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August 13, 2012

Ms. Paula A. Gazeley-Daily, R.Ph.
Strategic Client Executive - Empire Plan Rx Program
United HealthCare
900 Watervliet Shaker Road - Suite 105
Albany, NY 12205

Re: Report 2012-F-13

Dear Ms. Gazeley-Daily:

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 have followed up on the actions taken by officials of United HealthCare (United) to implement the recommendations contained in our audit report, *New York State Health Insurance Program - United HealthCare's Payments for Repackaged Drugs Dispensed Under the Empire Plan* (Report 2010-S-38).

Background, Scope and Objective

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 benefit plan for NYSHIP and includes prescription drug coverage. The New York State Department of Civil Service (Department) contracts with United HealthCare (United) to provide prescription drug coverage under the Plan. United subcontracted its claims processing and payment functions for drug coverage to Medco Health Solutions, Incorporated (Medco). Based on contract provisions, the Department reimburses United for all properly adjudicated claims paid by Medco. In addition, to help limit costs to the Plan, the contract requires a claim payment for a drug to be based on a prescribed discount from the manufacturer's Average Wholesale Price (AWP).

To reduce medication errors, the pharmaceutical industry developed processes for placing drugs into single dose packaging (versus traditional multi-dose bottles). This is commonly known as "repackaging," which can increase the production costs, AWP, and retail prices for a drug. Generally, the medical necessity for dispensing repackaged drugs at retail pharmacies is limited. Moreover, the contract requires United to have controls in place to protect the State from any inflated costs associated with claims for repackaged drugs. Thus, for the purposes of the Plan, the charge for a repackaged drug should be relatively consistent with the charge for the same drug in its original form.

The objective of our initial audit was to determine if United had established adequate

controls to protect the State from excessive costs for repackaged drugs for the period January 1, 2008 through July 9, 2010. In our initial audit report, issued on February 17, 2011, we found that United's efforts did not adequately protect the State from excessive costs for repackaged drugs. As a result, the State incurred as much as \$996,751 in excessive costs during our audit period for 8,185 claims for repackaged drugs. Our initial audit also identified two particular pharmacies that had highly unusual patterns of claims for repackaged drugs. The objective of our follow-up review was to determine if the four recommendations included in our initial audit report were implemented.

Summary Conclusion and Status of Audit Recommendation

United officials made some progress in addressing the matters in our initial report. United's actions included the recovery of \$261,413 in improper payments that have been credited to the State. Additional actions, however, are still warranted. Of the initial report's four recommendations, two were implemented, one was partially implemented, and one was not implemented.

Follow-up Observations

Recommendation 1

Reimburse the State for the excessive amounts (as much as \$996,751) the State paid for repackaged drugs, as identified by the audit.

Status - Partially Implemented

Agency Action - United recovered \$118,589 in overpayments from a pharmacy (identified in our initial audit) that billed for repackaged drugs, but actually dispensed the drugs in their original forms. During our initial audit, we conducted a site visit to this pharmacy to assess the propriety of their claiming practices. Subsequent to our site visit, the pharmacy submitted reversals for 728 claims with overpayments totaling \$118,589. The \$118,589 has been credited to the State. United, however, did not investigate and recover any of the remaining \$878,162 in potential overpayments identified by the initial audit, and consequently, United made no reimbursements for these payments to the State.

Recommendation 2

Review claim payments for repackaged drugs made between July 9, 2010 and October 31, 2010 and identify any excess payments. Reimburse the State for the amounts of the excess payments.

Status - Not Implemented

Agency Action - From July 10, 2010 through October 31, 2010, the State potentially overpaid 838 claims for repackaged drugs by \$109,893. United did not provide us with evidence they reviewed any claims for repackaged drugs during this period.

Recommendation 3

Implement and maintain control processes that will sufficiently protect the State from inflated AWP costs associated with repackaged drugs.

Status - Implemented

Agency Action - Effective November 1, 2010, Medco activated an edit to deny all disfavored repackaged drugs. We analyzed drug claims adjudicated in 2011 and concluded the edit has effectively protected the State from inflated costs resulting from repackaged drugs. In addition, Medco augmented their on-site pharmacy audit procedures to include steps to validate claims for repackaged drugs.

Recommendation 4

Investigate the claim payments made to pharmacies A and B for repackaged drugs. Also, formally assess the policies and practices used by these pharmacies to dispense and bill for repackaged drugs. Take actions, as warranted, to remediate any improper practices that are identified.

Status - Implemented

Agency Action - After our initial audit, Medco performed on-site audits of pharmacies A and B. The audit of pharmacy A resulted in the reversal of numerous repackaged drug claims and other findings totaling an additional \$69,641 in reimbursements to the State. Further, Medco is currently considering the termination of pharmacy A from its retail network. During its audit of pharmacy B, Medco identified 199 claims for repackaged drugs that were not supported by invoices for such drugs. Also, in seven instances, pharmacy B filled (and claimed) more refills than the prescriber authorized, and a patient denied receipt of drugs on another claim. In total, Medco's audit of pharmacy B led to a reimbursement of \$73,183 to the State.

Major contributors to this report were Todd Seeberger and Wendy Matson.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We also thank the management and staff of United and Medco for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

David Fleming
Audit Manager

cc: Robert DuBois, Department of Civil Service
Thomas Lukacs, Division of the Budget