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STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

December 28, 2015

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

Re: Empire BlueCross BlueShield: Selected  
Payments for Special Items for the  
Period January 1, 2012 Through  
June 30, 2012  
Report 2015-F-21

Dear Mr. O'Malley:

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 Empire BlueCross BlueShield to implement the recommendations contained in our audit report, *Empire BlueCross BlueShield: Selected Payments for Special Items for the Period January 1, 2012 Through June 30, 2012* (Report 2012-S-132).

**Background, Scope, and Objectives**

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 Plan covers inpatient and outpatient hospital coverage, medical/surgical coverage, Centers of Excellence (for transplants, infertility, and cancer treatments), home care services, equipment and supplies, mental health and substance abuse services, and prescription drugs.

The New York State Department of Civil Service contracts with Empire BlueCross BlueShield (Empire) to administer the hospitalization portion of the Plan, which includes coverage for inpatient and outpatient services provided by hospitals, skilled nursing facilities, and hospice. Empire processes and pays Plan claims for hospital services in accordance with agreements Empire negotiates with member hospitals. Payments for hospital services are generally based on standard fee schedules that are negotiated between Empire and its member providers. Hospitals may be entitled to additional payments for special items (implants, drugs, and blood) that are

not covered by the standard fee schedules. Agreements with many of Empire's member hospitals limit the payments for special items. However, agreements with other hospitals do not have similar limitations. For the period January 1, 2012 through June 30, 2012, Empire paid over \$71 million for 38,381 claims for special items.

We issued our initial audit report on December 13, 2013. Our objective was to determine whether Empire paid claims for special items according to the provisions of the agreements between Empire and its member hospitals. Our initial audit examined selected payments for special items made by Empire during the six-month period January 1, 2012 through June 30, 2012. Our audit found that Empire did not have adequate controls to ensure special items were paid according to contract provisions. As a result, Empire made a net overpayment of \$391,894 on 81 claims from hospitals that had contracts with Empire that limited the amounts that should have been charged for special items. We made three recommendations to Empire to recover the overpayments we identified and implement certain controls to ensure that payments for special items are accurate and properly supported by appropriate documentation.

The objective of this follow-up review was to assess the extent of implementation, as of September 1, 2015, of the three recommendations included in our initial audit report.

### **Summary Conclusions and Status of Audit Recommendations**

Empire officials made considerable progress in implementing the recommendations we made in our initial audit report, which included recovering \$368,917 in overpayments. Of the initial report's three audit recommendations, two were implemented and one was partially implemented.

### **Follow-Up Observations**

#### **Recommendation 1**

*Recover the net overpayment of \$391,894 for the improperly paid claims.*

Status - Implemented

Agency Action - Empire officials have taken significant steps to recover the overpayments from the hospitals for the improperly paid claims. As of September 1, 2015, Empire had recovered \$368,917 of the overpayments and was in the process of recovering an additional \$1,443. The remaining \$21,534 was not recovered for various reasons, including circumstances outside of Empire's control. For example, one hospital was no longer in Empire's network, and consequently, there were limited current payments from which Empire could offset prior overpayments. Therefore, Empire referred the remaining overpayments made to this hospital to a collection agency. Also, certain other overpayments were non-recoverable because Empire stated (and we confirmed) certain special items were exempt from the price limitations we identified in the initial audit.

## **Recommendation 2**

*Ensure that the future agreements with hospitals contain language which: specifies the basis of reimbursement for the purchase and acquisition (including transportation, handling and other processing costs) of special items; and requires hospitals to provide appropriate support documentation (including invoices for special items) upon request.*

Status - Partially Implemented

Agency Action - Empire officials have made significant progress ensuring that hospital agreements contain language that specifies the basis of reimbursement for the purchase and acquisition of special items, and Empire requires hospitals to provide appropriate supporting documentation. Empire officials stated that the new language is added to a hospital agreement when each contract comes up for renewal. Consequently, updating all hospital agreements is a gradual ongoing process.

Further, as of August 2015, 109 hospital agreements contained the language governing reimbursements for special items, and Empire was negotiating with three other hospitals regarding the addition of the new special item provisions in their contracts. However, at the time of our follow-up, 35 hospital agreements did not yet have the new language. Empire paid 23 of these 35 hospitals over \$27 million for special items during 2014.

## **Recommendation 3**

*Complete the development and implementation of internal controls (including the proposed computer-assisted techniques) to ensure that payments for special items are made according to hospital agreements and are supported by appropriate documentation.*

Status - Implemented

Agency Action - Empire officials have completed the development and implementation of internal controls that are designed to enhance their controls over special item payments. Specifically, Empire entered into agreements with two private companies to identify overpayments for special items. One agreement addresses reimbursements for drugs; the other addresses reimbursements for implants. One company will review Empire's payments for drugs to ensure compliance with drug reimbursement provisions included in Empire's agreements with hospitals. The second company will identify payments for implants that were reimbursed above the average cost based on the service provided.

Major contributors to this report were Ed Durocher and Emily Proulx.

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 thank the management and staff of Empire BlueCross BlueShield for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

David Fleming  
Audit Manager

cc: Mr. David Boland, Department of Civil Service  
Mr. Ronald Kuiken, Department of Civil Service  
Mr. Jeffrey Stein, Department of Civil Service