Thomas P. DiNapoli
COMPTROLLER

OFFICE OF THE
NEW YORK STATE COMPTROLLER

DIVISION OF STATE
GOVERNMENT ACCOUNTABILITY

UNITED HEALTHCARE

NEW YORK STATE HEALTH INSURANCE PROGRAM - OVERPAYMENTS FOR SERVICES PROVIDED BY HEALTHMARK MEDICAL, INC.

Report 2008-S-39

AUDIT OBJECTIVE

Our objective was to determine whether HealthMark Medical, Inc. (HealthMark), routinely waived Empire Plan members' out-of-pocket costs and, if so, to quantify the overpayments made by United HealthCare (United) resulting from this practice. Our audit covered the period January 1, 2001 through November 30, 2007.

AUDIT RESULTS - SUMMARY

We found that HealthMark routinely waived Empire Plan members' out-of-pocket costs for services provided. We calculated that, as a result of this practice, United overpaid claims submitted during our audit period at a cost of $117,451 to the State. This practice further drives up costs for the Empire Plan since it increases the likelihood that members will use non-participating providers, such as HealthMark, that generally receive higher reimbursement rates than participating providers. Furthermore, routinely waiving such costs is a billing practice that may violate the State Insurance Law.

We are referring this matter to the New York State Department of Civil Service for appropriate action. In addition, our report contains two recommendations to recover overpayments from HealthMark and to prevent HealthMark from waiving patients' out-of-pocket costs.

This report, dated September 30, 2008, 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

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 (Department) contracts with 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 pays United an administrative fee.

United contracts with providers who furnish medical services to Empire Plan members and who agree to be reimbursed 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 by non-participating providers for any given service usually reflect rates that are higher than the rates that participating providers agree to accept for the same service. To limit its liability, United will pay only non-participating provider claims that are based on the lesser of reasonable and customary costs for services or the amount claimed.

As a disincentive, the Empire Plan requires members to pay higher out-of-pocket costs (including a deductible and a co-insurance rate) when they use non-participating providers. After the member meets the annual deductible, United will reimburse the member 80 percent of the reasonable and customary cost. The member is responsible

for settling with the non-participating provider, including any out-of pocket costs owed.

Participating providers agree to accept reimbursement rates that are generally lower than the rates for non-participating providers because there are several advantages. For example, Empire Plan members are encouraged to use participating providers to avoid paying the higher out-of-pocket costs. In addition, United directly reimburses participating providers, thereby eliminating any problems resulting from collecting payments from various patients.

Our audit focused on claims submitted by HealthMark, a mobile surgery facility whose main offices are located on Manchester Road in Des Peres, MO. HealthMark does not participate as a provider in the Empire Plan. United's reimbursement for services provided at HealthMark includes a facility fee for use of their mobile facility, personnel, and equipment. During the period January 1, 2001, through November 30, 2007, United paid $398,377 for claims submitted by HealthMark.

AUDIT FINDINGS AND RECOMMENDATIONS

When United processes HealthMark 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 their out-of-pocket obligation. Our audit found that HealthMark is routinely waiving Empire Plan members' out-of-pocket obligations. This negates the intended disincentive from using the more costly non-participating providers and thus drives up the cost of the Empire Plan to taxpayers.

As HealthMark's intention was to waive members' out-of-pocket costs, the amount claimed by HealthMark should reflect this reduction, and the reimbursement by United should have been calculated on the lower amount. United was presented with and made reimbursement calculations based on inflated claims. We calculated that, as a result, United overpaid claims submitted by HealthMark during our audit period at a cost of $117,451 to the State.

To determine the overpayment, we selected medical claims submitted by HealthMark in which United was the primary payer and members' out-of-pocket costs were included on the claim. For the period January 1, 2001, through November 30, 2007, we identified 283 billings totaling $393,548 that met these criteria. To determine whether HealthMark waived members' out-of-pocket costs, we reviewed the 283 billings and HealthMark's financial records. We found that the members' out-of-pocket costs were waived for 264 of the 283 billings. Nineteen of the billings were paid in full by either the member or secondary insurance.

We calculated an overpayment of $117,451, due to the fact that the bills were inflated. HealthMark reported the entire billed amount, without reducing the claim for the amount of the members' waived out-of-pocket costs.

Additionally, under the New York Penal Law, submitting an insurance claim with false information, such as an inflated charge for service, may constitute insurance fraud. In addition, waiving of out-of-pocket costs unjustly enriches the provider because the payment should be based on the provider's actual charge, which is the amount the provider intends to accept as payment. Finally, the New York State Insurance Department concluded that it may be a

violation of the State Insurance Law, and a fraudulent billing practice, when a provider routinely waives out-of-pocket costs and accepts the amount the insurer reimburses as payment in full.

Officials at the Department and the State Insurance Department are concerned about fraud in the Empire Plan. Officials are concerned that providers who waive Empire Plan members' out-of-pocket costs are doing so intentionally, in order to benefit from the higher reimbursement rates for non-participating providers.

Recommendations

1. Recover from HealthMark the $117,451 overpaid for services provided to Empire Plan members.

2. Work with the Department to pursue an appropriate course of action designed to prevent HealthMark from waiving out-of-pocket costs.

AUDIT SCOPE AND METHODOLOGY

We conducted our performance audit in accordance with generally accepted government auditing standards. Our audit focused on identifying overpayments made to HealthMark during the period January 1, 2001, through November 30, 2007, where there was a risk of HealthMark waiving the members' out-of-pocket costs.

To accomplish our objective, we reviewed the 283 billings submitted by HealthMark. We interviewed HealthMark's officials and reviewed HealthMark's financial records to determine if HealthMark was waiving the Empire Plan members' out-of-pocket costs.

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 provided preliminary copies of the matters contained in this report to United officials for their review and comments. United officials agree with our audit findings and conclusions.

Within 90 days of the final release of this report, we request that the President of United HealthCare report to the State Comptroller advising what steps were taken to implement the recommendations.

CONTRIBUTORS TO THE REPORT

Major contributors to this report were Kenneth Shulman, David Fleming, Laura Brown, Cynthia Herubin, and Frank Commisso.