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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

August 13, 2012

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

Re: Report 2012-F-14

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 (Empire) to implement the recommendation contained in our audit report entitled *New York State Health Insurance Program: Payments Made to Stony Brook University Hospital* (Report 2009-S-27).

Background, Scope and Objective

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. Plan benefits include inpatient and outpatient hospital coverage; medical/surgical coverage; Centers of Excellence for transplants, infertility and cancer; home care services; equipment and supplies; mental health and substance abuse coverage; and prescription drug coverage.

The Department of Civil Service (Department) contracts with Empire to administer the hospitalization benefit portion of the Plan. This contract provides coverage for inpatient and outpatient services provided by a hospital, skilled nursing facility, and hospice care. Empire processes Plan claims for hospital services in accordance with agreements between Empire and certain member hospitals. These member hospitals are located in 28 eastern and southeastern New York State counties and 10 bordering counties in New Jersey and Connecticut. Empire also processes Plan claims for services provided by hospitals outside Empire's service area. These claims are submitted by hospitals to their local plans for payment. The local plans are then reimbursed by Empire. The State reimburses Empire for the amounts of all properly adjudicated Plan claims and pays Empire certain fees to administer the Plan.

Our initial audit report was issued on October 28, 2010 and included payments to Stony Brook University Hospital (Stony Brook) from January 1, 2004 through December 31, 2008. Our

objective was to determine if the payments made by Empire to Stony Brook were made in accordance with Empire's Certificate of Insurance and Empire's agreement with Stony Brook.

We identified 94 errors on 79 (44 percent) of the 179 random sample claims we selected for review. With few exceptions, the errors led to overpayments, many of which were significant. The net overpayment totaled \$872,105. A projection of these overpayments to our population of claims paid, using statistically valid sampling methods and a 95 percent single-sided confidence level, resulted in a projected overpayment of \$3,695,102. Most of the overpayments resulted from claims processing errors related to certain special items or to certain high dollar claims. The objective of our follow-up was to determine if the two recommendations included in our initial audit report were implemented.

Summary Conclusions and Status of Audit Recommendations

Empire officials made some progress in addressing the issues identified in our initial audit. Additional efforts, however, are still needed to adequately address certain issues from the initial audit that have not been completely resolved. The two recommendations from the initial audit were partially implemented.

Follow-up Observations

Recommendation 1

Remit to New York State the projected overpayment of \$3,695,102 for services provided to Empire Plan members at Stony Brook or remit the \$872,105 of overpayments identified by this audit plus amounts determined from re-adjudication of all other claims pertaining to the audit period.

Status - Partially Implemented

Agency Action - Empire agreed with our findings totaling \$358,378 regarding claims for certain special items identified in the initial audit and recovered \$36,464 in overpayments from Stony Brook. Empire also made efforts to recover additional overpayments for special items we identified. However, Stony Brook officials disagreed that any other amounts were owed to Empire and, therefore, they refused to make any further refunds. As a result, on July 12, 2011, Empire initiated a full audit of all special item claims paid to Stony Brook from August 1, 2007 through February 28, 2011. Stony Brook has not cooperated with Empire's audit and has only provided a limited portion of the documentation requested by Empire. Also, officials note Empire's current agreement with Stony Brook expires on September 30, 2012. Empire and Stony Brook are negotiating a new agreement. Empire officials informed us they are attempting to resolve the identified overpayments through these negotiations.

Empire disagreed with our audit findings totaling \$513,727 pertaining to high-dollar claims. We found that certain high-dollar claims led to duplicate payments by Empire. Nevertheless, Empire contends that duplicate payments for certain high-dollar claim

payments (made prior to August 2007) technically complied with the agreement in effect at that time and, therefore, such payments did not warrant recovery.

Recommendation 2

Develop and implement a system of internal controls to ensure that payments to Stony Brook are made in accordance with the agreement and supported by appropriate documentation.

Status - Partially Implemented

Agency Action - Empire and Stony Brook amended their agreement effective August 1, 2007. The amended agreement clarifies the methodology to determine the proper amounts of high-dollar claims and, thus, should help prevent the types of duplicate payments we identified in the initial audit. In addition, Empire has implemented a new initiative to audit higher risk payments to certain providers. Thus, Empire engaged an audit of all special items claims paid to Stony Brook from August 1, 2007 through February 28, 2011. However, Empire has not developed any pre-payment controls to ensure payments for special items comply with Empire's agreement with Stony Brook.

Major contributors to this report were Todd Seeberger and Theresa Podagrosi.

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 also 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: Robert DuBois, Department of Civil Service
Thomas Lukacs, Division of the Budget
Samuel Stanley, Jr., MD, Stony Brook
Douglas Panico, Stony Brook
Michael Abbott, SUNY University Auditor