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DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY

UNITED HEALTHCARE

NEW YORK STATE HEALTH INSURANCE PROGRAM - OVERPAYMENTS FOR SERVICES AT THE DIGESTIVE HEALTH CENTER OF HUNTINGTON

Report 2007-S-87

AUDIT OBJECTIVES

Our objectives were to determine whether the Digestive Health Center of Huntington (DHC) routinely waived Empire Plan members' out-of-pocket costs, and if so, to quantify the overpayments made by United HealthCare (United) resulting from this practice. Our audit covered the period January 1, 2001 through December 31, 2006.

AUDIT RESULTS - SUMMARY

We found that DHC routinely waived Empire Plan members' required out-of-pocket costs for services provided. We calculated that, as a result of this practice, United overpaid claims submitted by DHC over our six-year audit period at a cost of $1.5 million to the State. This practice drives up costs for the Empire Plan, since it increases the likelihood that members will use non-participating providers, such as DHC, which generally receive higher reimbursement rates than participating providers. Furthermore, routinely waiving such costs may constitute insurance fraud.

We are referring this matter to the New York State Department of Civil Service for appropriate action. In addition, our report contains two recommendations for United to recover overpayments from DHC and to prevent DHC from routinely waiving patients' out-of-pocket costs.

This report, dated December 3, 2007, is available on our website at: http://www.osc.state.ny.us. Add or update your mailing list address by contacting us at: (518) 474-3271 or
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BACKGROUND

The New York State Health Insurance Program (Program) provides health insurance coverage to active and retired State, participating local government and school district employees and their dependents. The Empire Plan is the primary health benefits plan for the Program. 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 pays United an administrative fee.

United contracts with providers who furnish medical services to Empire Plan members and who agree to be reimbursed at rates established by United. United pays these participating providers directly based on claims they submit for services rendered to members. Members pay a nominal co-payment to the participating provider.

Members may choose to receive services from non-participating providers. The claims submitted to United by non-participating providers for any given service usually reflect rates that are higher than the rates that participating providers agree to accept for the same service. To limit its liability, United will only pay non-participating provider claims based on the lesser of reasonable and customary costs for services or the amount claimed.

As a disincentive, the Empire Plan requires members to pay higher out-of-pocket costs (including a deductible and a co-insurance rate) when they use non-participating providers. After the member meets the annual deductible, United will reimburse the member 80 percent of the claim. The member is responsible for settling with the non-

participating provider, including any out-of-pocket costs owed.

Participating providers agree to accept reimbursement rates that are generally lower than the rates for non-participating providers because there are several advantages. For example, Empire Plan members are encouraged to use participating providers to avoid paying the higher out-of-pocket costs. In addition, United directly reimburses participating providers, thereby eliminating any problems resulting from collecting payments from various patients.

Our audit focused on claims submitted by the Digestive Health Center of Huntington (DHC), which is a gastroenterological surgical facility located on East Main Street in Huntington, New York. The eight physicians who use DHC also have a separate practice in the same building. These physicians participate in the Empire Plan. However, DHC itself does not participate as a provider in the Empire Plan. United's reimbursement for services provided at DHC consists of the facility fee for the use of DHC's facility, its personnel and equipment. During the six-year period ended December 31, 2006, United paid DHC claims totaling $4.6 million for Empire Plan members.

AUDIT FINDINGS AND RECOMMENDATIONS

When United processes DHC claims for services to Empire Plan members, it is with the understanding and belief that members are liable for a portion of the claimed amount representing their out-of-pocket obligation. Our audit found that DHC is routinely waiving Empire Plan members' out-of-pocket obligations. This negates the intended disincentive from using the more costly non-participating providers and thus drives up the cost of the Empire Plan to taxpayers.

As DHC's intention was to waive members' out-of-pocket costs, the amount claimed by DHC should reflect this reduction, and the reimbursement by United should have been calculated on the lower amount. However, we found DHC claims do not indicate that out-of-pocket costs were waived. Accordingly, United was presented with and made reimbursement calculations based on inflated claims. We calculated that, as a result, United overpaid claims submitted by DHC during our six-year audit period at a cost of $1.5 million to the State.

To determine the overpayment, we selected medical claims submitted by DHC where United was the primary payer and where members' out-of-pocket costs were included on the claim. For the period January 1, 2001 through December 31, 2006, we identified 1,871 billings totaling $4.3 million meeting these criteria. To determine whether DHC waived members' out-of-pocket costs, we reviewed a sample of 170 randomly-selected billings from the 1,871 billings, and evaluated the results using statistical methods. We then reviewed DHC's financial records and found that the members' out-of-pocket costs were waived for 168 of the 170 sampled bills. For the other two sampled bills, DHC did collect the out-of-pocket costs from the member.

From our random sample, we calculated an overpayment of $113,120, due to the fact that the bills were inflated; DHC reported the entire billed amount, without reducing the claim for the waived members' out-of-pocket costs. A projection of these audit overpayments to the entire population, using statistical sampling methods and a 95 percent single-sided confidence level, results in an audit overpayment of $1,456,947.

Furthermore, the State incurs substantially higher costs for services rendered by non-participating providers, such as DHC, than for

the same services rendered by participating providers. We selected 30 bills submitted by DHC to United for Empire Plan members whose out-of-pocket costs were waived. We then calculated the amount United would have paid if the members had instead gone to a participating provider. We determined that the average payment would have been 77 percent less for participating providers. Some of the differences were extreme. For example, United paid $6,816 for one bill in our sample. If the patient had the same procedures performed in a participating facility, the cost would have been $1,112. DHC benefit from the higher reimbursement paid for non-participating provider services. The higher reimbursement results in increased costs to the State.

Moreover, under the New York Penal Law, submitting an insurance claim with false information, such as an inflated charge for service, may constitute insurance fraud. In addition, waiving of out-of-pocket costs unjustly enriches the provider because the payment should be based on the provider's actual charge, which is the amount the provider intends to accept as payment. Finally, the New York State Insurance Department concluded that it may be a violation of the State Insurance Law, and a fraudulent billing practice, when a provider routinely waives out-of-pocket costs and accepts the amount the insurer reimburses as payment in full.

Officials at the Department of Civil Service and the State Insurance Department are concerned about fraud in the Empire Plan. Officials are concerned that providers who waive Empire Plan members' out-of-pocket costs are doing so intentionally, in order to benefit from the higher reimbursement rates for non-participating providers. The eight physicians who provide services at DHC participate in the Empire Plan. Empire Plan members are treated by these participating physicians, and are referred by the same physicians to the non-participating DHC. The possibility exists that DHC waived Empire Plan members' out-of-pocket costs because most Empire Plan members would not otherwise accept a referral to a non-participating provider, and incur significant out-of-pocket expenses.

Recommendations

1. Recover the $1,456,947 in overpayments from DHC.

2. Work with the Department of Civil Service to pursue an appropriate course of action designed to prevent DHC from waiving patients' out-of-pocket costs.

AUDIT SCOPE AND METHODOLOGY

We conducted our performance audit in accordance with generally accepted government auditing standards. Our audit focused on identifying overpayments from claims submitted by DHC to United during the period January 1, 2001 through December 31, 2006 where there was a risk of DHC waiving the member's out-of-pocket costs.

To accomplish our objectives, we reviewed a random sample of 170 billings submitted by DHC. We reviewed DHC's financial records, United's cancelled checks, and United's Explanation of Benefit statements, to determine if DHC was waiving the Empire Plan members' out-of-pocket costs.

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 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 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 United officials for their review and comments. United officials agree with our audit findings and conclusions.

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

CONTRIBUTORS TO THE REPORT

Major contributors to this report were Kenneth Shulman, David Fleming, Laura Brown, Kathleen Garceau, and Ekaterina Merrill.