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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

November 30, 2006

Mr. Tracy Bahl
Chief Executive Officer
United HealthCare
1114 Avenue of the Americas - Floor 35
New York, NY 10036

Re: New York State Health Insurance Program - Upcoding of Selected Evaluation and Management Services Report 2006-S-11

Dear Mr. Bahl:

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 audited selected payments for evaluation and management services paid by New York State Health Insurance Program's Empire Plan for the calendar year 2005.

A. 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 dependants. The Empire Plan is the primary health benefits plan for the Program. The Department of Civil Service (Department) contracts with United HealthCare (United) to process medical claims for the Empire Plan.

Medical practitioners bill United for their services using Current Procedural Terminology (CPT) codes established by the American Medical Association (AMA). The CPT manual is a listing of descriptive terms and identifying codes for reporting medical services. The AMA developed the CPT to provide a uniform language to accurately describe medical services.

Evaluation and Management (E/M) CPT codes are used by most physicians to report a significant portion of their services. The E/M CPT codes are divided into broad categories such as office visits, hospital visits, and consultations. Within each category, there are either three or five levels of unique CPT codes practitioners use. The amount of reimbursement from United depends on the level of CPT code billed: the higher the level billed, the greater the reimbursement.

Billing for a higher paying service than provided is known as upcoding, and is a widespread concern in the medical community. In fact, the federal Department of Health and Human Services, Office of the Inspector General stated that upcoding is a "significant problem" in the Medicare program.

B. Audit Scope, Objective and Methodology

The objective of our performance audit was to determine whether selected providers billed United for higher paying E/M services than those that were actually performed. To accomplish our objective, we used data analysis techniques to identify payments made by United for E/M services for the calendar year 2005. We interviewed Department and United officials to obtain an understanding of the controls over claims processing for these payments. We also conducted site visits and interviewed a judgmentally selected sample of eight practitioners who billed United for mostly higher-level E/M CPT codes. At each site visit, we reviewed a small sample of patient records to determine if billings were appropriate for the level of care recorded in the medical records.

For calendar year 2005, United paid about $283 million for E/M services and we focused our audit on seven categories of E/M services that accounted for almost $239 million, or 84 percent of United's total payments for E/M services. Of the $239 million paid for these seven categories, high-level CPT codes accounted for $124 million, or 52 percent of United's $239 million in payments. For E/M categories with five levels, we considered levels four and five to be high-level. For E/M categories with three levels, we considered level three to be high-level.

From the population of $239 million in payments, we identified 19,814 practitioners who met at least one of the following conditions: 1) at least 90 percent of their payments resulted from high-level codes or; 2) their percentage of payments from high-level codes was at least twice that of their peers. These practitioners were paid about $38 million for 448,530 services where the claim had a high-level CPT code.

To determine the accuracy of the $38 million in payments made for the population of 448,530 services, we selected a random sample of 295 services and evaluated the results using statistical methods. For each sampled service, we requested United to obtain the medical record from the practitioner. We used a consulting firm, Island Peer Review Organization (IPRO) to review the medical records and assist us in assessing the accuracy of the CPT code billed for the service against the service actually rendered by the physician, as recorded in the medical records. IPRO employs Certified Coding Specialists, credentialed by the American Health Information Management Association, to review the medical records.

We did our audit according to generally accepted government auditing standards. Such standards require that we plan and do our audit to adequately assess those United operations included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments, and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions, and recommendations.

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, several of which are performed by the Division of State Services. These include operating the State's accounting system, 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.

C. Results of Audit

From the population of $38 million in E/M services we examined, we estimate, with a 90 percent confidence, that United overpaid between $4,999,636 and $6,487,932 to providers because providers billed at a higher paying CPT code for an E/M service than the service actually performed.

From our random sample of 295 services, we found that 74 services were overpaid as follows:

- For 51 of the 295 sampled services, the medical records supported a lower level E/M code, including 14 services where the medical records supported a service at least two levels below the level actually billed.

- For 11 of the 295 sampled services, the medical records were illegible and therefore did not support the billing for any services. According to the AMA, medical records must be legible.

- For 7 of the 295 sampled services, the medical records were not signed by the practitioner and therefore did not support the billing for any services. According to the AMA, medical records must be signed by the practitioner.

- For 3 of the 295 sampled services, the medical records did not support any E/M services.

- For 1 of the 295 sampled services, the medical record did not include any documentation from the consulting physician, even though a consultation service was billed.

- For 1 of the 295 sampled services, the medical record did not include the patient's name, and therefore did not support the billing of any services for that patient.

The population we examined on this audit is only a small subset of the total amount billed for E/M services by Program providers, $38 million from a population of $239 million, and the method we used to isolate the providers for audit looked only for the extreme cases of potential upcoding by providers. (A sophisticated system of reviewing for upcoding of billings should be able to identify

less extreme cases.) We also recognize that there may be a number of causes for this problem, ranging from provider error which can be corrected through training, to deliberate attempts at upcoding by providers. However, United has not established adequate controls to prevent and identify physicians with aberrant coding patterns. United does not have adequate procedures to identify providers with billing patterns that significantly differ from their peers (e.g., providers of the same specialty).

During the fieldwork for our audit, United submitted a proposal to the Department for an E/M upcoding initiative. The Department has not taken action to accept or reject United's proposal pending the results of our audit. We encourage the Department to begin work with United on implementing a system that will identify providers that are upcoding bills, reduce the bills to the correct amounts and educate the providers.

Recommendation

Improve controls for monitoring claims submitted for E/M services to ensure payments reflect the services actually performed. At a minimum, this should include analyzing all E/M claims to identify practitioners with aberrant billing patterns, educating practitioners about correct coding and recovering overpayments as appropriate.

We would appreciate receiving your response to the recommendation made in this report within 90 days, indicating any action planned or taken to implement it.

Major contributors to this report include Kenneth Shulman, Robert Wolf, David Fleming and Peter Amorosa.

We wish to express our appreciation to the management and staff of United for the courtesies and cooperation extended to our auditors during this audit.

Yours truly,

Steven E. Sossei
Audit Director

cc: Daniel Wall, Department of Civil Service
Lisa Ng, Division of the Budget
Carl Mattson, United HealthCare