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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 January 1, 2011 Through March 31, 2011**

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

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# Executive Summary

## Purpose

To determine whether Empire BlueCross BlueShield's (Empire) payments for certain special items were reasonable in relation to the hospitals' actual purchase and acquisition costs. The audit covered the period from January through March 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 with 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 January 1, 2011 to March 31, 2011, Empire paid \$24 million for 12,990 claims for special items submitted by hospitals that did not have reimbursement limitations.

## Key Findings

- Empire made excessive payments to certain hospitals that did not have formal contract provisions limiting reimbursements for special items. On four such claims we reviewed, Empire paid hospitals about \$279,000 (or 344 percent) more than the costs of the special items in question.
- We were unable to obtain supporting documentation from 13 hospitals for 44 selected claims for special items. If Empire paid these hospitals 344 percent more than the costs of the items, the hospitals could have generated profits of nearly \$1.6 million on these claims.

## Key Recommendations

- 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 to John T. Mather Memorial Hospital \(2010-S-51\)](#)

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

**Division of State Government Accountability**

February 1, 2013

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 January 1, 2011 through March 31, 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)

## 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 January 1, 2011 through March 31, 2011, Empire paid 246,870 claims totaling over \$529 million for services provided to Plan members. This included payments totaling \$24 million for 12,990 claims for special items submitted by hospitals whose agreements did not limit Empire's reimbursements for such items.

## Audit Findings and Recommendations

### Payments Significantly Exceeded Hospitals' Costs to Acquire Special Items

We selected a judgmental sample of 48 claim payments (totaling about \$2.5 million) that were submitted by 15 hospitals whose contracts with Empire did not limit reimbursements for special items. From two of the hospitals, we obtained supporting documentation for four claims totaling \$360,247. Based on this documentation, we determined that Empire paid the hospitals \$279,068 more than the hospitals' costs to acquire the items. Also, the other 13 hospitals (see Exhibit) did not provide documentation for the remaining 44 claims (totaling about \$2.1 million). 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 15 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 payments we were able to test. We requested supporting documentation (including invoices) for each of the 48 selected payments, and two hospitals submitted documentation corresponding to four of the payments. For these four claims, we compared the amounts of Empire's reimbursements to the hospitals' actual purchase and acquisition costs for the special items. Although technically compliant with the respective hospitals' agreements, Empire's reimbursements of all four claims significantly exceeded the hospitals' actual costs to purchase and acquire the items. The following table summarizes the excessive payments Empire made.

Claim Example	Amount Empire Paid Hospital for Special Items	Hospitals' Purchase / Acquisition Cost	Difference (\$)	Difference (%)
A	\$82,407	\$18,000	\$64,407	358%
B	\$94,656	\$25,000	\$69,656	279%
C	\$102,877	\$24,780	\$78,097	315%
D	\$80,307	\$13,399	\$66,908	499%
Totals	\$360,247	\$81,179	\$279,068	344%

As the table indicates, the two hospitals made windfalls totaling \$279,068 (or nearly \$70,000 per claim) on the four payments in question. On balance, the profits were more than three times the hospitals' actual costs for the items. In addition, payments for the other 44 sampled claims for special items were significant - averaging \$48,460 per claim. Two of these payments exceeded \$100,000. If the rates of reimbursement for the other 44 claims were consistent with the rates for the four claims in the table, the hospitals could have generated profits of nearly \$1.6 million

on those 44 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. Empire officials also advised us that they have been trying to add standard language to hospital agreements to help prevent excessive payments for special items. 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.

## **Recommendations**

1. 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 precludes the submission of excessive claims by requiring hospitals to provide appropriate support documentation (including invoices for special items) upon request.
2. Develop and implement internal controls, including pre- and post-payment verifications to supporting documentation, to ensure that payments for special items are made in accordance with hospital agreements.

## **Audit Scope and Methodology**

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Our audit objective was to determine whether Empire's payments for certain special items were reasonable in relation to the hospitals' actual purchase and acquisition costs. Our audit covered the period from January 1, 2011 through March 31, 2011.

To accomplish our objective, we judgmentally selected 48 claims for special items totaling \$2.5 million from hospitals with no reimbursement limitations in their contracts. These claims were paid to 15 different hospitals. For each claim we requested Empire obtain medical records and



invoices. We reviewed the medical records to determine whether services billed were in fact provided. We determined the cost of specific rate exception items and compared these amounts to what Empire paid to ascertain the reasonableness of these payments.

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 (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.



## Contributors to This Report

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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 January 1, 2011 through March 31, 2011

Hospital Name	Number of Claims in Sample	Amount Empire Paid Hospital for Special Items	Average Amount of Payment Per Claim
Winthrop University Hospital	10	\$706,432	\$70,643
NYU Medical Center	11	558,447	50,768
Good Samaritan Hospital at West Islip	4	168,727	42,182
South Nassau Communities Hospital	3	162,839	54,280
Huntington Hospital	2	133,461	66,731
Hospital for Joint Disease	1	112,423	112,423
Montefiore Medical Center	1	100,157	100,157
John T. Mather Memorial Hospital	2	79,814	39,907
Brookhaven Memorial Hospital	2	79,501	39,751
North Shore University Hospital in Manhasset	2	16,752	8,376
Long Island Jewish Medical Center	4	7,214	1,804
North Shore Hospital in Plainview	1	4,308	4,308
Vassar Brothers Medical Center	1	2,153	2,153
Totals	44	\$2,132,228	\$48,460