



## Department of Health

**ANDREW M. CUOMO**  
Governor

**HOWARD A. ZUCKER, M.D., J.D.**  
Commissioner

**SALLY DRESLIN, M.S., R.N.**  
Executive Deputy Commissioner

February 12, 2020

Ms. Andrea Inman, Audit Director  
Office of the State Comptroller  
Division of State Government Accountability  
110 State Street – 11<sup>th</sup> Floor  
Albany, New York 12236-0001

Dear Ms. Inman:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's Follow-Up Audit Report 2019-F-41 entitled, "Maximizing Drug Rebates for Health and Recovery Plans." (2017-S-61)

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in dark ink, appearing to read "Sally Dreslin".

Sally Dreslin, M.S., R.N.  
Executive Deputy Commissioner

Enclosure

cc: Marybeth Hefner  
Diane Christensen  
Jeffrey Hammond  
Jill Montag  
Elizabeth Misa  
Geza Hrazdina  
Dan Duffy  
Erin Ives  
Amber Rohan  
Brian Kiernan  
Michael Spitz  
Lori Conway  
OHIP Audit

**Department of Health Comments on the  
Office of the State Comptroller's Follow-Up  
Audit Report 2019-F-41 entitled, "Maximizing Drug Rebates for  
Health and Recovery Plans" (Report 2017-S-61)**

---

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Follow-Up Audit Report 2019-F-41 entitled, "Maximizing Drug Rebates for Health and Recovery Plans (Report 2017-S-61)."

**Recommendation #1:**

Regularly monitor the activities of the new rebate contractor to ensure the accuracy of the drug rebate function, including:

- Ensuring all appropriate HARP drug encounters are included in the rebate process;
- Ensuring all new programs eligible for rebates are included in the rebate process; and
- Independently verifying the accuracy of the final rebate invoices.

Status – Implemented

Agency Action – Our initial audit found the Department's drug rebate unit was unaware of the new managed care plan type, HARP, and available rebates on HARP drug encounter claims were not collected from drug manufacturers. To prevent this, the Department's drug rebate unit has since been added to an oversight list and those on the list are notified of any changes related to managed care plans. Additionally, beginning in January 2020, the drug rebate unit will begin reaching out to Department Bureau Directors quarterly to determine if there is new Medicaid spending in their respective areas that may affect the rebate process. In addition, the Department and its rebate contractor hold bi-weekly meetings to discuss changes that may impact the rebate process. For instance, since our initial audit, new service billing codes were added to the process so that appropriate rebates could be collected.

The Department performs a review of the accuracy of rebates before and after sending the quarterly invoices to drug manufacturers. Every quarter, Department pharmacists are given five days to complete a pre-review of the invoices, while post-review is done on a continual basis. Various tests are performed during the reviews, such as comparing invoices to previous quarters and reviewing National Drug Codes (a universal product identifier for each medication that is the basis of rebates) with an abnormal rebate percentage. If at any point invoices are found to be incorrect, the rebate contractor is made aware of the issue and re-creates the invoice. The Department tracks the issues identified during the reviews and the contractor's responses to ensure the contractor is addressing the problems.

**Response #1:**

The Department confirms agreement with this report.

**Recommendation #2:**

Take appropriate steps, including working with the new contractor, to invoice any remaining uncollected drug rebates from HARP encounters, including the \$1.2 million in physician-administered drug rebates identified.

## Status – Partially Implemented

Agency Action – Our initial report identified 78,168 physician-administered drug encounter claims totaling \$1.2 million in rebates that the Department excluded from the rebate process. Department officials stated a change request was recently completed that will enable the rebate contractor to process older un-invoiced claims. As such, the 78,168 claims will be transmitted to the rebate contractor for processing and all rebate-eligible claims will be invoiced.

During our follow-up review, the Department was able to provide evidence it invoiced over \$80.3 million in HARP drug rebates for the second quarter of 2019. Based on this amount, we analyzed HARP drug encounter claims for the period January 1, 2018 through November 30, 2019 and estimated the Department invoiced \$570.2 million in HARP drug rebates since our initial audit.

### **Response #2:**

The Department has initiated a change request project to deliver the 78,168 claims to our contractor for processing. The Department is fully committed to reviewing the claims associated with the potential \$1.2 million rebate value flagged by this audit and has scheduled for the claims to be processed by early spring. All claims eligible for rebates will be invoiced.