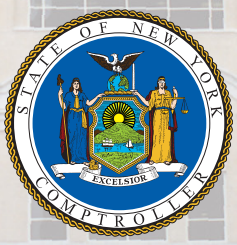
OFFICE OF THE NEW YORK STATE COMPTROLLER

DIVISION OF STATE GOVERNMENT ACCOUNTABILITY

United HealthCare

New York State Health Insurance Program - United HealthCare's Payment of Non-Participating Provider's Facility Fee Claims

Report 2007-S-110



Thomas P. DiNapoli

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State of New York
Office of the State Comptroller

Division of State Government Accountability

January 26, 2010

Mr. Carl Mattson
United HealthCare
900 Watervliet Shaker Road
Albany, NY 12205

Dear Mr. Mattson:

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 - United HealthCare's Payments of Non-Participating Provider's Facility Fee Claims. The New York State Health Insurance Program is administered by the Department of Civil Service, and the audit was performed pursuant to 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

Our objective was to determine whether United HealthCare (United) applied the cost limitations required by the contract when paying claims for the facility fees associated with outpatient surgery procedures performed at non-participating ambulatory surgery centers. Our audit covered such claims submitted and paid by United for the period January 1, 2004 through July 31, 2007.

Audit Results - Summary

We found that United did not apply the cost limitations required by contract when it processed facility fee claims submitted by non-participating providers until August 1, 2007. This resulted in United overpaying such claims and, therefore, United should refund $4.4 million to the State. United did not agree that it was contractually obligated to apply these cost limitations to this class of claims for the period audited by us and also questions whether, even assuming it was so obligated, the refund amount is correct. Nevertheless, United has worked with audit staff to identify claims that may have been previously adjusted through other audits and to document costs United incurred as a result of system design changes enabling it to apply contracted cost limitations. Where auditors concurred, our recommended disallowance amount was adjusted. United has reached an agreement with the Department of Civil Service to refund the full amount ultimately recommended.

This report, dated January 26, 2010, 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
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

Introduction

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 (Plan) is the primary health benefits plan for the Program. The New York State Department of Civil Service (Department) contracts with United to process and pay medical claims for services provided to Empire Plan members.

United contracts with providers to furnish medical services to Empire Plan members who agree to accept reimbursement 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 for non-participating provider services are usually paid at higher rates than the rates participating providers agree to accept for the same services. United is contractually obligated to apply cost limits when it pays billings from non-participating providers. These limits require United to pay claims at the lower of either the amount billed or at a level equal to 80 percent of comparable charges in a provider's geographic area.

Our audit focused on claims for facility fees related to services provided in non-participating outpatient ambulatory surgery centers. United pays facility fees for outpatient surgery to cover the use of the facility, its personnel and equipment. Facility fees are in addition to fees for doctors' professional services. During our audit scope, United paid $70 million in facility fees for services provided in non-participating outpatient ambulatory surgery centers.

Audit Scope and Methodology

The objective of our audit was to determine whether United HealthCare (United) applied the cost limitations required by the contract when paying claims for the facility fees associated with outpatient surgery procedures performed at non-participating ambulatory surgery centers. Our audit covered such claims submitted and paid by United for the period January 1, 2004 through July 31, 2007. To accomplish our objective, we reviewed 147 of the 150 highest billings and an additional random sample of 138 billings submitted by non-participating providers to United for outpatient surgery facility fees. We reviewed the claim forms for each billing to determine the accuracy of the billings. We provided United's current vendor that establishes the cost limitations for paying facility fee claims for non-

participating ambulatory surgery providers with the 285 billings to be re-priced based upon the limits in effect for the respective period of time and location.

We conducted our performance audit in accordance with generally accepted government auditing standards. These 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 would appreciate receiving your response to the recommendations made in this report within 30 days, indicating any action planned or taken to implement them.

We discussed our findings with United and the Department. We were advised that United has reached an agreement with the Department of Civil Service to refund the full amount ultimately recommended.

Contributors to the Report

Major contributors to this report were Steven Sossei, Kenneth Shulman, David Fleming, Daniel Towle, and Tracy Samuel.

Audit Findings and Recommendation

The Department's contract with United, including the Department's Request for Proposal (RFP), Metropolitan Life's (United's predecessor) Proposal and the Empire Plan Certificate of Insurance (Certificate), requires that cost limitations be applied to all non-participating provider charges for covered medical services. United is, and was during the audit period, contractually required to pay claims from non-participating providers at the lower of the amount billed or 80 percent of the cost limitation established for the same or similar geographic area for the same or similar services.

In March 1994, Metropolitan's Empire Plan Report notified Plan members of certificate amendments to include coverage for ambulatory surgery centers under the Basic Medical program. This Report advised members that coverage for facility charges by non-participating surgical centers is subject to the same reimbursement procedures as providers in the remainder of the Basic Medical program.

As of August 1, 2007, United contracted with a vendor to statistically determine the cost limits to set reimbursement rates for non-participating provider facility fee claims. Prior to this date, United did not apply these limits when processing claims. Instead, United reimbursed non-participating provider facility fee claims based solely on the actual charges submitted.

Often, a provider's actual charge is significantly greater than what is allowed by the cost limits. Since United made no comparison between the actual billed charge, the provider's usual charge and the usual charge of other providers in the area to determine the lowest of the three, United often paid more than the contract allowed. For example, we found that United paid $61,000 for a procedure that, had it applied the geographically determined cost limitations, it would have paid only $12,446.

In May 2002, the Department became aware that United was paying non-participating provider facility fee claims based on the amount submitted. When Department officials questioned United, officials indicated they did not have a source for setting cost limitations that met Empire Plan requirements. Department officials raised the issue again in February 2005, when they noticed a dramatic increase in non-participating provider facility fee claims. The Department asked United what options were available to limit facility fee payments. Again, United indicated there was no database available for setting cost limits that met Empire Plan requirements.

At this time, the Department asked United if there were any controls to ensure the amount charged was "reasonable." United acknowledged there were none. United suggested a contracting effort with high volume ambulatory surgery centers as a way to control costs for non-participating provider facility fee claims. This effort was not successful.

In October 2006, more than four years after the Department initially expressed concerns, United proposed a solution. United's proposal was to use a database from a vendor United uses for other plans it administers. This database meets Empire Plan requirements. After evaluation, the Department accepted United's proposed solution. We determined this vendor's database has been commercially available for 17 years. Moreover, United has had a contract with this vendor for at least 10 years, and has been using this vendor to determine cost limits for facility fees in other plans United administers. Therefore, United should have informed the Department of this vendor's database long before October 2006.

To calculate the overpayment attributable to United's failure to apply cost limitations to these facility fee claims, we selected facility fee billings submitted by non-participating ambulatory surgery centers where United was the primary payer. For the period January 1, 2004 through July 31, 2007, we identified 17,326 billings totaling $69.9 million that met our criteria. To determine whether an overpayment was made, we reviewed 147 of the 150 highest paid billings and a randomly-selected sample of 138 billings from the remaining 17,176 billings in our population. We omitted three of the top 150 billings from this audit since we are reviewing them in a separate audit. We requested and reviewed claim forms submitted to United for the 285 billings. We then sent the 285 billings to United's vendor to compare the actual charges to the usual charges of other providers in the same geographic area to determine which was lower. We determined United overpaid 207 of the 285 billings because it did not apply the cost limits when paying bills from non-participating providers.

We calculated 89 overpayments totaling $169,000 from our random sample of 138 claims. A projection of these audit overpayments to the entire population[1] results in an audit overpayment of $9,080,663. In addition, we calculated an overpayment of $825,191 from our review of the 147 highest paid billings.

[1] Our projection is based upon statistical sampling methods and a 95 percent single-sided confidence level.

We reduced our overpayment calculations to account for certain claims reviewed in prior audits. We further reduced our overpayment calculations to recognize the additional fees United would have incurred to obtain cost limit data from United's vendor from the beginning to the end of our audit period. Overall, we determined United owes the State $4,378,250 because they did not apply these cost limitations to facility fee claims before August 1, 2007.

United believes our findings should be reduced further to reflect the system development costs incurred to develop a mechanism for routing claims to United's vendor that supplies the necessary database for determining the correct facility fee. We disagree with United as these apparent costs are offset by the lost interest income to the State resulting from the overpayments.

Recommendation

1. Reimburse the State the $4,378,250 in overpayments.