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**New York State Office of the State Comptroller**  
Thomas P. DiNapoli

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Division of State Government Accountability

**Empire BlueCross BlueShield  
Selected Payments for Special Items  
for the Period April 1, 2011 Through  
June 30, 2011**

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**New York State Health Insurance Program  
Department of Civil Service**

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## Executive Summary

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### Purpose

To determine whether Empire BlueCross BlueShield (Empire) paid claims for special items according to the provisions of the agreements between Empire and its member hospitals. We also sought to determine if payments for certain special items, in relation to the hospitals' actual purchase and acquisition costs, were reasonable. The audit covered the period from April through June 2011.

### Background

The New York State Health Insurance Program (NYSHIP) provides health coverage to active and retired State, participating local government and school district employees and their dependents. The Department of Civil Service (Department) contracts with Empire to administer the hospitalization portion of the Empire Plan (Plan), which includes coverage for inpatient and outpatient hospital services.

Empire processes Plan claims for hospital services in accordance to agreements they negotiate with member hospitals. Payments for hospital services are generally based on standard fee schedules. However, hospitals may be entitled to additional payments for special items that are not covered by the standard fee schedules. Many of Empire's agreements with member hospitals limit charges for special items, while agreements with other hospitals do not have such limitations. From April 1, 2011 to June 30, 2011, Empire paid over \$31 million for 19,032 claims for special items.

### Key Findings

- We found Empire did not have adequate controls to ensure special items were paid according to contract limitations. As a result, Empire made a net overpayment of \$119,141 on 33 claims.
- Empire made an excessive payment to a hospital that did not have formal contract provisions limiting reimbursements for special items. On one claim we reviewed, Empire paid about \$52,755 (or 444 percent) more than the costs of the three special items in question.

### Key Recommendations

- Recover the net overpayment of \$119,141 for the claims that were paid improperly.
- Ensure that all agreements with hospitals contain language which specifies the basis of reimbursement for special items.
- Develop and implement a system of internal controls to ensure that payments for special items are made according to agreements and are supported by appropriate documentation.

### Other Related Audits/Reports of Interest

[New York State Health Insurance Program: Payments Made to Hudson Valley Hospital Center \(2009-S-99\)](#)

[New York State Health Insurance Program: Payments Made to Stony Brook University Medical Center \(2009-S-27\)](#)

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**State of New York  
Office of the State Comptroller**

**Division of State Government Accountability**

December 7, 2012

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

Dear Mr. O'Malley:

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 entitled *Empire BlueCross BlueShield: Selected Payments for Special Items for the Period April 1, 2011 Through June 30, 2011*. This 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*

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This report is also available on our website at: [www.osc.state.ny.us](http://www.osc.state.ny.us)

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## Background

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The New York State Health Insurance Program (NYSHIP) provides health 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 Department of Civil Service (Department) contracts with Empire BlueCross BlueShield (Empire) to administer the hospitalization portion of the Plan, which includes coverage for inpatient and outpatient services provided by a hospital, skilled nursing facility, and hospice. Empire processes Plan claims for hospital services in accordance with agreements they negotiate with 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.

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 (e.g., implants, drugs and blood) that are not covered by standard fee schedules. Agreements with many of Empire's member hospitals often limit payments for special items. However, agreements with other hospitals do not have similar limitations. For the period April 1, 2011 through June 30, 2011, Empire paid 255,232 claims totaling over \$541 million for services provided to Plan members. This included payments totaling over \$31 million for 19,032 claims for special items.

## Audit Findings and Recommendations

From a sample of 49 claims (submitted by 19 hospitals), Empire made nearly \$172,000 in improper and questionable payments for special items. A net overpayment of \$119,141 resulted from 33 claims from hospitals that had contracts with Empire which limited the amounts that could be charged for special items. We also identified a questionable payment totaling \$52,755 for one claim from a hospital with a contract which did not limit the amounts that could be charged for such items. Given the incidence and amounts of the improper and questionable payments, we conclude that Empire needs to significantly improve processing controls over claims for special items.

### Excessive Payments to Hospitals with Contracts that Limit Charges for Special Items

For 34 of the payments (to 10 hospitals) we reviewed, contract provisions limited the amounts the hospitals could claim for the special items provided. However, we found errors on 33 (97 percent) of the 34 payments, and the errors resulted in a net overpayment of \$119,141. Of the incorrect payments, 29 were overpaid by a total of \$129,317, and 5 were underpaid by a total of \$10,176. The following table summarizes the results of the 34 claim payments we reviewed.

Nature of Claim Payment Determination	Number of Sample Payments	Amount Paid for Special Item	Amount Over (Under) Paid
Payment Exceeded Contract Allowances (Overpayments)	28	\$798,859	\$121,314
Items Not Provided to Patient	2	8,003	8,003
Adjustment for Items in Both Prior Categories	(1)	0	0
Subtotals for Overpaid Claims	29	\$806,862	\$129,317
Payments Below Contracted Allowances (Underpayments)	5	74,290	(10,176)
Adjustment for Item in Multiple Categories	(1)	0	0
Subtotals for Exceptions	33	\$881,152	\$119,141
Paid Correctly	1	27,438	0
Totals	34	\$908,590	\$119,141

Of the 29 overpayments, 28 were overpaid by \$121,314 because Empire paid more than the amounts allowed per its agreements with the hospitals. In general, Empire’s hospital agreements limited the amounts the hospital could charge Empire for special items. Nevertheless, the hospitals billed Empire excessive amounts for certain special items, and Empire paid these excessive claims.

For one hospital, for example, Empire paid a total of \$245,930 for special items on the hospital’s nine claims in our sample. However, documents provided by the hospital supported a total payment of only \$181,448. Therefore, Empire overpaid the hospital \$64,482 (\$245,930 - \$181,448) for the nine claims. The following table provides examples of excessive claim payments to three other hospitals.

Hospital	Amount Empire Paid	Amount Empire Should have Paid Per Contract	Amount Empire Overpaid	Percent Overpaid by Empire
A	\$110,312	\$89,885	\$20,427	22.7%
B	\$73,553	\$61,538	\$12,015	19.5%
C	\$80,592	\$70,913	\$9,679	13.6%

As the examples in the table illustrate, some of the overpayments we identified were material and resulted in significant profits for the hospitals. We also disallowed \$8,003 for portions of two claim payments because the hospitals billed for some items that were not provided to the patient.

The overpayments we identified resulted because Empire did not have adequate controls in place to ensure special items were paid according to the terms of their agreements with the hospitals. Empire did not request or therefore review supporting documentation for special items prior to payment. Further, vague language in some of Empire’s hospital agreements increased the risk of payments for excessive acquisition costs.

In response to our audit’s preliminary findings, Empire officials told us provisions limiting reimbursement for special items are intended to “operate in the aggregate” and deviations from the terms can exist on specific items. As our report details, however, the amounts of overpayments significantly exceeded the amounts of underpayments for special items. Moreover, for the 34 claims we reviewed, the net overpayment (\$119,141) amounted to 13.1 percent of the amount Empire should have paid for the items in question. This amount is material, and consequently, there is significant risk that Empire’s payments for special items were, in the aggregate, excessive. Moreover, we believe Empire could have prevented the excessive payments we identified, if it had sufficient controls to ensure that payments for special items were correct.

## Excessive Payments to Hospitals Without Contract Limitations on Special Items

We selected a judgmental sample of 15 claim payments, totaling over \$1 million for special

items, that were submitted by nine hospitals whose contracts with Empire did not limit reimbursements for special items. From one of the hospitals, we obtained supporting documentation for one claim for three special items totaling \$64,631. Based on this

documentation, we determined that Empire paid the hospital \$52,755 more than the hospital's costs to acquire the three items. The other eight hospitals (see Exhibit at the end of this report) did not provide documentation for the remaining 14 claims (totaling \$988,305). Given the amounts of the excessive payments, we conclude that Empire needs to significantly improve processing controls over claims for special items.

Although Empire's agreements with the nine hospitals did not limit charges for special items, Empire officials told us that they expect reimbursements for such items to be close to the hospitals' actual purchase and acquisition costs. However, this was not the case for the claim payment we were able to test. We requested supporting documentation (including invoices) for each of the 15 selected claims. However, only one hospital submitted the requested documentation, which corresponded to one claim for three special items. For this claim, we compared the amounts of Empire reimbursement to the hospital's actual purchase and acquisition costs for the three special items.

Although technically compliant with the hospital agreement, Empire's reimbursement on the claim (\$64,631) significantly exceeded the hospital's actual costs (\$11,876) to purchase and acquire the three special items. In fact, the hospital made a windfall of \$52,755 (\$64,631 - \$11,876) on this claim - about 444 percent more than the items' actual cost. In addition, payments for the other 14 sampled claims for special items were significant (averaging \$70,593 per claim). Five of these payments exceeded \$100,000. If the rates of reimbursement for the other 14 claims were consistent with the claim we were able to test, the hospitals could have realized several hundreds of thousands of profits on those claims.

The excessive payments resulted because Empire had not established formal contract provisions and other appropriate controls to ensure that special items were reimbursed at reasonable costs (consistent with Empire's expectations). Empire relied on the hospitals to submit accurate claims for their special items, but did not review supporting documentation for the charges prior to payment.

In response to our preliminary observations, Empire officials noted that the billing and reimbursement of the special items we reviewed were consistent with the terms of the respective hospital agreements. Officials further noted that contract negotiations with hospitals are complex, and each provision must be evaluated to ensure that it does not have a negative impact on the overall agreement.

We recognize that contract negotiations are complex and that contracts must be evaluated in the aggregate to ensure they are fair and minimize the risk of overpayments over a broad range of services that patients need. Nonetheless, Empire officials expect reimbursements for special items to be close to hospitals' acquisition costs - and the examples we cited illustrate there is very high risk that they are not. Thus, we maintain that incorporating specific language into hospital agreements limiting the charges on special items is a more effective way to control costs that are

passed on to the State.

Empire officials advised us they are committed to adding standard language to hospital agreements to help prevent excessive payments for special items. Officials further advised us that they recently amended their agreements with a hospital network and a large independent hospital to limit the amounts claimed and paid for special items.

## Recommendations

1. Recover the net overpayment of \$119,141 for the improperly paid claims.
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.
3. Develop and implement internal controls to ensure that payments for special items are made in accordance with hospital agreements and are supported by appropriate documentation.

## Audit Scope and Methodology

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Our audit objectives were to determine whether Empire paid claims for special items according to the provisions of the agreements between Empire and its member hospitals. We also sought to determine if payments for certain special items, in relation to the hospitals' actual purchase and acquisition costs, were reasonable. The audit covered the period from April 1, 2011 through June 30, 2011.

To accomplish our objectives, we judgmentally selected 50 high dollar claims for our sample. We removed one claim from our sample because the entire claim payment was reversed by Empire prior to our review. The remaining 49 claims totaled over \$8.5 million, of which \$1.9 million were for special items. These claims were paid to 19 different hospitals. Empire's contracts with ten hospitals contained provisions that based reimbursement for special items on invoice costs, and the contracts for remaining nine hospitals did not contain such provisions.

For each claim, we requested that Empire obtain medical records and invoices. We reviewed the medical records to determine whether services billed for were in fact provided. We compared the cost of special items on the invoices to the amounts paid by Empire. We deemed any payments for charges that exceeded the terms prescribed by the hospital contracts to be overpayments.

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 system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members (some of whom have minority voting rights) to certain boards, commissions and public authorities. 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

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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

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We provided preliminary copies of the matters contained in this report to Empire officials for their review and comments. Their comments have been taken into consideration in preparing this report.

Within 90 days of the final release of this report, we request Empire officials to report to the State Comptroller advising what steps were taken to implement the recommendations included in this report.

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## Contributors to This Report

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## Division of State Government Accountability

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### Vision

A team of accountability experts respected for providing information that decision makers value.

### Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

## Exhibit

**Summary of Sampled Payments for Special Items  
to Hospitals That Did Not Provide Invoices for Item Costs  
for the Period April 1, 2011 Through June 30, 2011**

<b>Hospital Name</b>	<b>Number of Claims in Sample</b>	<b>Amount of Payments For Sampled Claims</b>	<b>Average Amount of Payment Per Claim</b>
South Nassau Communities Hospital	2	\$142,655	\$71,327
Brookhaven Memorial Hospital	1	69,689	69,689
North Shore Hospital in Manhasset	5	213,692	42,738
North Shore Hospital in Plainview	1	57,109	57,109
Good Samaritan Hospital at West Islip	1	74,228	74,228
Winthrop University Hospital	2	177,176	88,588
NYU Medical Center	1	115,733	115,733
Huntington Hospital	1	138,023	138,023
<b>Totals/Average for Total</b>	<b>14</b>	<b>\$988,305</b>	<b>\$70,593</b>