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 South Island Orthopedic Group, PC

Report 2008-S-173

Thomas P. DiNapoli

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State of New York
Office of the State Comptroller

Division of State Government Accountability

May 5, 2009

Mr. Michael C. Matteo
Chief Executive Officer
Uniprise
450 Columbus Blvd
Hartford, CT 06103

Dear Mr. Matteo:

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 at the South Island Orthopedic Group. 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 South Island Orthopedic Group, PC (or South Island) routinely waived Empire Plan (or Plan) members' out-of-pocket costs, and if so, to quantify the overpayments made by United HealthCare (or United) resulting from this practice. Our audit covered the period January 1, 2001 through October 31, 2008.

Audit Results - Summary

We found that South Island, a provider who does not participate in the Plan, routinely waived Empire Plan members' required out-of-pocket costs for services provided. As a result of this practice, we determined that United overpaid claims submitted by South Island during our audit period by $787,134. Further, the 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, such as South Island. Non-participating providers generally receive higher fee rates than participating providers receive. Furthermore, the routine waiver of out-of-pocket costs may violate the State Insurance Law.

Our report contains three recommendations related to United's payment of claims from South Island. The recommendations include recovery of the $787,134 in excessive payments to South Island as well steps to prevent South Island from waiving patients' out-of-pocket costs in the future. In addition, we are referring this matter to the New York State Department of Civil Service for appropriate action.

This report, dated May 5, 2009, 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
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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 (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 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. 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 for the service (i.e., the co-insurance). As noted previously, 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 South Island, a practice consisting of three orthopedic surgeons, located on Central Avenue in Cedarhurst, NY. South Island does not participate as a provider in the Empire Plan. During the period January 1, 2001 through October 31, 2008, United paid South Island claims totaling $7.8 million for Empire Plan members.

Audit Scope and Methodology

Our audit primarily focused on identifying overpayments made to South Island during the period January 1, 2001 through October 31, 2008. To accomplish our objectives, we reviewed a random sample of 190 claims submitted by South Island. We reviewed South Island's financial records to determine if South Island 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 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 90 days, indicating any action planned or taken to implement them.

Contributors to the Report

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

When United processes South Island'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 South Island routinely waived Empire Plan members' out-of-pocket obligations. Consequently, South Island'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, South Island negated the incentive for members to use participating providers. This likely resulted in increased costs to the Plan and consequently to taxpayers.

Because South Island intended to waive members' out-of-pocket costs, South Island should have reduced its 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 South Island's claims did not indicate that members' out-of-pocket costs were waived. Accordingly, United was presented with and made payments to South Island based on excessive claims. We determined that United overpaid claims submitted by South Island, during our audit period, at a cost of $787,134 to the State.

To determine the amount of the overpayments, we selected medical claims submitted by South Island in which United was the primary payer and members' out-of-pocket costs were included on the claims. For the period January 1, 2001 through October 31, 2008, we identified 5,952 claims totaling $4.32 million meeting these criteria. To determine whether South Island waived members' out-of-pocket costs, we reviewed a sample of 190 randomly-selected claims from the 5,952 total claims, and evaluated the results using valid statistical methods. We then reviewed South Island's financial records and found that the members' out-of-pocket costs were waived for 180 of the 190 sampled claims. The remaining 10 claims were not overpaid because South Island charged the members the co-payment applicable to participating provider claims, and the co-payment equaled the members' out-of-pocket costs.

From our random sample, we identified overpayments amounting to $97,332, resulting from claims that were excessive. In submitting claims, South Island routinely reported the full base amounts for services and did not reduce them by the amounts of members' out-of-pocket costs that were

waived. For example, South Island charged $125 for services provided to an Empire member. United paid $100 (80 percent of $125) and South Island accepted that payment as payment in full, waiving $25 of their fee. Therefore, South Island's actual charge was $100. United should have paid $80 (80 percent of $100), resulting in a $20 overpayment. A projection of these overpayments to the entire population, using statistically valid sampling methods (including a 95 percent single-sided confidence level) indicated that the total overpayment amounted to $787,134.

It should be noted that the submission of an insurance claim with false information, such as excessive service charges, may constitute insurance fraud pursuant to State Law. In addition, waiver of out-of-pocket costs improperly benefits the provider because the payment is not based on the provider's actual charge (or the amount the provider actually intended to accept as full payment for the services provided). Furthermore, the New York State Insurance Department concluded 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 the insurer as payment in full. Officials at the Department of Civil Service and the State Insurance Department are concerned about fraud and/or abuse in the Plan. Officials are concerned that providers who routinely waive Empire Plan members' out-of-pocket costs are doing so intentionally to benefit from the higher reimbursement rates for non-participating providers.

We conducted this audit with the assistance of United officials who determined, through their standard claims processing activities, that there was significant risk that South Island was routinely waiving members' out-of-pocket costs. We acknowledge the efforts of United for working cooperatively with us to identify providers who routinely waive Empire Plan members' out-of-pocket costs for the purpose of obtaining excessive payments for services. In addition, United officials agreed with our recommendations and have taken actions to recover the overpayments identified in our report.

Recommendations

1. Recover from South Island the $787,134 overpaid for services provided.

2. Formally advise South Island of the advantage of becoming a participating provider in the Empire Plan and request South Island to become a participating provider.

3. Work with the Department of Civil Service to pursue an appropriate course of action to prevent South Island from waiving out-of-pocket costs in the future, if South Island does not become a participating Plan provider.