draft report makes many references to lengthy retroactive disenrollment periods that sometimes occur for ineligible members. The draft report did not mention the State's collectively bargained deferral of premium provisions, which are one of the leading causes of retroactive disenrollment. This topic was discussed many times during the audit process with OSC and included in the Department's January 29, 2020 response to OSC on the preliminary audit report.

Comment 2

As discussed with OSC, New York State employees who are on workers' compensation leave are responsible for payment of the same share of health insurance premium as active employees. Such employees may defer the premium payment for up to 12 months; this period is 24 months for employees who are on a workers' compensation leave as a result of an assault by a patient or inmate. When these employees return to work, they are required to repay this deferred premium through biweekly special deductions from their paychecks. For employees represented by the Civil Service Employees Association (CSEA), the amount of this biweekly special deduction is $80; for all other New York State employees, it is $100. These provisions are collectively bargained and cannot be unilaterally changed by the Department.

For example, in 2014 the biweekly Empire Plan premium for a CSEA employee at Salary Grade 10 or higher was $171.34 for family coverage. In 2015, this amount was $178.28. A CSEA employee who missed all of 2014 and 2015 on a workers' compensation leave due to an assault from an inmate or a patient had the right to defer a total of $9,090.12 in NYSHIP premium. Upon the return to the payroll, such an

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

employee was required to repay that premium in biweekly $80 increments. In this scenario, it would take more than four years for the employee to fully repay the deferred premium. If the employee separated from service at any point during that period and did not repay all of the deferred premium, a potentially significant retroactive disenrollment would occur. Disenrollment periods can be of various lengths as designed and intended by NYSHIP rules. Furthermore, it is not uncommon for an employee returning from a workers' compensation leave to suffer another injury leading to a subsequent workers' compensation leave and subsequent deferral and repayment period resulting in a multiyear retroactive disenrollment. As a result, multiyear retroactive disenrollment periods are not uncommon.

The report overlooked this distinction and did not identify which ineligible claims were caused by workers' compensation-related leaves. Such a distinction could have led to a more robust discussion regarding opportunities for improvement.

Comment 2

Comment 2 – Impact of Ineligible Claims

The Department wishes to again reiterate its commitment to ensuring the highest level of accuracy of claim payment in its administration of NYSHIP and the Empire Plan. Ensuring high levels of claims payment accuracy, such as the 99.95% level found in this report, is part of that strategy. Page 7 of the report states "Claims that are not recovered increase the overall cost of the NYSHIP program, which can result in higher premiums and costs for members and employers." This report identified $6.7 million ($4.6 million of which is still recoverable) in unrecovered ineligible claims paid over a five-year period, or an average of $1.3 million per year. This is a very small amount as compared to the total annual Empire Plan premium, approximately 0.01% of the total plan premium. While it is valid that this increases costs for members and employers enrolled in the program, the impact is quite small. For example, the unrecovered ineligible claims equated to an increase of roughly $0.03 for New York State employees enrolled in family coverage for each biweekly pay period.

Comment 1

Comment 3

Comment 3 – Coordination with Empire BlueCross

Page 7 of the report states "Civil Service does not have an adequate process for identifying payments made for retroactively disenrolled members and monitoring corresponding recoveries, and instead relies on Empire BlueCross to identify these claims." Empire BlueCross has the most up-to-date and complete claim information, so it is appropriate for the Department to rely on its vendor for this service. However, the Department will establish a process with Empire BlueCross to track the progress of recoverable claims after identification.

Comment 4 – Timeliness of Cancellations

Page 8 of the report states "We found cancellations are not entered into NYBEAS promptly (or even within recoverability time frames)." The Department

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

disputes this statement. In 2019, the average length of an Empire Plan retroactive termination was 40 days. The report is citing the average retroactive termination of members who had an ineligible hospital claim. It is important to note the distinction and not generalize based on this audit's small number of claims with specific characteristics. As noted on page 12, the claims reviewed in this audit were identified because they met certain criteria and cannot be used to make projections about the Empire Plan as a whole. The Department wishes to again note that retroactive disenrollment periods of various lengths are, by design, a part of NYSHIP's rules, which in this case are collectively bargained. The report could have provided a more thorough review if such cases had been identified.

Comment 4

Comment 5

Comment 5 – Establishment of Automated Cancellation Process

In early 2019, the Department began implementation of an automatic cancellation process for NYSHIP enrollees who were more than 90 days overdue on their NYSHIP premium payments. Previously, all of this work was done on a manual basis, which is an extremely time-consuming process. We are pleased the report makes note of this process, but Page 8 of the report states that the Department began implementing the project "after (OSC's) discussion with agency officials." The Department wishes to note that it submitted a Business Case for this project to the Office of Information Technology Services (ITS) three months before receiving OSC's engagement letter for this audit and that the Business Case was the result of months of discussions and planning.

Comment 6 – HBA Reference Material

Page 9 of the report notes that Health Benefit Administrators (HBAs) play a key role in the administration of NYSHIP, but states that the Department "does nothing to ensure HBAs actually review" the guidance provided to them and understand their responsibilities. Below is a listing of the resources available to NYSHIP HBAs:

Comment 6

- Annual HBA webinars reviewing program rules and transactions (the Fall 2019 presentation for Participating Agencies is included as Attachment 1 to this response).
- HBA Memos, which are sent to HBAs announcing upcoming deadlines and changes to NYSHIP benefits and rules (Over 40 different HBA Memos were published in 2019);
- NYBEAS System Announcements, which are brief messages provided to users when logging on to NYBEAS;
- The HBA Online website, which contains extensive information on NYSHIP benefits, publications, forms, and "e-learning" walk-throughs of transactional processing;
- The NY HBA Manual, which has procedures on processing transactions, a glossary of commonly used terms and phrases, and guidance on eligibility and enrollment; and

- Policy Memos, available on the Department website which outline and specify NYSHIP policies.

Citing a need for additional training for New York State agency HBAs, the Department has enhanced its outreach to this population. In May 2019, the Department provided a comprehensive two-day Training Session for the State agency HBAs (these presentations are included as Attachments 2 and 3, respectively). To ensure a high level of participation in these sessions, the Department proactively contacted the Department of Corrections and Community Supervision (DOCCS), the State University of New York, the Office of Mental Health, the Business Services Center and other agencies to confirm their attendance. Please note that the initial slide in this HBA Training Session stated "Many Resources are Available" with links to the HBA Manual, HBA Online, and the NYSHIP General Information Book. The Department also conducted a subsequent session for New York State agency HBAs in November 2019 to reiterate the May 2019 training session information and to advise of changes for the upcoming plan year (this presentation is included as Attachment 4 to this letter). In addition, the Department periodically conducts training sessions for certain large agencies and is looking for opportunities to be more expansive and enhance training for small agencies. Each year, the Department conducts a presentation at SUNY's annual Benefits Administrators Meeting. In May 2018, the Department conducted a specialized training for DOCCS HBAs. A similar April 2020 session was planned with OMH HBAs was scheduled but had to be postponed due to the COVID-19 pandemic.

In addition to the numerous resources listed above, the Department also maintains a phone line for HBAs to call with questions on how to perform their duties. In 2019, this telephone line handled more than 24,000 telephone calls. The report missed an opportunity to provide more actionable feedback by failing to suggest specific ways for HBAs to take advantage of the numerous resources available to them. Nevertheless, the Department will implement a process for HBAs to annually attest that they are aware of their responsibilities as an HBA and are also familiar with the resources available to assist them in their duties.

Comment 7

The Department will investigate opportunities to implement training requirements and tracking for HBAs. This effort will explore following the model of the Department's successful Civil Service Institute.

Comment 7 – DEVA Clarification

The Department periodically conducts Dependent Eligibility Verification Audits (DEVA) to remove ineligible dependents from coverage. On Page 9, the report noted that "Civil Service backdated all members removed as a result of the DEVA to early 2016." The Department wishes to note that this action was undertaken in accordance with Section 164 of Civil Service Law, as amended by Chapter 55 of the Laws of 2015, which stipulated that "the termination of the ineligible dependent's coverage resulting from such employee's timely compliance shall be made on a current basis."

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

Review of Recommendations

1. Review the $4.6 million ($3.5 million + $1.1 million) in claims paid for ineligible members and make recoveries, as warranted.

   Department Response: The Department partially agrees with this recommendation. The Department cannot make these recoveries; only Empire BlueCross has the contractual relationship with hospitals to effectuate these recoveries. The Department will work Empire BlueCross to ensure these recoveries are pursued to the greatest extent possible.

Comment 8

2. To ensure NYBEAS reflects accurate eligibility status, take steps including:

   a. Implementing a process that ensures timely cancellation of members who do not pay their premiums in accordance with Civil Service policy.

      Department Response: The Department agrees with this recommendation and has already commenced implementation of an automatic cancellation process for individuals who do not make timely premium payments.

      Although it was not included in the audit, the audit process has brought to the Department's attention that more should be done to publicize the premium waiver program for disabled members. The Department will investigate ways to make sure that all members who are potentially eligible and at risk of having their insurance canceled are aware of the program. The waiver application is available at: https://www.cs.ny.gov/employee-benefits/nyship/shared/forms/ps-452.pdf

   b. Implementing a more frequent process for dependent eligibility verification

      Department Response: The Department partially agrees with this recommendation. We do not believe it is necessary to conduct a DEVA with an outside vendor as was done in 2009 and 2016. This would consume procurement resources and the Department would have to pay unnecessary administrative fees to a third party. It would be more efficient to have enrollees periodically re-certify dependents covered under NYSHIP, particularly covered spouses and domestic partners.

Comment 9

   c. Establishing a framework to ensure all HBAs are thoroughly trained and are working to ensure timelier processing of changes to eligibility information

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

Department Response: The Department disagrees that establishing a framework is necessary, as a robust outreach effort to HBAs already exists. The Department will continue its existing efforts and also requests any suggestions from OSC on how to improve their efficacy. The Department again notes that the HBAs are not employees of the Department and in many instances, not employees of the State. The Department will implement a process for HBAs to annually attest that they are aware of their responsibilities as an HBA and are familiar with the resources available to assist them in their duties.

Comment 10

d. Engaging with members to ensure they promptly notify HBAs and Civil Service of changes to eligibility status; and

Department Response: The Department agrees with this recommendation. Plan members are notified of employee and dependent eligibility requirements on pages 5 through 8 the NYSHIP General Information Book. The publication is furnished to all new employees upon their enrollment in NYSHIP. Additionally, the publication is periodically updated, and a copy is mailed to each enrollee when the new edition is released. Enrollees can also access the publication through the Department's public website, NYSHIP Online. Upon enrollment, employees are required to provide proof of eligibility for their dependents. Additionally, enrollees are instructed to reach out to their HBAs if eligibility changes.

The Department will work to highlight the importance of prompt notification in its upcoming publications to members.

e. Ensuring NYBEAS has adequate support for changes to eligibility, particularly retroactive disenrollments.

Department Response:

The Department agrees that as it works in collaboration with the Office of General Services, the Division of the Budget, the Governor's Office of Employee Relations, and ITS on the development of a new Human Resource Management System, it can further improve the level of detail that is included with employee benefits enrollment transactions. We will work to include information that supplements the action and reason codes currently included in NYBEAS.

The Department always looks for opportunities to improve its systems and would be happy to consider including any additional details identified or recommended by OSC.

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

3. To ensure Empire properly pays claims for members who have changes in eligibility, take steps including:

   a. Conducting periodic reconciliations of Empire's eligibility data to NYBEAS eligibility data; and

      Department Response: The Department agrees with this recommendation and had already begun this initiative when this audit began. The Department has implemented a reconciliation process with the Empire Plan Prescription Drug Program vendor, CVS Caremark, and the Dental Program carrier, EmblemHealth. The Department has scheduled its initial reconciliation with Empire BlueCross for July.

   b. Identifying claims paid for disenrolled members, with emphasis on retroactively disenrolled members, and monitor Empire's corresponding recoveries

      Department Response: The Department agrees with this recommendation and will work with Empire BlueCross to establish a process to identify such claims and pursue their timely recovery.

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

Sincerely,

James DeWan
Director, Employee Benefits Division

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

Agency Comments - Empire BlueCross

An Anthem Company

Jason O'Malley
Regional Vice President, Sales
15 Plaza Drive
Latham, NY 12110
(518) 713-6190
Jason.O'Malley@.empireblue.com

July 27, 2020

Mr. Paul Alois, Audit Manager
Office of the New York State Comptroller
110 State Street
Albany, NY 12236

Re: OSC Audit 2019-S-32

Dear Mr. Alois:

We reviewed the draft final report for Audit 2019-S-32 and appreciate the opportunity to respond to your recommendations. For the remainder of this response, we will refer to Empire BlueCross as "Empire" and the Office of the New York State Comptroller as "OSC".

On March 20, 2020, the Department of Financial Services issued Circular Letter No. 8 (2020) encouraging plans to suspend all non-essential audit activities and overpayment recoveries for a period of 90-days. This ensured facilities had adequate resources during the declared COVID-19 pandemic to provide care to the communities they serve. Empire has since resumed audit activities, which do not require medical records; however, have not resumed audit related recoveries due to the negative financial impact COVID-19 had on New York Hospitals.

Background

The New York State Department of Civil Service (DCS) transmits an eligibility file to Empire on a daily basis (excluding holidays and weekends). Empire processes an average of 2,000 transactions on each eligibility file. During the scope of OSC's audit period, January 1, 2014 through December 31, 2018, Empire processed approximately 2,000,000 eligibility transactions and over 8,000,000 claims, a majority of which processed systematically. For comparison, OSC identified potential findings with 1,498 claims paid for ineligible members during this period.

Recommendation #1: *Take corrective steps to ensure eligibility information used to process claims is complete and accurate based on the daily update files from civil service and that it reconciles with current NYBEAS information.*

OSC's audit findings represent .03 of 1% of all Empire Plan enrollees and an even smaller portion of the overall enrollment and claims transactions that occurred from 2014-2018. While Empire cannot guarantee 100% accuracy, the findings identified by OSC associated with the .03 of 1% of Empire Plan enrollees highlight the fact that the controls and processes in place are extremely effective.

Upon receipt of the eligibility file from DCS, Empire validates the data to confirm compliance with HIPAA rules. A majority of the eligibility transactions are loaded systematically. Our Eligibility and Billing team (E&B) consists of a team of four (4) dedicated resources with an average of 20-years' experience processing transactions associated with Empire Plan enrollment who are proficient in interpreting the information available in NYBEAS. When a transaction is not systematically processed, the E&B team manually processes the transaction to mirror eligibility information on NYBEAS.

Our E&B team prepares a weekly report of potentially recoverable claims associated with retroactive termination transactions. They share this report with our Recovery team for comparison against a weekly query they complete specific to retroactive terminations. Recoveries are initiated where appropriate and as contractual and regulatory timeframes allow. Through this process, Empire identified over 6,000 potentially recoverable claims during the same timeframe as OSC's audit (2014-2018).

It is important to note that a comprehensive Dependent Eligibility Verification Audit (DEVA) was conducted by DCS in 2016. Although DCS transmitted the retroactive termination transactions associated with this audit electronically, Empire was required to isolate those eligibility transaction so that they could be placed on hold until such time DCS directed us to initiate the recovery process. Approximately 9% of the claims within OSC's audit sample were also reviewed by DCS as part of the DEVA audit.

Empire continues to review the processes in place specific to the retroactive termination of coverage for Empire Plan members. On April 1, 2020, our E&B team implemented a daily peer-to-peer review process. This control is in addition to the quality review processes already in place.

In addition, Empire completed a comprehensive review of the eligibility processing workflows and identified a report missing from the inventory of reports manually reviewed by our E&B team. This report is now included in their inventory of reports and review as part of the standard eligibility process.

The controls outlined above should mitigate the risk of manual oversight and minimize the opportunity for processing errors going forward.

We also took a closer look at oversights that occurred during the recovery process. Recovery requests are initiated by a macro, which automates the refund request process. If a system issue such as macro failure or connectivity issue occurs during the upload process, examiners are required to verify all transactions are completed successfully against the database where these transactions are housed.

Recommendation #2: *Take corrective steps to identify all claims paid for ineligible members and make recoveries where appropriate.*

In our preliminary response, Empire acknowledged inaccuracies occurred in the handling of 760 claims within OSC's audit sample for which we are attempting recovery. It is uncertain if any additional recoveries will occur because the audit period spans back in excess of six (6) years and we are limited to contractual and regulatory timeframes. It is also worth noting that our long-standing directive from DCS is that Empire should not recover claim payments directly from ineligible members.

As mentioned above, audit related recoveries are temporarily suspended. Once activities resume, we will update OSC on the status of recoveries related to this audit on a quarterly basis. To date, Empire has recovered $1,066,838.51, which includes claims identified prior to and during the audit. Empire will credit DCS via their claims activity for any completed recoveries.

As mentioned in our response to Recommendation #1, both the E&B and Recovery Teams have processes in place to identify claims potentially paid for ineligible members. Our E&B team produces a weekly report that contains potentially recoverable claims for members that were retroactively terminated and shares it with the Recovery team. Simultaneously, the Recovery Team identifies claims paid for ineligible members through weekly data mining. A comparison of the weekly reports from both teams is completed to ensure all claims are identified, tracked, and reviewed for potential recovery.

We appreciate the ongoing partnership we have with your office and continue to take your recommendations very seriously. We trust the measures and improvements outlined in this response will meet with your approval and will mitigate the risk of eligibility and recovery related errors going forward.

Thank you for the courtesy extended throughout the audit process.

Sincerely,

Jason O'Malley
Regional Vice President, Sales
Empire BlueCross

Cc: Ms. Angela Blessing, Empire BlueCross
Ms. Janna Liberty, Empire BlueCross

State Comptroller's Comments

1. Our audit did not find that 99.95 percent of claims were paid for eligible members over the audit period. The audit's objective was not to verify whether members met NYSHIP's eligibility requirements, but rather to identify hospital claims paid for members who were designated as not enrolled in NYSHIP. In fact, the audit methodology was limited to a judgmental sample that identified individuals who were not enrolled in the Empire Plan and, secondly, who had at least $1,000 in ineligible claims activity during the audit period. Therefore, a significant portion of members were not reviewed.

2. Civil Service's comments are misleading. Civil Service states the audit report does not mention that the deferral of premium provisions, allowed for employees on workers' compensation leave, is one of the leading causes of retroactive disenrollment (such employees may defer their premiums up to 12–24 months, and if the employee separates from service during that period and did not repay all deferred premiums, a potentially significant disenrollment can occur). However, contrary to Civil Service's assertion, workers' compensation leave was not the leading cause of our audit findings. In fact, only up to 94 of the 846 members in our findings (11 percent) were disenrolled potentially due to non-payment of deferred premiums related to workers' compensation leave, representing just $2.5 million of the $18.2 million of our total findings (14 percent). Note: the 94 members were disenrolled for various reasons, including failure to pay premiums. Regardless of why these members were disenrolled, these claims, along with the other claims identified in this report, should be reviewed and recovered, as warranted. Lastly, we provided Civil Service officials with NYBEAS member information and claim detail for our audit findings, which could have been used to see how much of the audit findings pertained to workers' compensation leave.

3. In the current fiscally stressed times, unrecovered claims totaling $6.7 million is significant. Further, this audit is only one of many audits conducted by the Comptroller's office that have identified wasteful payments leading to layered increases in premiums for the NYSHIP program and its members.

4. Civil Service refers to 2019; we remind officials that the audit scope was 2014–2018. Further, our audits report on an exception basis. Civil Service should focus on the exceptions we identified, as they have a more significant impact on costs, as demonstrated in our report.

5. As stated in Comment 2, we provided Civil Service with the necessary information on all the claims referenced in this report to identify such cases.

6. The audit identified many claims paid for ineligible members that were caused by HBAs not adequately fulfilling their responsibilities. As stated on page 9 of our report, during the audit period, Civil Service had no mandatory training or requirements for HBAs. Civil Service provides extensive rules, regulations, and guidance, but did not ensure HBAs actually reviewed the available information and fully understood their responsibilities.

7. This report is addressed to Civil Service and, therefore, focuses on steps Civil Service can take to improve program efficiency and effectiveness. We are pleased Civil Service is taking steps to expand training opportunities for HBAs, however, Civil Service could consider taking further steps, such as tracking attendance and requiring all HBAs to attend a core list of trainings on an ongoing scheduled basis.

8. Civil Service misunderstands the recommendation. As the program administrator, Civil Service is ultimately responsible for recovering the $4.6 million, as warranted, from Empire on behalf of the NYSHIP program, regardless of whether that is through settlement payments from Empire to Civil Service or claim reversals by Empire.

9. We did not recommend that Civil Service make use of an outside vendor for this process. We agree there are less costly alternatives.

10. See Comments 6 and 7.

Contributors to Report

Executive Team

Tina Kim - *Deputy Comptroller*

Ken Shulman - *Assistant Comptroller*

Audit Team

Andrea Inman - *Audit Director*

Paul Alois - *Audit Manager*

Laura Brown - *Audit Supervisor*

Rachael Southworth - *Examiner-in-Charge*

Michael Schaffer - *Senior Examiner*

Zachary Schulman - *Senior Examiner*

Constance Walker - *Senior Examiner*

Andrea Majot - *Senior 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

Like us on Facebook at facebook.com/nyscomptroller
Follow us on Twitter @nyscomptroller
For more audits or information, please visit: www.osc.state.ny.us/audits/index.htm