



Empire BlueCross BlueShield

New York State Health Insurance Program – Payments Made to Hudson Valley Hospital Center

Report 2009-S-99



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of State Government Accountability

October 28, 2010

Mr. Jason O'Malley
Director, New York State Empire Plan
Empire BlueCross BlueShield
11 Corporate Woods Boulevard
Albany, New York 12211

Dear Mr. O'Malley:

The Office of the State Comptroller is committed to providing accountability for tax dollars spent to support government operations. This fiscal oversight is accomplished, in part, through our audits, which determine whether entities contracting with the State are fulfilling contract responsibilities. Audits can also identify strategies for reducing costs, improving operations and strengthening controls that are intended to safeguard assets.

Following is a report of our audit of payments made by Empire BlueCross BlueShield to Hudson Valley Hospital Center under the New York State Health Insurance Plan. This audit was performed pursuant to the provisions of the contract between the Department of Civil Service and Empire BlueCross and BlueShield and 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*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

Audit Objective

The objective of our audit was to determine whether the payments made by Empire BlueCross BlueShield (Empire) to the Hudson Valley Hospital Center (Hudson Valley) were made in accordance with Empire's Certificate of Insurance and Empire's hospital agreement (agreement) with Pinnacle HealthCare (Pinnacle), a health-care alliance that includes Hudson Valley. We also reviewed the payments to determine if they were reasonable based on Empire's expectations for payment of certain special items. Our audit covered the period January 1, 2007 through December 31, 2009.

Audit Results – Summary

The New York State Health Insurance Program (NYSHIP) provides health insurance coverage to active and retired State, participating local government and school district employees and their dependents. The Empire Plan (Plan) is the primary health benefits plan for NYSHIP. The Department of Civil Service (Department) contracts with Empire to administer the hospitalization portion of the Plan, which provides coverage for inpatient and outpatient services provided by a hospital or skilled nursing facility, and hospice care. Empire processes Plan claims for hospital services in accordance with agreements between Empire and member hospitals.

For the period January 1, 2007 through December 31, 2009, Empire paid \$21.5 million for 17,497 claims submitted by Hudson Valley for services provided to Plan members. We reviewed a sample of the 50 claims for special items for which Empire reimbursed Hudson Valley a total of \$1,115,745. According to the contract governing reimbursement, the claims should have been paid at stated percentages of the amounts charged to Empire. According to Empire officials, however, there was a verbal understanding that the reimbursement resulting from the contract was to approximate the actual cost that Hudson Valley incurred for the items. We determined that the claims were reimbursed in accordance with the written language of the contract. However, the resulting reimbursement far exceeded the cost of the items. In fact, when we reviewed the supporting documentation for the sample of 50 claims, we found that the cost to Hudson Valley for the items provided was \$230,065. Therefore, Hudson Valley made a profit of \$885,680 for the 50 items; 385 percent above cost. If Empire expected the reimbursement to approximate the actual cost of the items, then the contract should have provided for this in writing.

Our report contains two recommendations for Empire officials to strengthen controls over reimbursement for these items and to ensure that contract providers regarding reimbursements align with their expectations. Empire officials acknowledge that our audit has highlighted a significant opportunity to control costs. Empire officials noted that hospital negotiations are complex and are evaluated in the aggregate, whereas our audit focused on only certain claims.

This report, dated October 28, 2010, is available on our website at: <http://www.osc.state.ny.us>.
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Office of the State Comptroller
Division of State Government Accountability
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Introduction

Background

NYSHIP provides health insurance coverage to active and retired State, participating local government and school district employees and their dependents. The Plan is the primary health benefits plan for NYSHIP. Plan benefits include inpatient and outpatient hospital coverage, medical/surgical coverage, Centers of Excellence for transplants, infertility and cancer, home care services, equipment and supplies, mental health and substance abuse coverage, and prescription drug coverage.

The Department contracts with Empire to administer the hospitalization benefit portion of the Plan. This contract provides coverage for inpatient and outpatient services provided by a hospital, skilled nursing facility, and hospice care as described in the Certificate. Empire processes Plan claims for hospital services in accordance with agreements between Empire and member hospitals. These member hospitals are located in 28 eastern and southeastern New York State counties and 10 bordering counties in New Jersey and Connecticut. Empire also processes Plan claims for services provided by hospitals outside Empire's service area. These claims are submitted by hospitals to their local plans for payment. The local plans are then reimbursed by Empire.

For the period January 1, 2007 through December 31, 2009, Empire paid \$21.5 million for 17,497 claims submitted by Hudson Valley for services provided to Plan members.

Audit Scope and Methodology

The objective of our audit was to determine whether the payments made by Empire to Hudson Valley were made in accordance with Empire's Certificate of Insurance and Empire's hospital agreement with Pinnacle, a health-care alliance that includes Hudson Valley. We also reviewed the payments to determine if they were reasonable based on Empire's expectations for payment of certain special items. Our audit covered the period January 1, 2007 through December 31, 2009.

To accomplish our objective, we identified all 314 claims that included payments for certain special items. In total, Empire paid Hudson Valley \$1,533,923 for such items during our audit period. We selected the 50 claims with the highest dollar amount paid for these items. Empire's payments to Hudson Valley for the special items on these 50 claims totaled \$1,115,745. This accounted for 73 percent of all payments made to Hudson Valley for such items during our audit period. We interviewed officials at both Empire and Hudson Valley. We reviewed claim detail at Empire and medical, billing and payment records at Hudson Valley to

determine if the selected payments were made in accordance with the Certificate and the agreement.

In preparing this report, we excluded certain details relating to the claims we reviewed due to the proprietary nature of the agreement between Empire and Pinnacle. However, we provided specific details of all the transactions in question to Empire and Department officials for their review and resolution, as appropriate.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting systems; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members 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 Empire officials for their review and comments. Their comments have been taken into consideration in preparing this report.

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

**Major
Contributors**

Major contributors to this report were Steve Sossei, Ed Durocher, David Fleming, Cynthia Herubin, and Andrea Dagastine.

Audit Findings and Recommendations

Billing for Certain Special Items Empire's agreement with Pinnacle specifies certain special items for which an additional payment, over and above the rate schedule amount, is made to the hospital. We selected the 50 claims with the highest dollar amount paid to Hudson Valley for these special items between January 1, 2007 and December 31, 2009. Empire's payments to Hudson Valley for the special items on these 50 claims totaled \$1,115,745, which accounts for 73 percent of the \$1,533,923 Empire paid Hudson Valley for such items during our audit period.

The current agreement between Empire and Pinnacle was effective April 1, 2003 and amended July 1, 2009. Although the agreement between Pinnacle and Empire specifies how the special items are to be paid by Empire, it does not specify the basis for the hospital's charges for these special items. According to Empire officials, Pinnacle could not guarantee the billed charges for these items would ensure Empire's payment would be equal to the hospital's cost for the item. Therefore, Pinnacle did not want such language included in the agreement. According to Empire officials, Empire and Hudson Valley verbally agreed that reimbursement for specialty items would be about the hospital's cost for these items in the aggregate. Based on the verbal agreement, Empire officials indicated that they would expect payments for these special items to be close to the hospital's cost.

Pinnacle disagrees with Empire's statement that there was a verbal agreement. Pinnacle maintains that there was no agreement that these special items would be billed based on a percent of charges equivalent to the hospital's acquisition costs.

We reviewed billing and payment records at Hudson Valley for the 50 claims in our sample. We found that Empire paid significantly more than the hospital's cost for the items. For example, Empire paid Hudson Valley \$156,970 for special items on one claim. We reviewed supporting documentation at Hudson Valley for the items provided and found that the actual cost to Hudson Valley for the items on this claim totaled \$31,691. Therefore, Hudson Valley made a profit of \$125,279 or almost 400 percent on the special items billed for this claim. Other examples are illustrated in the following table:

OSC Sample Record Number	Amount Paid to Hudson Valley	Cost	Amount Paid Over Cost	Percentage Paid Over Cost
37	\$10,519	\$200	\$10,319	5,160%
66	5,884	446	5,438	1,219%
56	7,299	640	6,659	1,040%
27	18,043	1,991	16,052	806%
36	11,039	1,332	9,707	729%
All Others (45)	1,062,961	225,456	837,505	371%
Total (50)	\$1,115,745	\$230,065	\$885,680	385%

Empire paid a total of \$1,115,745 for the special items on the 50 claims in our sample. Supporting documentation for the 50 claims indicated that the cost to Hudson Valley for the special items provided was \$230,065. Therefore, Hudson Valley made a profit of \$885,680 or 385 percent on the 50 claims in our sample.

These payments resulted because Empire has not established formal contract provisions and appropriate controls to ensure these items are reimbursed at or about actual cost in accordance with their expectations. Empire relies on Hudson Valley to submit accurate claims for these items.

In response, Empire officials stated that the billing and reimbursement of these items are consistent with the terms of the agreement, because the agreement does not define the basis for the hospital's charges for these items. Therefore, Hudson Valley cannot be held accountable for the billings that are substantially in excess of costs. Furthermore, Empire officials add that hospital negotiations are complex and each provision must be evaluated to ensure that it does not have a negative impact on the overall agreement.

We understand that the agreement between Pinnacle and Empire does not include specific language for billing these special items. We further recognize that contract negotiations are a complex process and that contracts must be evaluated in the aggregate to ensure they are in the best interest of the customer. However, Empire was unaware of the excessive mark ups on these items and, in fact, assumed reimbursement for these items was close to cost. Therefore, the hospital's actual profit on these items could not have been considered in hospital negotiations with Pinnacle. We believe specific language in the agreement limiting the mark up on these items is a more effective way to control costs that are passed on to the State.

An Empire official also noted a provision in the agreement, effective in 2007, that limits the increases in charges by the hospital for certain services, including these special items, and gives Empire the right to audit to ensure increases do not exceed the amount allowed. The provision also allows Empire to adjust their reimbursement for these services if charges exceed the threshold. Empire recently completed an audit of Hudson Valley's compliance with this provision. Their results suggest that Hudson Valley exceeded the contractual threshold. Empire will share the details of the audit after Hudson Valley is given the opportunity to review and respond to the results. Although this provision establishes controls over annual increases to these items, it does not control amounts billed for the items prior to an increase as noted in our examples.

Empire officials agree that additional controls may be required to validate the accuracy of the information that is submitted by Hudson Valley. Empire is currently finalizing their approach to performing audits. We encourage Empire to continue these efforts to establish additional cost controls over hospital claims.

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