



United HealthCare

New York State Health Insurance Program
Overpayments for Services
Provided by Dr. Handler and Dr. Moschetto

Report 2009-S-23



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of State Government Accountability

November 19, 2009

Mr. Carl A. Mattson
Vice President, Empire Plan
United Healthcare National Accounts
900 Watervliet-Shaker Road - Suite 105
Albany, New York 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 - Overpayments for Services Provided by Dr. Handler and Dr. Moschetto. 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 Objectives

Our objectives were to determine whether the practice of Dr. Martin Handler and Dr. Anthony Moschetto routinely waived Empire Plan members' out-of-pocket costs, and if so, to quantify the overpayments made by United HealthCare resulting from this practice. Our audit covered the period from January 1, 2004 through December 31, 2008.

Audit Results - Summary

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.

United contracts with certain providers who agree to accept payments, at rates established by United, to furnish medical services to Empire Plan members. United pays these "participating providers" directly based on claims they submit for the services rendered. Members pay nominal co-payments to the participating providers for services. Members may also choose to receive services from "non-participating providers." The claims from non-participating providers usually include service fee rates that are higher than the fee rates that participating providers agree to accept for the same services. Often, the rates for non-participating providers are much higher than the rates for participating providers. Consequently, to encourage members to use participating providers, the Empire Plan requires members to pay higher out-of-pocket costs (including deductibles and co-insurance) when they use non-participating providers.

We found that the practice of Dr. Handler and Dr. Moschetto, a non-participating provider, routinely waived Empire Plan members' required out-of-pocket costs for services provided. As a result, United overpaid claims submitted by Dr. Handler and Dr. Moschetto by \$903,563 during the period of our audit. As non-participating providers, Dr. Handler and Dr. Moschetto received higher fee rates than participating providers. Moreover, the routine waiver of members' out-of-pocket costs tends to drive up costs for the Empire Plan, because it increases the likelihood that members will use non-participating providers. In addition, such waivers may violate the State Insurance Law.

Our report contains three recommendations related to United's payment of claims from Handler and Moschetto. The recommendations include recovery of the \$903,563 in excessive payments to Handler and Moschetto as well as steps to prevent Handler and Moschetto from waiving patients' out-of-pocket costs in the future. In addition, we are referring this matter to the Department of Civil Service for appropriate action.

This report dated November 19, 2009, 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

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 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 it pays United an administrative fee.

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

Members may also choose to receive services from “non-participating providers.” The claims submitted to United by non-participating providers usually include service fee rates that are higher than the fee rates that participating providers agree to accept for the same services. To limit its costs (and those of the State), United pays non-participating provider claims the lesser of “reasonable and customary” rates for the services provided or the actual amount claimed by the provider. In most instances, payments to non-participating providers are based on reasonable and customary rates. However, reasonable and customary rates are generally more than the rates paid to participating providers for similar services. Often, the difference is significant. Generally, when United pays a claim from a non-participating provider, the payment is made to the member. The member is then expected to use the funds to compensate the non-participating provider.

To encourage members to use participating providers, the Empire Plan requires members to pay higher out-of-pocket costs (including deductibles and co-insurance) when they use non-participating providers. After the member meets an annual deductible, United pays the member 80 percent of the reasonable and customary cost of the service. The member is responsible for the remaining 20 percent of the charge (or co-insurance) for the service. The member is responsible for settling any unpaid balance with the non-participating provider, including any out-of-pocket amounts owed.

Participating providers agree to accept service fee rates that are generally lower than the fee rates for non-participating providers because service payments are made directly to the provider (instead of the member, as is the

case for the payment of claims from non-participating providers). Therefore, participating providers avoid the problems related to the collection of large unpaid balances from patients.

Our audit focused on claims submitted by the practice of Dr. Martin Handler and Dr. Anthony Moschetto (Handler and Moschetto), who are cardiologists located in Great Neck, New York. With respect to the Empire Plan, the practice of Handler and Moschetto is a non-participating provider. During the period from January 1, 2004 through December 31, 2008, United paid Handler and Moschetto claims totaling \$4.9 million for Empire Plan members.

Audit Scope and Methodology

Our audit primarily focused on whether Handler and Moschetto routinely waived Empire Plan members' out-of-pocket costs, and if so, to quantify the overpayments made by United during the period January 1, 2004 through December 31, 2008. To accomplish our objectives, we reviewed a random sample of 178 claims submitted by Handler and Moschetto. We reviewed Handler and Moschetto's financial records to determine if Handler and Moschetto routinely waived the out-of-pocket costs for Plan members, and consequently, submitted improper claims to United.

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 (some of whom have minority voting rights) to certain boards, commissions, and public authorities. 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 the report to United officials for their review and comments. United officials agreed with our audit findings and conclusions. In addition, we request that United officials provide us with a response to the recommendations made in this report within 90 days, indicating any actions planned or taken to implement them.

**Contributors
to the Report**

Major contributors to this report were Steve, Sossei, David Fleming, Laura Brown, Brian Krawiecki, Arnold Blanck and Frank Commisso.

Audit Findings and Recommendations

Waivers of Members' Out-of- Pocket Costs

When United processes Handler and Moschetto's 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 members' out-of-pocket obligations. However, our audit found that Handler and Moschetto routinely waived Empire Plan members' out-of-pocket obligations. Consequently, Handler and Moschetto's claims for services to Plan members were excessive, and United made excessive payments for these claims. By waiving member's out-of-pocket obligations, Handler and Moschetto improperly removed the incentive for members to use participating providers. This likely resulted in increased costs to the Plan and consequently to taxpayers.

Because Handler and Moschetto intended to waive members' out-of-pocket costs, Handler and Moschetto should have reduced their claims to United by the amounts of those out-of-pocket costs. Consequently, the corresponding payments by United should have been based on the amount of the base service charge minus the amounts of the out-of-pocket costs that were waived. However, we found that Handler and Moschetto's claims did not indicate that members' out-of-pocket costs were waived. Accordingly, United was presented with and made payments to Handler and Moschetto based on excessive claims. We determined that United overpaid claims submitted by Handler and Moschetto, during our audit period, at a cost of \$903,563 to the State.

To determine the amount of the overpayments, we selected medical claims submitted by Handler and Moschetto in which United was the primary payer and the amounts of members' out-of-pocket costs were included on the claims. For the period January 1, 2004 through December 31, 2008, we identified 3,364 claims totaling \$4.9 million meeting these criteria. To determine whether Handler and Moschetto waived members' out-of-pocket costs, we reviewed a sample of 178 randomly-selected claims from the 3,364 total claims, and evaluated the results using valid statistical methods. We then reviewed Handler and Moschetto's financial records and found that the members' out-of-pocket costs were waived intentionally for 165 of the 178 sampled claims. In the remaining 13 instances, we determined that the co-insurance was not waived.

From our random sample, we identified overpayments amounting to \$47,188, resulting from claims that were excessive. In submitting claims, Handler and Moschetto routinely reported the full base amounts for services, but did not reduce them by the amounts of members' out-of-pocket costs that were

waived. For example, if Handler and Moschetto charged \$125 for services provided to an Empire member, United would pay \$100 (80 percent of \$125). Handler and Moschetto accepted that amount as payment in full, and then waived the remaining \$25 (co-insurance owed by the member) of their fee. However, Handler and Moschetto's actual charge to United should have been \$100 (the amount they actually intended to collect for the service), and United should have paid only \$80 (80 percent of \$100) on the claim. Because United paid \$100, Handler and Moschetto were overpaid by \$20. A projection of the overpayments to the entire population of claim payments, using statistically valid sampling methods (including a 95 percent single-sided confidence level), indicated that the total overpayment amounted to \$903,563.

The waiver of members' out-of-pocket costs improperly benefits non-participating providers because payments are not based on the amounts that such providers actually intend to accept as full payment for services provided. Further, such waivers tend to drive up costs for the Empire Plan, because it increases the likelihood that members will use non-participating providers.

We also note that officials at the Department of Civil Service and the State Insurance Department are concerned about fraud and abuse in the Empire Plan. Specifically, officials are concerned that providers who routinely waive members' out-of-pocket costs are doing so intentionally to benefit from the higher reimbursement rates for non-participating providers. Moreover, the State Insurance Department has indicated that it may be a fraudulent billing practice and violation of the State Insurance Law when a provider routinely waives out-of-pocket costs and accepts amounts from an insurer as payment in full.

- Recommendations**
1. Recover from Handler and Moschetto the \$903,563 overpaid for services provided.
 2. Formally advise Handler and Moschetto of the advantage of becoming a participating provider in the Empire Plan and ask Handler and Moschetto to become a participating provider.
 3. Work with the Department of Civil Service to pursue an appropriate course of action to prevent Handler and Moschetto from waiving out-of-pocket costs in the future, if Handler and Moschetto does not become a participating Empire Plan provider.