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STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

April 19, 2010

Mr. Carl Mattson  
Vice President, Empire Plan  
United HealthCare  
900 Watervliet Shaker Road, # 105  
Albany, NY 12205

Re: Report 2010-F-6

Dear Mr. Mattson:

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 previously audited payments made by United HealthCare Insurance Company (United) to the Capital Region Ambulatory Surgical Center (Capital). We have now followed up on the actions taken by officials of United to implement the recommendations contained in our audit report, *New York State Health Insurance Program - Overpayments For Services at the Capital Region Ambulatory Surgical Center (Report 2007-S-72)*.

**Background, Scope and Objective**

The New York State Health Insurance Program (Program) provides health insurance coverage to active and retired State, participating local government and school district employees and their dependents. The Empire Plan is the primary health benefits plan for the Program. The New York State Department of Civil Service contracts with United to process and pay medical claims for services provided to Empire Plan members. United contracts with medical service providers, who agree to be reimbursed at rates set by United. United pays these participating providers directly based on claims they submit for services rendered to members. Members pay a nominal co-payment to the participating provider.

Members may also choose to receive medical services from non-participating providers. The claims paid by United to non-participating providers usually reflect rates that are higher than the rates that participating providers agree to accept for the same service. To limit its liability, United will only pay non-participating provider claims based on the lesser of reasonable and customary costs for services or the amount claimed. As a disincentive, the Empire Plan requires members to pay higher out-of-pocket costs (including a deductible and a co-insurance rate) when they use non-participating providers. After the member meets the annual deductible, United will reimburse the member 80 percent of the claim. The member is responsible for settling with the non-participating provider, including any out-of-pocket costs owed.

During the six-year period ended December 31, 2006, United paid a total of \$12.9 million in facility fees for claims submitted by Capital, an orthopedic-surgical facility, on behalf of Empire Plan members. Our initial audit report, which was issued on December 3, 2007, covering the period January 1, 2001 through December 31, 2006, examined the claims paid by United and the related supporting documentation submitted by Capital, to determine if the correct amount had been paid. We quantified the amount of overpayments made by United due to Capital's routine waiver of members' out of pocket costs. Our report found that based upon such waivers, United overpaid Capital by about \$2.4 million. The objective of our follow-up was to assess the extent of implementation as of March 10, 2010 of the two recommendations included in our initial report.

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

We found United officials have made significant progress in correcting the problems we identified. Of the two prior audit recommendations, both have been implemented.

In the original audit, we concluded overpayments were made as a result of Capital's waiver practices. In addressing this matter, United was able to get Capital to agree to become a participating provider. In addition to the cost recoveries that resulted from this audit, we estimate the Program is saving nearly \$1.5 million annually as a result of Capital being reimbursed as a participating provider.

### **Follow-up Observations**

#### **Recommendation 1**

*Recover the \$2,412,416 in overpayments from Capital.*

Status - Implemented

Agency Action - United worked closely with the Department of Civil Service and the State Insurance Department to recover the overpayments identified in the initial audit report. Capital and United entered into a settlement agreement on March 13, 2008, in which Capital agreed to pay United \$2,225,015. To determine the settlement amount, United identified all claims where Capital could have waived coinsurance. For these claims, United required Capital to demonstrate where the coinsurance was collected.

#### **Recommendation 2**

*Work with the Department of Civil Service to pursue an appropriate course of action designed to prevent Capital from waiving patients' out-of-pocket costs.*

Status - Implemented

Agency Action - United included language in the settlement agreement instructing Capital to discontinue its waiver practice. Capital also joined the Program on May 1, 2008 and as a participating provider agreed to be reimbursed at rates set by United. We estimate the

Program is annually saving \$1,478,084 by reimbursing Capital as a participating provider.

Major contributors to this report were William G. Clynes and Laura Brown.

We thank the management and staff of United for the courtesies and cooperation extended to our auditor during this process.

Very truly yours,

Edward J. Durocher, CIA  
Audit Manager

cc. Mr. Robert DuBois, DCS  
Mr. Thomas Lukacs, DOB