

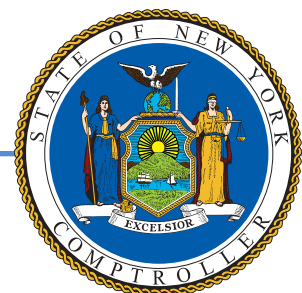
New York State Health Insurance Program

CVS Caremark: Effectiveness of CVS Caremark Audits of the Empire Plan Prescription Drug Program

Report 2024-S-4 | October 2025

OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability



Audit Highlights

Objective

To determine whether CVS Caremark effectively audited pharmacy claims for the Empire Plan prescription drug program and remitted all recoveries owed to the Department of Civil Service (Civil Service). The audit covered the period from January 2019 through December 2023.

About the Program

The New York State Health Insurance Program (NYSHIP), administered by Civil Service, is one of the nation's largest public sector health insurance programs. NYSHIP covers about 1.2 million active and retired State, participating local government, and school district employees, and their dependents. The Empire Plan is the primary health benefits plan for NYSHIP, covering over 1 million members.

During our audit period, January 2019 through December 2023, Civil Service had a Pharmacy Benefit Services Contract (Contract) with CaremarkPCS Health, L.L.C. (CVS Caremark) to administer the prescription drug program for the Empire Plan. During this period, CVS Caremark processed and paid over 156 million claims totaling over \$17.5 billion. In accordance with the Contract, CVS Caremark must implement a comprehensive audit program that includes, but is not limited to, conducting on-site audits of pharmacies, providing audit reports to Civil Service, and notifying Civil Service of any allegations or indications of potential fraud and abuse. CVS Caremark conducts three main types of audits: concurrent audits, on-site audits, and Medicare Part D compliance reviews. During the audit period, CVS Caremark recovered or saved about \$63.1 million as a result of the audits conducted.

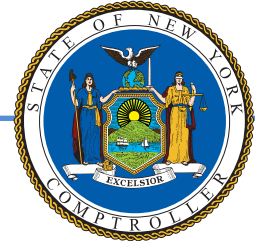
Key Findings

Our audit found that improvements are needed to increase the effectiveness of CVS Caremark's audits of the Empire Plan's pharmacy claims. For example, CVS Caremark audits sometimes reviewed only a minimal number of Empire Plan claims and expanded field audits were not conducted on several large chain pharmacies, such as CVS and Walgreens. Additionally, CVS Caremark did not perform on-site audits of all the top 50 paid pharmacies for calendar years 2019–2023, as required by the Contract.

We also found that CVS Caremark and Civil Service disagree on CVS Caremark's responsibilities for identifying and referring fraud and abuse. Although Civil Service expects CVS Caremark to perform this function, CVS Caremark officials stated that the responsibility for identifying and referring fraud and abuse lies with Civil Service, not CVS Caremark. As a result, CVS Caremark did not refer any potential pharmacy fraud or abuse cases to Civil Service during the audit period, which may have allowed cases to go unnoticed.

Key Recommendations

- Work with Civil Service to improve the effectiveness of pharmacy audits by identifying and selecting an appropriate sized sample of Empire Plan claims for review, and ensuring all of the top 50 highest-paid pharmacies are included as required by the Contract.
- Work with Civil Service to define clear responsibilities for identifying and referring fraud and abuse.



**Office of the New York State Comptroller
Division of State Government Accountability**

October 2, 2025

Joni Lozano
Division Head, CVS/Caremark
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Dear Ms. Lozano:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively. By so doing, it provides 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 entitled *CVS Caremark: Effectiveness of CVS Caremark Audits of the Empire Plan Prescription Drug Program*. This 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,

Division of State Government Accountability

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Glossary of Terms

Term	Description	Identifier
CVS Caremark	CaremarkPCS Health, L.L.C.	<i>Auditee</i>
Abuse	Defined by CVS Caremark as provider practices that are inconsistent with sound fiscal, business, or medical practices, and that result in unnecessary costs for the Empire Plan	<i>Key Term</i>
Book of business	All organizations, such as Civil Service, that contract with CVS Caremark to manage its member's pharmacy benefit program	<i>Key Term</i>
Civil Service	Department of Civil Service	<i>Agency</i>
Contract	Pharmacy Benefit Services Contract between Civil Service and CVS Caremark to administer the Empire Plan's prescription drug program	<i>Key Term</i>
Discrepancy	The finding amount from an on-site audit, representing an overpayment of the audited claim	<i>Key Term</i>
Empire Plan	Primary health benefits plan for NYSHIP	<i>Program</i>
Fraud	Defined by CVS Caremark as intentional deception or misrepresentation by a person with the knowledge that the deception could result in some unauthorized benefit to themselves or to some other person	<i>Key Term</i>
NYSHIP	New York State Health Insurance Program	<i>Program</i>
Pharmacy Benefit Manager	A company that manages prescription drug benefits on behalf of health insurance companies, employers, and other payers	<i>Key Term</i>
Waste	Defined by CVS Caremark as the overutilization of services not caused by criminally negligent actions	<i>Key Term</i>

Background

The New York State Health Insurance Program (NYSHIP) was established in 1957 under the Civil Service Law. NYSHIP is one of the nation's largest public sector health insurance programs, covering about 1.2 million active and retired State, participating local government, and school district employees, and their dependents. The Department of Civil Service (Civil Service) administers NYSHIP. The Empire Plan is the primary health benefits plan for NYSHIP, providing its over 1 million members with four types of health insurance coverage: prescription drug, medical/surgical, hospital, and mental health and substance use coverage.

During our audit period, January 2019 through December 2023, Civil Service had a Pharmacy Benefit Services Contract (Contract) with CaremarkPCS Health, L.L.C. (CVS Caremark) to administer the Empire Plan's prescription drug program. During this period, CVS Caremark processed and paid over 156 million claims totaling over \$17.5 billion.

In accordance with the Contract, CVS Caremark is required to implement a comprehensive audit program that includes, but is not limited to, conducting on-site audits of pharmacies, providing audit reports to Civil Service, and notifying Civil Service of any allegations or indications of potential fraud and abuse. CVS Caremark must conduct routine and targeted on-site audits at least once during the Contract period of the top 50 pharmacies (based on dollars paid) for the Empire Plan. CVS Caremark must provide reports to Civil Service detailing planned, initiated, and completed audits; audit findings and recoveries; and other enforcement actions taken by CVS Caremark. CVS Caremark must inform Civil Service of all allegations or indications of potential fraud or abuse in a timely manner, regardless of whether the fraud or abuse has a material financial impact on the State.

CVS Caremark conducts three main types of audits as part of its audit program: concurrent audits, on-site audits, and Medicare Part D compliance reviews. Most of the audits conducted are concurrent audits. These are audits of outlier claims identified using a proprietary algorithm that runs against all claims billed each week before the payment is made. These audits result in savings to the State, as the pharmacy typically rebills a corrected claim for a lesser payment. For example, if the usual dose of a drug is one pill per day and a pharmacy bills for 300 pills over 30 days, the algorithm flags the claim because the pharmacy billed 10 times the normal amount. CVS Caremark would then reach out to the pharmacy to resolve the unusual billing. The pharmacy corrects the claim, billing for 30 pills instead of 300. CVS Caremark would report an overbilled quantity of 270 pills and consider the cost of the overbilled quantity as audit savings.

On-site audits typically cover 12 months of claims and include routine and expanded field audits. During a routine field audit, CVS Caremark reviews the pharmacy's claim information for accuracy, such as quantity and days' supply, as well as operating procedures such as inventory management. Expanded field audits review the same information as routine field audits plus additional checks, such as verifying prescriber information and reviewing drug inventory purchases. The findings from these audits are called discrepancies and represent an overpayment of the audited claim.

Medicare Part D compliance reviews focus on data integrity and identifying prescription drug event (claim) errors, such as errors in dosage, drug type, or pricing. Although some audits may identify an overpayment, most of these audits result in no financial savings.

According to information on CVS Caremark's website, losses from uncontrolled fraud, waste, and abuse can make up to 10% of health care spending. Using this estimate for the Empire Plan, overpayments due to fraud, waste, and abuse could have totaled as much as \$1.75 billion for the audit period (January 2019 through December 2023). During this time, CVS Caremark recovered or saved about \$63.1 million of the over \$17.5 billion in paid claims (about 0.36%) for the Empire Plan.

Audit Findings and Recommendations

Our audit determined that CVS Caremark has not effectively audited pharmacy claims for the Empire Plan. During the audit period, we found CVS Caremark sometimes reviewed only a minimal number of Empire Plan claims in its audits and did not conduct expanded field audits of certain large chain pharmacies, such as CVS and Walgreens, increasing the risk of certain errors going undetected. Additionally, CVS Caremark did not perform on-site audits of all the top 50 paid pharmacies for calendar years 2019–2023, as required by the Contract. Furthermore, based on information from CVS Caremark’s website, 10% of total pharmacy spending may be lost due to uncontrolled fraud, waste, and abuse. We estimate this could have resulted in about \$1.75 billion in potential losses for the Empire Plan during the same period. However, we found CVS Caremark recovered or prevented about \$63.1 million in inappropriate Empire Plan claim payments during our audit period.

We also found that CVS Caremark and Civil Service disagree on CVS Caremark’s responsibilities for identifying and referring fraud and abuse. Although Civil Service expects CVS Caremark to perform this function, CVS Caremark officials stated the responsibility for identifying fraud and abuse lies with Civil Service. As a result, CVS Caremark did not refer any potential pharmacy fraud and abuse cases to Civil Service during the audit period. Further, CVS Caremark did not classify any overpayments as fraud, waste, and abuse in the audit reports provided to Civil Service and did not provide information needed to determine whether overpaid claims were the result of potential fraud, waste, or abuse.

Inadequate Audits of Empire Plan Claims

Insufficient Number of Claims Audited

CVS Caremark sometimes reviewed only a minimal number of claims during its audit reviews to determine if Empire Plan claims were paid accurately, even if the audit was for a top 50 paid pharmacy. CVS Caremark conducts audits of claims across its entire book of business, meaning the audits contain claims for all contracted customers, not just claims for the Empire Plan. CVS Caremark officials stated that this approach is consistent with industry standards. They also said that they use multiple methods to select claims for an audit, including analyzing all submitted claims from CVS Caremark’s book of business and a review of tips for investigations from external sources, such as Civil Service. Civil Service officials are aware that when samples are selected, they might not include many Empire Plan claims, particularly because the Empire Plan is a small percentage of CVS Caremark’s book of business. However, they expect CVS Caremark to audit a representative number of Empire Plan claims. For example, if the Empire Plan accounts for 25% of a pharmacy’s claims compared to CVS Caremark’s book of business, Civil Service would expect 25% of the claims reviewed in the audit to be for the Empire Plan. However, CVS Caremark does not report what percentage of its claims are from the Empire Plan, so Civil Service cannot confirm if this expectation is being met.

To determine whether CVS Caremark is auditing a sufficient number of Empire Plan claims, we reviewed the workpapers for five on-site audits. These workpapers include the claims that were reviewed and CVS Caremark’s determination on whether these claims were appropriately billed. Of the five on-site audits, four were of a top 50 paid pharmacy. As shown in the following table, this audit determined that two of the five audits reviewed only a minimal number of Empire Plan claims (including one that had none reviewed) and therefore was insufficient to evaluate the accuracy of Empire Plan claims.

Number of Empire Plan Claims Reviewed

Audited Pharmacy Number	Civil Service Made Aware of Audit?	Total Number of Empire Plan Claims Paid	Total Number of Claims Audited*	Total Number of Empire Plan Claims Audited
1	Yes	34,139	77,037	482
2	Yes	12,278	4,221	54
3	Yes	133,942	467	33
4	No	1,270,488	452	1
5	No	7,261	207	0

*Includes all claims audited across CVS Caremark’s entire book of business.

For example, the routine field audit of Pharmacy 5 did not include any Empire Plan claims, even though 207 claims were reviewed for CVS Caremark’s book of business. As a result, CVS Caremark did not review whether the pharmacy’s Empire Plan claims were paid correctly. In another routine field audit (Pharmacy 4), CVS Caremark reviewed only one of 1,270,488 total Empire Plan claims paid to this pharmacy. CVS Caremark identified discrepancies in its review of the 452 claims paid to this pharmacy, although none of those were for the one Empire Plan claim audited. CVS Caremark did not inform Civil Service that these audits took place or share the results because the discrepancies were not related to the Empire Plan. CVS Caremark should inform Civil Service when pharmacies paid by the Empire Plan are audited and report the issues identified in those audits, regardless of whether discrepancies are related to Empire Plan claims, so Civil Service can properly administer the Empire Plan’s prescription drug program.

Although Civil Service expects a representative sample of claims to be included in CVS Caremark audits, CVS Caremark officials stated that the Contract does not include this requirement, although they acknowledged that all Empire Plan claims are subject to audit. Furthermore, CVS Caremark officials believe that New York State Public Health Law and New York State Department of Financial Services regulation limit its ability to audit pharmacy claims. Specifically, audits performed by Pharmacy Benefit Managers, such as CVS Caremark, are limited to no more than 100 randomly selected prescriptions within a 12-month period, unless fraudulent activity is suspected.

Because some of the audits conducted by CVS Caremark reviewed only a minimum number of Empire Plan claims to effectively verify their correctness, alternative

options should be explored by CVS Caremark and Civil Service going forward. CVS Caremark should consider reviewing areas it has not previously focused on. For example, CVS Caremark has not conducted expanded field audits of Empire Plan claims from certain large chain pharmacies, such as CVS and Walgreens pharmacies, over the past 10 years. CVS Caremark officials noted that outlier behavior is not typically observed with large chain pharmacies because they have dedicated resources to monitor and deter such behavior. Even with systems and controls in place, these measures sometimes do not work as intended, potentially resulting in improper payments. Therefore, without expanded audits, issues such as whether billed quantities are supported by drug invoices and correctly prescribed may go unnoticed.

CVS should discuss options available with Civil Service to prevent or detect more inappropriate payments. These options could help bridge the gap between the overpayments currently identified and the potential for additional overpayments.

Lack of On-Site Audits of Top 50 Paid Pharmacies

According to the Contract, CVS Caremark is required to perform periodic on-site audits of the top 50 paid pharmacies for the Empire Plan at least once during the Contract period. We found that CVS Caremark did not conduct on-site audits of all top 50 paid pharmacies during the Contract period.

CVS Caremark officials stated that they audited 45 of the 50 top-paid pharmacies and chose not to audit the other five based on auditor judgment. However, officials were unable to provide documentation to support this decision upon our request. The five pharmacies that were not audited received approximately \$183 million in Empire Plan payments during the audit period. CVS Caremark can only observe the accuracy of pharmacy operations, such as pharmacy inventory management, during an on-site audit. Civil Service is currently evaluating whether CVS Caremark's decision to not audit these five pharmacies complies with the Contract requirements.

Identification and Reporting of Fraud, Waste, and Abuse

According to the Contract, CVS Caremark is required to take steps to identify fraud, waste, and abuse; notify Civil Service of indications of potential fraud and abuse; and refer cases of fraud and abuse to the appropriate authorities. Civil Service expects CVS Caremark to take all the necessary steps to notify the appropriate authorities capable of prosecuting cases criminally and civilly. However, CVS Caremark has a different interpretation of its responsibilities.

CVS Caremark officials stated that the determination of fraud, waste, and abuse is beyond the scope of CVS Caremark's responsibility and that referring cases of fraud and abuse to the appropriate authorities is Civil Service's responsibility. As a result, instances of potential fraud and abuse may not have been appropriately identified or referred to the appropriate authorities. Although CVS Caremark did

not notify Civil Service of any pharmacy fraud and abuse cases or of any referrals made to authorities during the audit period, CVS Caremark can remove pharmacies from its network if audits reveal significant inappropriate activity. We found CVS Caremark terminated 17 pharmacies from its network during our audit period because the pharmacies' audit discrepancies did not comply with the terms of their contracts. However, CVS Caremark did not categorize any of the audit discrepancies as potential fraud or abuse despite them being significant enough to warrant the termination of these pharmacies from the provider network.

The Contract also states that CVS Caremark must remit any overpayments due to fraud or abuse to Civil Service, regardless of whether CVS Caremark is able to recover these amounts from pharmacies. CVS Caremark identified about \$28.8 million in audit discrepancies for on-site audits; \$11.2 million of this was not remitted to Civil Service. CVS Caremark officials stated that this often occurs because the pharmacy goes out of business or stops billing CVS Caremark claims during the audit appeals process. Although CVS Caremark found some billing activities by certain pharmacies warranted their removal from the provider network, it did not classify these activities as potential fraud or abuse, which may have resulted in CVS Caremark having to remit as much as \$11.2 million to Civil Service (if deemed to be fraud or abuse). Consequently, there may be a disincentive for CVS Caremark to categorize any overpayment as fraud or abuse for the Empire Plan and to refer such cases to the appropriate authorities.

While CVS Caremark provides Civil Service with reports detailing audit activities, these reports do not contain all the necessary information for Civil Service to determine whether discrepant claims were due to potential fraud, waste, and abuse. The audit reports only identify which Empire Plan claims were discrepant and the reason for the discrepancy; they do not include the total number of claims reviewed or the total number of audited claims identified with the same discrepancy as those in the Empire Plan. Without this context, Civil Service may lack enough information to identify claim discrepancies that could indicate fraud, waste, or abuse. Consequently, Civil Service cannot use these audit reports to refer potential fraud or abuse cases to the appropriate authorities.

For example, in a hypothetical routine field audit, CVS Caremark reviewed 500 claims for its book of business, of which 25 claims were for the Empire Plan (5%). For these 25 claims, CVS Caremark identified five claims that were overbilled for the quantity of drugs dispensed. The audit report would identify only the five discrepant claims and the reason for the discrepancy. It would not specify that 25 Empire Plan claims were reviewed or that 500 claims were reviewed in total. Therefore, Civil Service cannot calculate an error rate for the Empire Plan or for the audit. In this example, the Empire Plan's error rate for overbilling of the quantity of drugs dispensed is 20% (five claims with discrepancies out of 25 claims reviewed). This error rate may not identify that the issue is high risk for identifying instances of potential fraud, waste, and abuse. However, if 200 of the 500 claims reviewed by CVS Caremark for its book of business had this issue (a 40% error rate), Civil Service may determine the issue represents a high risk for the pharmacy

and may require further analysis for the Empire Plan. To make this assessment accurately, Civil Service needs to know the total number of claims reviewed and the total number of claims with this issue—information that is not currently included in CVS Caremark’s audit reports.

Recommendations

1. Work with Civil Service to evaluate additional approaches to identify more Empire Plan claims that are likely to have errors, such as expanding the number of Empire Plan claims in CVS Caremark audits.
2. Ensure on-site audits are conducted for the pharmacies identified in the Contract, such as the top 50 highest-paid pharmacies.
3. Work with Civil Service to define clear responsibilities for identifying and reporting fraud and abuse.
4. Work with Civil Service to review the over \$11.2 million in unrecovered overpayments from pharmacies and determine if any of this was due to fraud or abuse; then remit those amounts to Civil Service as appropriate.
5. Work with Civil Service to ensure sufficient details are shared about the sample of claims audited to help it administer the Empire Plan.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine whether CVS Caremark effectively audited pharmacy claims for the Empire Plan prescription drug program and remitted all recoveries owed to Civil Service. The audit covered the period from January 2019 through December 2023.

To accomplish our objective and assess related internal controls, we interviewed officials from CVS Caremark and Civil Service. We also reviewed audit reports for the Empire Plan covering the audit period, the Contract between Civil Service and CVS Caremark, and monthly invoices from CVS Caremark to Civil Service.

We used a non-statistical sampling approach to provide conclusions on our audit objective and to test internal controls and compliance. We selected a judgmental sample. However, because we used a non-statistical sampling approach for our tests, we cannot project the results to the respective population. We selected a judgmental sample of five of 62,011 audits conducted by CVS Caremark to review CVS Caremark's audit workpapers. This sample included a mix of routine field audits and expanded field audits, as well as 50 top-paid pharmacies and CVS pharmacies. This review was to validate that the audits were conducted, verify that the information for the audits matched the audit reports provided to Civil Service, and identify the testing performed and whether Empire Plan claims were included in the audits.

We obtained data from CVS Caremark and assessed the reliability of that data by reviewing existing information, interviewing officials knowledgeable about the system, and tracing to and from source data. We determined that the data from CVS Caremark was sufficiently reliable for the purposes of this report. Certain other data in our report was used to provide background information. Data that we used for this purpose was obtained from the best available sources, which were identified in the report. Generally accepted government auditing standards do not require us to complete a data reliability assessment for data used for this purpose.

Statutory Requirements

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.

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. These duties could be considered management functions for the purposes of evaluating organizational independence under generally accepted government auditing standards. In our professional judgment, these duties do not affect our ability to conduct this independent performance audit of CVS Caremark audits of pharmacy claims for the Empire Plan prescription drug program.

Reporting Requirements

We provided preliminary reports of our audit observations to CVS Caremark officials for their review and comment. Their comments were considered in preparing this final report. CVS Caremark officials generally disagreed with the report's findings, conclusions, and recommendations.

Within 180 days after the final release of this report, we request that CVS Caremark officials report to the State Comptroller, advising what steps were taken to implement the recommendations contained in this report, and where recommendations were not implemented, the reasons why.

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