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STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

December 29, 2020

Ms. Cheryl A. Byron
Division Head, CVS/caremark
CVS Health
420 E. Waterside Drive, Unit 2710
Chicago, IL 60601

Re: CVS Health – Accuracy of Drug Rebate
Revenue Remitted to the Department
of Civil Service
Report 2020-F-23

Dear Ms. Byron:

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 have followed up on the actions taken by officials of CVS Health to implement the recommendations contained in our audit report, *CVS Health – Accuracy of Drug Rebate Revenue Remitted to the Department of Civil Service* (Report [2016-S-41](#)).

Background, Scope, and Objective

The New York State Health Insurance Program (NYSHIP), administered by the Department of Civil Service (Civil Service), provides health insurance coverage to over 1.2 million active and retired State, local government, and school district employees and their dependents. The Empire Plan is the primary health benefits plan for NYSHIP, covering 1.1 million members. Civil Service contracted with CVS Health to administer the Empire Plan's prescription drug program for the period January 1, 2014 through December 31, 2018. In accordance with the contract, CVS Health was required to negotiate agreements with drug manufacturers for rebates and remit the rebate revenue to Civil Service.

We issued our initial audit report on January 28, 2019. The audit objective was to determine if CVS Health invoiced and remitted commercial rebate revenue related to Empire Plan drug utilization in accordance with its contract with Civil Service. Our audit covered the period January 1, 2014 through June 30, 2017.

We reviewed the rebate revenue generated from agreements CVS Health had with six drug manufacturers and found that CVS Health did not always properly invoice drug manufacturers for rebates (either in a timely manner, accurately, or at all) or remit all rebate revenue to Civil Service that it collected. As a result, Civil Service was due \$2,052,653 in rebates.

The objective of our follow-up was to assess the extent of implementation, as of December 9, 2020, of the five recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

CVS Health officials addressed most of the problems we identified in the initial audit. Of the report's five recommendations, two were implemented and three were partially implemented.

Follow-Up Observations

Recommendation 1

Remit the \$1,191,624 in rebate revenue (\$1,032,640 + \$26,293 + \$132,691) identified in this report to Civil Service.

Status – Partially Implemented

Agency Action – Each of the various rebate amounts identified as part of this recommendation (i.e., \$1,032,640 + \$26,293 + \$132,691) are in different phases of collection. Credits to Civil Service on May 28, 2019 and August 29, 2019 included \$132,578 out of the identified rebates of \$132,691. The credited amount was less than the original invoiced amount because the credited amount is based on the drug manufacturer's actual recalculated amount. CVS Health has acknowledged owing Civil Service the \$26,293, but is waiting for Civil Service to officially request the payment before the payment is made. Civil Service is reviewing the \$1,032,640 identified by our audit to determine whether CVS Health is responsible for remitting this to Civil Service.

Recommendation 2

Work with drug manufacturers to promptly resolve outstanding disputes, including the \$82,947 identified in this audit, and remit to Civil Service accordingly.

Status – Implemented

Agency Action – On May 28, 2019, Civil Service was credited \$98,231 for the disputed drug identified by this recommendation. The credited amount exceeded the original invoiced amount because the credited amount is based on the drug manufacturer's actual recalculated amount.

Recommendation 3

Establish a formal process to document, track, and resolve disputes, including issues affecting rebate allocation, so disputes can be resolved in a timely manner.

Status – Partially Implemented

Agency Action – CVS Health has a dispute process in place to track, manage, and follow up with manufacturers to resolve disputes timely. CVS Health officials stated they follow all requirements related to payment disputes as outlined in each manufacturer agreement. CVS Health also holds internal bi-weekly calls with analysts and rebate leadership to discuss manufacturer disputes and their status, progress, and resolution. However, the process is not formally documented.

Recommendation 4

Remit the \$778,082 in rebates (\$306,343 + \$160,834 + \$283,418 + \$27,487) identified in this report to Civil Service.

Status – Partially Implemented

Agency Action – CVS Health has agreed that Civil Service is due \$717,415 of the \$778,082 in un-invoiced claims identified by our audit, and is waiting for Civil Service to officially request payment before the payment is made. Civil Service is working with CVS Health to determine if the remaining claims are eligible for rebates.

Recommendation 5

Take steps to ensure all of the Empire Plan’s rebate-eligible drug utilization is invoiced and the resultant revenue is remitted to Civil Service, including:

- *Not excluding claims in the temporary holding account that are not excluded from rebates under the manufacturers’ rebate agreements; and*
- *Correcting mapping problems in the rebate system.*

Status – Implemented

Agency Action – CVS Health officials stated that the “non-rebate-eligible” designation was removed from the temporary holding account effective January 1, 2019, ensuring rebate-eligible claims in the temporary holding account would be properly invoiced and the rebates remitted to Civil Service. We reviewed Rebate Payment Detail Reports, Rebated Claims Files, and Civil Service’s bank statements for the second quarter of 2019 and verified that rebates for a sample of claims in the temporary holding account were invoiced and remitted to Civil Service. In addition, the mapping issues were corrected by CVS Health.

Major contributors to this report were Paul Alois, Cynthia Herubin, Gary Czosnykowski, and Tracy Glover.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues discussed in this report. We thank the management and staff of CVS Health for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Andrea Inman
Audit Director

cc: Dominique Choute, Department of Civil Service
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