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STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

June 4, 2013

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

Re: New York State Health Insurance  
Program - Payments to John T. Mather  
Memorial Hospital  
Report 2013-F-12

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 recommendations contained in our audit report, *Empire BlueCross BlueShield: New York State Health Insurance Program - Payments to John T. Mather Memorial Hospital (2010-S-51)*.

**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.

The Long Island Health Network (Health Network) is comprised of ten hospitals, including John T. Mather Memorial Hospital (Mather). Empire's agreement with the Health Network provides for reimbursements of "special items" (generally implants, drugs, and blood) that are not included on standard fee schedules. Although Empire reimburses hospitals for admissions and related medical procedures according to rates prescribed by contractually-based fee schedules, Mather can submit separate claims for special items which are not covered by the fee schedules.

Our initial audit was issued April 23, 2012 and included 138 payments made by Empire to Mather between January 1, 2007 and June 30, 2010. Our objective was to determine: (1) whether Empire's payments to Mather were made according to the provisions of its agreement with the hospital and (2) whether Empire's payments for certain special items were reasonable.

We determined that Empire lacked adequate policies and procedures to ensure that payments for special items claimed by Mather were appropriate. Empire's agreement with Mather did not limit the amount Mather could bill for special items. As a result, Mather substantially marked-up the amounts claimed for certain items, and Empire paid the excessive amounts. Further, the agreement did not require Mather to provide supporting documentation of the acquisition costs of special items. Therefore, Mather officials did not provide Empire with documentation of the amounts actually paid for the special items we selected for review.

Nevertheless, we obtained cost data from other sources for 11 special items that Mather billed to Empire and determined that the items' acquisition costs totaled \$10,517. However, Mather billed Empire \$64,550 for these 11 items, and Empire paid Mather \$29,047 on the claims. Thus, Mather made a profit of \$18,530 (\$29,047 - \$10,517) on the items. Moreover, if Empire paid Mather similarly for all 138 special items we sampled, Mather could have made a windfall of as much as \$707,000 on the claims.

We further noted that the agreement between Empire and the Health Network limited the audit look-back period, and therefore, the Health Network was not required to provide Empire with supporting documentation for claims predating a certain point in time. However, there was no such limitation in the agreement between Empire and the Department. Further, this limitation significantly restricted the ability of Empire and the State Comptroller to post-audit NYSHIP claim payments.

The objective of our follow-up was to determine if the three recommendations included in our initial audit report were implemented.

### **Summary Conclusions and Status of Audit Recommendations**

Empire officials made considerable progress in addressing the issues identified in our initial audit. Additional actions, however, are still needed. Of the three prior audit recommendations, two were implemented, and the other was partially implemented.

## **Follow-up Observations**

### **Recommendation 1**

*Ensure the agreement with Mather includes language which prescribes the basis of payment for special items. Such language should preclude the submission of excessive claims and require Mather to provide appropriate support documentation (including invoices for special items) upon request.*

Status - Implemented

Agency Action - Empire and the Health Network amended their agreement effective June 21, 2012. The amended agreement includes language that prescribes the basis of payment for special items, limits the amount the Network can bill for special items, and requires the Network to provide supporting documentation upon request.

### **Recommendation 2**

*Develop and implement internal controls to ensure that payments for special items are consistent with contract provisions and are supported by appropriate documentation.*

Status - Partially Implemented

Agency Action - Empire has audited certain claim payments under the 2012 contract amendment with the Health Network. These audits, however, did not focus on claim payments for special items under NYSHIP. Further, the samples of payments selected for review were rather limited and included relatively few payments to Mather.

### **Recommendation 3**

*Ensure future contracts do not include provisions (such as defined look back periods) which could limit the State's audit capability.*

Status - Implemented

Agency Action - Empire's 2012 contract amendment with the Health Network extended the look back period to six years for New York State and other government agencies.

Major contributors to this report were Ed Durocher, Cynthia Herubin and Christian Butler.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issue discussed in this report. We also thank Empire's management and staff for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

David Fleming  
Audit Manager

cc: Mr. Thomas Lukacs, Division of the Budget  
Mr. Robert DuBois, DCS  
Ms. Stephanie Zoufaly, DCS  
Ms. Angela Blessing, EBCBS  
Ms. Barbara Sargent, EBCBS