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September 13, 2012

Mr. David Fleming
Office of the New York State Comptroller
110 State St., 11th Fl.
Albany, NY 12236

RE: Hudson Valley Hospital Follow-up Audit 2012-F-12

Dear Mr. Fleming:

This letter is in response to Report 2012-F-12, which is the follow up to your audit entitled "*Empire BlueCross BlueShield: New York State Health Insurance Program- Payments Made to Hudson Valley Hospital Center* (Report 2009-S-99). We have reviewed the report and appreciate the opportunity to document our comments.

Recommendation #1: *"Through future negotiations with Pinnacle, ensure that hospital agreements contain language which specifies the basis of payment for special items in accordance with the expectations of the parties."*

Effective 8/1/12, our Agreement with Hudson Valley Hospital (no longer affiliated with Pinnacle HealthCare) contains the language sought by your office to establish parameters around the reimbursement of special items, including audit provisions to ensure accurate payment. We agree with the status of "implemented" for this recommendation.

Recommendation #2: *"Establish appropriate controls over payments for special items to ensure they are made in accordance with the agreement and supported by appropriate documentation."*

Your report indicated that the "partially implemented" status Empire received for this recommendation was at least partly based on the fact that pre-payment controls have not been put into place to ensure payments for special items are reasonable. However, there was no indication in the recommendations of either the preliminary or final reports specifying that the internal controls be on a "pre-payment" basis, and as a result our offices have had no serious discussion regarding the feasibility of this type of pre-payment audit control. Inherent to this recommendation is the requirement to examine source documentation that is the property of the facility, not Empire. As we have experienced firsthand with this audit and others, the time it takes to obtain required documentation can be significant. Under Section 3224-a of the New York State Insurance Law, Empire is required to pay electronic claims within 30 days of receipt. Pre-payment controls to validate the appropriateness of the amount billed are not practical and have never been an option because of this time constraint and the associated financial implications.

In response to the preliminary report, which was issued in May 2010, we indicated that expanded provider audit was a top priority for 2010. In our response to the final report, which was issued in January 2011, we reported the implementation of three new types of provider audits, two of which focused specifically on the billing and reimbursement of special items. We have been reporting the schedule and status of our internal provider audits monthly to the Department of Civil Service since May 2011.

Your report notes that Empire has not performed a post-audit of payments to Hudson Valley for special items. As we have discussed, in order for Empire to audit special items in a similar manner as the audit performed by OSC, the Hospital Agreement must define the parameters around the reimbursement for

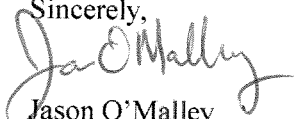
these items. The Hospital Agreement covering the claims reviewed for Audit 2009-S-99 did not have that language, and as a result the findings that OSC deemed "unreasonable" were not recoverable. The recently signed Hudson Valley Hospital Agreement (effective for dates of service on or after 8/1/12) does include language that supports audits of this nature. The facility has now been placed on our internal provider schedule for audit of special items. This was not possible prior to 8/1/12.

In addition, a post-payment audit of Hudson Valley Hospital claims, that included claims billing special items, was completed. This type of audit provides an effective control for reimbursement of special items and, while different than the audit performed by OSC, did result in a credit to the New York State Account of \$53,366.22 in November 2011. This documentation was provided to your office prior to the release of the follow up audit report. It is unclear why this was not accepted as evidence of a post-payment audit, especially since it was the only post payment audit supported by the contract in place at this time.

With our Provider Audit Department, an ongoing schedule of multiple types of provider audits, and audit processes firmly in place, we are confident that we have created an environment that can fully implement the internal controls recommended by your office and we respectfully ask that the status of this recommendation be revised to "Implemented".

I hope I have clearly explained our position on this audit report. We look forward to our continued partnership and thank your staff for the courtesy extended throughout the audit.

Sincerely,



Jason O'Malley
Director, NYS Account
Empire BlueCross BlueShield

Cc: Ms. Angela Blessing, Empire BlueCross BlueShield
Ms. Barbara Sargent, Empire BlueCross BlueShield
Mr. Robert DuBois, Department of Civil Service
Ms. Stephanie Zoufaly, Department of Civil Service
Mr. Thomas Lukacs, Division of the Budget