New York State Office of the State Comptroller
Thomas P. DiNapoli
Division of State Government Accountability

United HealthCare: Overpayments for Services Provided by Hudson Valley Bone and Joint Surgeons, LLP

New York State Health Insurance Program

Report 2016-S-17 September 2016

Executive Summary

Purpose
To determine whether Hudson Valley Bone and Joint Surgeons, LLP waived Empire Plan members' out-of-pocket costs, and if so, to quantify the overpayments made by United HealthCare resulting from this practice. The audit covered the period January 1, 2011 through October 31, 2015.

Background
The New York State Health Insurance Program (NYSHIP) provides health insurance coverage to active and retired State, participating local government, and school district employees, as well as their dependents. The Empire Plan is the primary health benefits plan for NYSHIP, covering a range of services from inpatient hospital care to outpatient surgical procedures and physician office visits. The New York State Department of Civil Service contracts with United HealthCare (United) to process and pay medical claims from health care providers for services provided to Empire Plan members.

United contracts with in-network (participating) providers who agree to accept payments, at rates established by United, to furnish medical services to Empire Plan members. Members pay a nominal co-payment to the participating provider for the services rendered. Members may also choose to receive services from out-of-network (non-participating) providers. United reimburses claims from non-participating providers at amounts that are generally higher (and often significantly higher) than the rates participating providers agree to accept for the same services. Consequently, to encourage members to use less costly participating providers, the Empire Plan requires members to pay higher out-of-pocket costs (deductibles and co-insurance) when they use non-participating providers.

In accordance with the Empire Plan's requirements, when United processes a non-participating provider's claims, it is with the understanding that Empire Plan members are liable for a portion of the claimed amount, representing members' out-of-pocket cost-sharing obligations. However, if a non-participating provider does not collect (i.e., waives) the member's out-of-pocket costs, it will result in United making an excessive payment on the claim.

Our audit focused on claims submitted to United by Hudson Valley Bone and Joint Surgeons, LLP (Hudson Valley), a non-participating provider that has two offices located in Westchester County, New York. During the period January 1, 2011 through October 31, 2015, United paid claims totaling $8.7 million for services provided by Hudson Valley to Empire Plan members.

Key Findings
- Hudson Valley routinely waived Empire Plan members' required out-of-pocket cost-sharing obligations for services provided. Consequently, United made overpayments on claims submitted by Hudson Valley. Further, by not collecting members' out-of-pocket costs, Hudson Valley negated the incentive for members to use participating providers. This likely resulted in additional increased costs to the Empire Plan and, consequently, taxpayers.
- From a random sample, we identified overpayments totaling $202,209 that resulted from claims

that were excessive due to the routine waiving of members' cost-sharing obligations. Based on a statistical projection of the sample overpayments to the population of Hudson Valley's claims, we determined United overpaid $566,126 during the period January 1, 2011 through October 31, 2015.

- On one claim, for example, Hudson Valley charged $2,074 and United allowed $1,318 as the reasonable and customary rate for the service. United paid $1,054 (80 percent of $1,318) and the member's out-of-pocket portion of the claim should have been $264 (20 percent of $1,318). However, Hudson Valley accepted United's payment of $1,054 as payment in full and waived the $264 due from the member. Hudson Valley wrote off all charges in excess of United's payment from the patient's account. Therefore, Hudson Valley's actual charge for the service should have been $1,054, and United should have paid $843 (80 percent of $1,054). This resulted in an overpayment by United of $211 ($1,054 - $843).

Key Recommendations

- Recover the $566,126 in overpayments from Hudson Valley and refund the State accordingly.
- Work with the Department of Civil Service to pursue an appropriate course of action designed to prevent Hudson Valley from waiving Empire Plan members' out-of-pocket costs. This may include efforts to bring Hudson Valley into the Empire Plan's participating provider network.

Other Related Audits/Reports of Interest

New York State Health Insurance Program: United HealthCare - Overpayments for Services Provided by Eastern Orange Ambulatory Surgery Center (2015-S-53)

New York State Health Insurance Program: United HealthCare - Overpayments for Services Provided by Long Island Spine Specialists (2015-S-28)

New York State Health Insurance Program: United HealthCare - Overpayments for Services Provided by Orthopedic Associates of Long Island (2015-S-29)

New York State Health Insurance Program: United HealthCare - Overpayments for Services at the Endoscopy Center of Long Island (2007-S-73)

New York State Health Insurance Program: United HealthCare - Overpayments for Services at the South Shore Ambulatory Surgery Center (2008-S-11)

State of New York
Office of the State Comptroller

Division of State Government Accountability

September 8, 2016

Mr. Carl A. Mattson
Vice President, Empire Plan
United HealthCare National Accounts
13 Cornell Road
Latham, NY 12110

Dear Mr. Mattson:

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 *United HealthCare: Overpayments for Services Provided by Hudson Valley Bone and Joint Surgeons, LLP.* 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.

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

Background

The New York State Health Insurance Program (NYSHIP) provides health insurance coverage to active and retired State, participating local government, and school district employees, as well as their dependents. The Empire Plan is the primary health benefits plan for NYSHIP. The Empire Plan covers a comprehensive range of services including, but not limited to, inpatient and outpatient hospital services, surgical procedures, home care services, medical equipment and supplies, mental health and substance abuse services, and prescription drugs. The New York State Department of Civil Service contracts with United HealthCare (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 in-network health care providers who agree to accept payments, at rates established by United, to furnish medical services to Empire Plan members. United remits payments directly to these "participating" providers based on claims they submit for the services provided. Members pay a nominal co-payment to the participating provider for the services rendered.

Members may also choose to receive services from out-of-network (or "non-participating") providers. To limit its costs (and those of the State), United pays non-participating provider claims the "reasonable and customary" rate for the service, which is defined as the lowest of: the actual charge for the service; or the usual charge by the provider for the same or similar service; or the usual charge of other providers in the same or similar geographic area for the same or similar service. However, reasonable and customary rates are generally higher (and often significantly higher) than the rates United pays to participating providers for the same services.

To encourage members to use less costly 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 allowed reasonable and customary cost of the service, and the member is responsible for the remaining 20 percent of the cost (i.e., the co-insurance). When United pays a claim submitted by a non-participating provider, the payment is generally made to the Empire Plan member, and the member is then responsible for paying the provider. The member is also responsible for settling any other unpaid balance with the non-participating provider, including any out-of-pocket amounts owed.

Our audit focused on claims submitted to United by Hudson Valley Bone and Joint Surgeons, LLP (Hudson Valley). With respect to the Empire Plan, Hudson Valley is a non-participating provider. Hudson Valley has two offices located in Hawthorne and Yonkers, New York (Westchester County). During the period January 1, 2011 through October 31, 2015, United paid $8.7 million in claims submitted by Hudson Valley for services rendered to Empire Plan members.

Audit Findings and Recommendations

Waiving of Members' Out-of-Pocket Costs

In accordance with the Empire Plan's requirements, when United processes a provider's claims for services provided to Empire Plan members, it is with the understanding that members are liable for a portion of the claimed amount, representing members' out-of-pocket cost obligations. However, our audit found that Hudson Valley routinely waived (did not collect) Empire Plan members' required payment of out-of-pocket cost obligations for services provided. Consequently, Hudson Valley's billed amounts to United were inflated by the amount of the waived member out-of-pocket costs, which caused United to make excessive payments for these claims. Using statistically valid methods, we determined United made $566,126 in overpayments on Hudson Valley's claims during the period January 1, 2011 through October 31, 2015. Also, by not collecting members' out-of-pocket costs, Hudson Valley negated the incentive for members to use participating providers. This likely resulted in increased costs to the Empire Plan and, consequently, taxpayers.

During the audit scope, we found that Hudson Valley often did not collect Empire Plan members' required out-of-pocket cost obligations and wrote off the corresponding amounts from the patients' accounts. Because Hudson Valley did not collect members' out-of-pocket cost obligations, it should have reduced its claims to United by the amounts of those out-of-pocket costs. Thus, United should have only paid 80 percent of the amount Hudson Valley intended to accept as payment in full. By not collecting the members' out-of-pocket costs, Hudson Valley waived Empire Plan members' portion of the claim, causing United to pay 100 percent of Hudson Valley's actual charges (i.e., the amount Hudson Valley intended to accept as payment in full) for the services.

For example, on one claim Hudson Valley charged $2,074 and United allowed $1,318 as the reasonable and customary rate for the service. United paid $1,054 (80 percent of $1,318) and the member's out-of-pocket portion of the claim should have been $264 (20 percent of $1,318). However, Hudson Valley accepted United's payment of $1,054 as payment in full and waived the $264 due from the member. Hudson Valley wrote off all charges in excess of United's payment from the patient's account. Therefore, Hudson Valley's actual charge for the service should have been $1,054, and United should have paid $843 (80 percent of $1,054). This resulted in an overpayment by United of $211 ($1,054 - $843).

To determine the amount of the overpayments for the audit period, we selected claims submitted by Hudson Valley where United was the primary payer and members' out-of-pocket cost obligations were included on the claims. From January 1, 2011 through October 31, 2015, we identified 668 claims totaling $5.7 million meeting these criteria. To determine whether Hudson Valley waived members' out-of-pocket costs, we selected a random sample of 189 of the 668 claims. We reviewed Hudson Valley's financial records for the 189 sampled claims and determined Hudson Valley waived all or a portion of the Empire Plan members' out-of-pocket costs for 170 (90 percent) of the 189 claims. Our review of the financial records also found that Hudson Valley wrote off the corresponding out-of-pocket costs from the patients' accounts for the 170 claims. In the remaining 19 (of the 189) claims, we concluded that out-of-pocket costs were not waived.

Nevertheless, based on our overall audit testing, we concluded that Hudson Valley routinely waived members' out-of-pocket costs.

Based on our random sample, we identified overpayments totaling $202,209 that resulted from excessive claims. In submitting claims, Hudson Valley routinely submitted excessive charges, and did not reduce its claims by the amounts of members' out-of-pocket cost obligations that were waived. A projection of these overpayments to the entire population of claim payments, using statistically valid sampling methods (including a 95 percent single-sided confidence level), resulted in an audit overpayment of $566,126.

We note that the submission of an insurance claim with false information, such as excessive service charges, may constitute insurance fraud pursuant to State law. The New York State Insurance Department (now known as the New York State Department of Financial Services) concluded that it may be a fraudulent billing practice and violation of the State Insurance Law when a provider routinely waives out-of-pocket cost obligations and accepts amounts from the insurer as payment in full. Officials at the New York State Department of Civil Service and the New York State Department of Financial Services are concerned about the impact of fraudulent and/or abusive billing practices in the Empire Plan. Officials have been concerned that providers who routinely waive Empire Plan members' out-of-pocket costs do so intentionally to benefit from the higher reimbursement rates for non-participating providers.

Additionally, waiving cost-sharing obligations negates a member's incentive to use lower-cost in-network participating providers, which can result in additional costs to the State. By not collecting members' total out-of-pocket cost obligations, Hudson Valley negated Empire Plan members' financial incentive (i.e., lower out-of-pocket costs) to use in-network participating providers, which likely resulted in additional increased costs to the Empire Plan and, consequently, taxpayers.

Prior to this audit, the Office of the State Comptroller had issued a series of audit reports about non-participating providers who routinely waived members' out-of-pocket cost obligations. (For examples of those reports, please see the Other Related Audits/Reports of Interest referenced in this report's Executive Summary.) As a result of those prior audits, United, with the assistance of State oversight authorities, recovered overpayments and brought several of the providers in question into its network of participating providers. By doing so, this helped to reduce the incidence of waiving of members' out-of-pocket costs and likely saved material amounts of taxpayer dollars.

Recommendations

1. Recover the $566,126 in overpayments from Hudson Valley and refund the State accordingly.

2. Work with the Department of Civil Service to pursue an appropriate course of action designed to prevent Hudson Valley from waiving Empire Plan members' out-of-pocket costs. This may include efforts to bring Hudson Valley into the Empire Plan's participating provider network.

Audit Scope and Methodology

The objective of our audit was to determine whether Hudson Valley waived Empire Plan members' out-of-pocket costs, and if so, to quantify the overpayments made by United resulting from this practice. The audit covered the period January 1, 2011 through October 31, 2015.

To accomplish our audit objective, and assess internal controls related to our audit objective, we interviewed United officials and reviewed a random sample of 189 claims submitted by Hudson Valley. We reviewed Hudson Valley's financial records to determine if it routinely failed to collect the out-of-pocket costs for Empire Plan members, and consequently submitted improper claims to United. Based on the overpayments identified in the sample, we used a statistically valid projection to determine the total overpayments made during the audit period.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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 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 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 comment. Their comments were considered in preparing this final report.

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

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