

# New York State Health Insurance Program

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## UnitedHealthcare Insurance Company of New York: Improper Payments for Acupuncture and Acupuncture-Related Services

Report 2020-S-7 | October 2021

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

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Division of State Government Accountability



# Audit Highlights

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## Objective

To determine whether UnitedHealthcare Insurance Company of New York appropriately reimbursed acupuncture and acupuncture-related services. The audit covered the period from January 1, 2015 through December 31, 2019.

## About the Program

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, participating local government, and school district employees, and their dependents. The Empire Plan is the primary health benefits plan for NYSHIP, serving about 1.1 million members.

Civil Service contracts with UnitedHealthcare Insurance Company of New York (United) to administer the medical/surgical portion of the Empire Plan and process and pay claims submitted by health care providers. Medical/surgical benefits cover a range of services, including acupuncture. United defines acupuncture as a technique for treating certain painful conditions by passing long thin needles through the skin to specific points. Acupuncture is sometimes provided at the same time as other services, including heat therapy, massage therapy, electrical stimulation, and evaluation and management, collectively referred to herein as acupuncture-related services.

From January 1, 2015 to December 31, 2019, United paid more than \$247 million for acupuncture services and more than \$48 million for acupuncture-related services that occurred during the same visit as the acupuncture service.

## Key Findings

We identified \$7,331,458 in actual and potential overpayments for services not supported by provider documentation and for duplicate payments during our audit period, as follows:

- \$210,068 in overpayments for a random sample of 836 services, from 10 providers who were paid the highest dollar amounts, that were not supported by appropriate documentation. Based on a projection of the sample to the audit population for the 10 providers, we estimate that United made overpayments of \$7,010,427.
- \$223,765 in duplicate payments for services already paid on another claim, including \$18,663 confirmed by United and \$205,102 that still needs to be reviewed.
- \$97,266 in duplicate payments for 1,619 instances where the initial 15-minute increment of acupuncture services was paid twice.

United performs reviews of Empire Plan claim payments to identify providers with irregular billing patterns. Part of United's monitoring process is flagging providers for pre-payment review when the identified irregularities are systemic. Of the 10 providers sampled, eight providers were placed on pre-payment review after the start of our audit, while the remaining two had been placed on pre-payment review before our audit began.

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## Key Recommendations

- Review the \$7,331,458 in audit findings and make recoveries, as warranted.
- Enhance controls designed to prevent duplicate payments for the same service.



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

October 27, 2021

Paula Gazeley Daily  
Vice President, Empire Plan  
UnitedHealthcare Insurance Company of New York  
13 Cornell Road, 2nd floor  
Latham, NY 12110

Dear Ms. Gazeley Daily:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By doing so, it provides accountability for the 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 *UnitedHealthcare Insurance Company of New York: Improper Payments for Acupuncture and Acupuncture-Related Services*. 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,

*Division of State Government Accountability*

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# Glossary of Terms

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| <b>Term</b>                  | <b>Description</b>  | <b>Identifier</b> |
|------------------------------|---|-------------------|
| Acupuncture                  | A technique for treating certain painful conditions by passing long thin needles through the skin to specific points                            | <i>Key Term</i>   |
| Acupuncture-related services | Includes treatment methods such as massage therapy, heat therapy, other electrical stimulation, and evaluation and management of patient health | <i>Key Term</i>   |
| AMA                          | American Medical Association  | <i>Key Term</i>   |
| Civil Service                | Department of Civil Service   | <i>Agency</i>     |
| CPT                          | Current Procedural Terminology  | <i>Key Term</i>   |
| E&M                          | Evaluation and management of patient health   | <i>Key Term</i>   |
| Empire Plan                  | Primary health insurance plan for NYSHIP  | <i>Key Term</i>   |
| NYSHIP                       | New York State Health Insurance Program   | <i>Program</i>    |
| Policy                       | United's Acupuncture Policy   | <i>Key Term</i>   |
| Service codes                | Current Procedural Terminology, or CPT, codes   | <i>Key Term</i>   |
| United                       | UnitedHealthcare Insurance Company of New York  | <i>Auditee</i>    |

# Background

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The New York State Health Insurance Program (NYSHIP), administered by the Department of Civil Service (Civil Service), is one of the nation's largest public sector health insurance programs. NYSHIP covers over 1.2 million active and retired State, participating local government, and school district employees, and their dependents. The Empire Plan is the primary health insurance plan for NYSHIP, serving about 1.1 million members. The Empire Plan provides its members with four types of health insurance coverage: medical/surgical, hospital, prescription drug, and mental health and substance abuse coverage.

Civil Service contracts with UnitedHealthcare Insurance Company of New York (United) to administer the medical/surgical portion of the Empire Plan. Medical/surgical benefits cover a range of services including, but not limited to, office visits, diagnostic testing, outpatient surgery, physical therapy, chiropractic services, home care services, and acupuncture services. United processes and pays claims submitted by health care providers on behalf of Empire Plan members.

Providers bill United for their services using Current Procedural Terminology (CPT) codes established by the American Medical Association (AMA). The CPT manual is a listing of descriptive terms and identifying codes for billing medical services and procedures performed by providers. The AMA developed the CPT to provide a uniform language that accurately describes medical services. The CPT codes (service codes) represent the services that providers report that plan members received.

United pays Empire Plan claims for acupuncture services based on its Acupuncture Policy (Policy). The Policy defines acupuncture as a technique for treating certain painful conditions by passing long thin needles through the skin to specific points. There are two general types of acupuncture service: acupuncture with electrical stimulation (a mild electrical current that passes through the body) and acupuncture without electrical stimulation. Acupuncture services are based on 15-minute time increments of personal, face-to-face contact with the patient and not the duration of the needle(s) placement. Therefore, providers can bill for various quantities depending on the amount of time the provider spent with the patient. Acupuncture is sometimes provided in conjunction with other services, such as heat therapy, massage therapy, and services involving evaluating and managing (E&M) patient health, collectively referred to as acupuncture-related services.

During the period from January 1, 2015 through December 31, 2019, United paid more than \$14.2 billion for claims for services provided to Empire Plan members. Of this, more than \$247 million was for 1,072,402 acupuncture services and more than \$48 million was for 820,468 acupuncture-related services that occurred during the same visit as the acupuncture service, for a total of over \$295 million.

# Audit Findings and Recommendations

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We identified \$7,331,458 in actual and potential overpayments for acupuncture and acupuncture-related services that either were not supported by provider documentation or were for duplicate services. We reviewed a sample of services for 10 providers and identified 836 services that were not supported by appropriate documentation, resulting in overpayments totaling \$210,068. When projected over our audit population of \$19.4 million for the 10 providers, we estimated \$7,010,427 in overpayments. We also identified \$321,031 in duplicate payments.

## Unsupported Payments

For the 5-year period ended December 31, 2019, United paid over \$295 million for 1,892,870 acupuncture and acupuncture-related services by 2,857 providers. To determine whether payments made by United were properly supported by provider documentation, we selected 10 top-paid providers for acupuncture and acupuncture-related services. For each provider, we selected a random sample of services (see methodology in Audit Scope, Objective, and Methodology section) and requested they send us documentation, such as the patient’s medical record, to support the services and related payments.

We reviewed 2,170 acupuncture and acupuncture-related services from these providers and found 836 services, totaling \$210,068, were not appropriately supported by documentation. Table 1 summarizes these findings.

**Table 1 – Unsupported Payments**

| Type of Error                       | Number of Services | Amount Overpaid  |
|-------------------------------------|--------------------|------------------|
| No documentation received           | 707                | \$178,069        |
| Insufficient documentation received | 108                | 28,377           |
| Unsupported E&M services            | 14                 | 2,008            |
| Unsupported quantity of services    | 7                  | 1,614            |
| <b>Totals</b>                       | <b>836</b>         | <b>\$210,068</b> |

Providers are responsible for maintaining medical records for at least 6 years, as required by the Rules of the Board of Regents Part 29; not maintaining records can be considered unprofessional conduct. Of the 836 services, 707 (85%), totaling \$178,069, were not supported by any documentation. For example, two of the sampled providers did not provide any documentation to support the services, totaling \$144,331, that they billed. Without documentation to support the services paid, we consider these to be overpayments.

For the remaining 129 services in our sample, the documentation received did not adequately support the services. We determined 108, totaling \$28,377, had documentation, but it was insufficient to support the payment. For example, one provider only provided a listing of service codes that were billed, with no other supporting documentation to validate that the services and quantities paid were appropriate.

According to United's Policy, an E&M service can only be billed in addition to acupuncture services if the patient's condition requires a significant, separately identifiable E&M service that is above and beyond the usual pre-service and post-service work associated with the acupuncture service. We identified 14 E&M services, totaling \$2,008 paid to three providers, for which the providers did not submit adequate supporting documentation. Moreover, the E&M services evaluated the same medical issue that the acupuncture was addressing; therefore, the E&M services were not considered significant and separately identifiable, and should not have been paid in addition to the acupuncture services.

We also identified four providers who billed seven services, totaling \$1,614; however, the documentation did not support the quantity of services paid. For example, a provider was paid for three units of acupuncture services (for a total of 45 minutes), but the supporting documentation showed that only 35 minutes of acupuncture service was provided, which equates to two units of service. Therefore, one unit of service was not supported in the documentation and should not have been paid.

Using statistical sampling techniques, we projected the 836 overpayments (totaling \$210,068) to the 76,319 services (totaling approximately \$19.4 million) in our audit population (services for patients who received at least \$2,000 in monthly services) for the 10 providers. This resulted in an estimated total overpayment of \$7,010,427 from January 1, 2015 to December 31, 2019. The results of our findings for each provider are shown in Table 2.

**Table 2 – Results by Provider**

| Sampled Provider | Audit Population: Number of Services | Sample: Number of Services | Sample: Amount Paid | Sample: Amount Overpaid | Projection Amount  |
|------------------|--------------------------------------|----------------------------|---------------------|-------------------------|--------------------|
| Provider A       | 19,961                               | 385                        | \$72,856            | \$72,856                | \$3,692,013        |
| Provider B       | 6,826                                | 198                        | 71,475              | 71,475                  | 2,341,360          |
| Provider C       | 5,884                                | 141                        | 44,654              | 25,768                  | 518,109            |
| Provider D       | 9,831                                | 262                        | 80,778              | 19,508                  | 279,975            |
| Provider E       | 5,703                                | 290                        | 33,438              | 10,350                  | 89,335             |
| Provider F       | 6,350                                | 271                        | 98,962              | 7,094                   | 8,409              |
| Provider G       | 8,527                                | 254                        | 61,657              | 1,417                   | 15,664             |
| Provider H       | 4,391                                | 91                         | 35,981              | 720                     | 59,760             |
| Provider I       | 3,329                                | 124                        | 40,527              | 620                     | 5,802              |
| Provider J       | 5,517                                | 154                        | 35,999              | 260                     | 0*                 |
| <b>Totals</b>    | <b>76,319</b>                        | <b>2,170</b>               | <b>\$576,327</b>    | <b>\$210,068</b>        | <b>\$7,010,427</b> |

\* Our statistical projection resulted in \$0 overpayment for this provider, even though \$260 was identified in actual overpayments.

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## Recommendation

1. Review the \$210,068 in overpayments identified by the sample and make recoveries, as warranted. Take steps toward the recovery of overpayments pertaining to the \$7,010,427 in projected overpayments.

## Duplicate Payments for Services

We identified \$321,031 in duplicate payments. Of this, \$223,765 was for services already paid on another claim (\$18,663 confirmed by United and \$205,102 to be reviewed by United), while the remaining \$97,266 was for duplicate payments for the initial 15-minute increment of acupuncture.

Providers should only bill, and be paid, once for services provided. We identified 2,165 claims, totaling \$224,835 for services already paid on another claim. We sent the top 50 payments to United to confirm whether these claims were duplicates and, if so, to determine how these errors occurred. United confirmed that 47 of 50 (94%) were duplicate payments, totaling \$18,663, and determined that, in many cases, the claims processors had not properly identified the claims as duplicates. United indicated that it started the recovery process for these 47 claims. For the remaining three claims, totaling \$1,070, United determined they were not duplicate payments, leaving \$223,765 (\$224,835 - \$1,070), of which United needed to review \$205,102 (\$223,765 - \$18,663) in identified duplicates.

Additionally, we found 1,619 instances where the first 15-minute increment of acupuncture was paid twice (one with electrical stimulation and one without). We determined that \$97,266 was paid inappropriately for these services.

## Recommendations

2. Review the \$302,368 (\$205,102 + \$97,266) in duplicate payments identified by our audit and recover overpayments, as warranted, and continue the recovery process for the \$18,663 in duplicate payments already reviewed.
3. Enhance controls designed to prevent duplicate payments for the same service.

## Provider Monitoring

United reviews Empire Plan claim payments to identify providers with irregular billing patterns, including providers of acupuncture and acupuncture-related services. Part of United's monitoring process is flagging providers for pre-payment review when the identified irregularities are significant. Pre-payment review requires providers to submit all supporting documentation for claims before payments are made for services. Generally, pre-payment reviews result in fewer inappropriate payments, thereby lowering the overall cost of the Empire Plan. During our audit period, United identified billing issues with 28 acupuncture providers, 16 of whom were placed on

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pre-payment review. For the 10 providers we sampled, eight providers were placed on pre-payment review after the start of our audit, while the other two had been placed on pre-payment review before our audit began. United should continue its monitoring efforts to further strengthen controls and reduce costs, as well as to provide accountability to Empire Plan members and taxpayers.

## **Recommendation**

- 4.** Continue to monitor and place acupuncture providers on pre-payment review, as warranted.

# Audit Scope, Objective, and Methodology

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The objective of our audit was to determine whether United appropriately reimbursed acupuncture and acupuncture-related services. The audit covered the period from January 1, 2015 through December 31, 2019.

To accomplish our audit objective and assess related internal controls, we interviewed United officials, reviewed United's Policy, and reviewed documentation for a sample of claims. For our sample, we selected 10 top-paid providers based on total claim payments during our audit period. For the 10 providers, we totaled each member's acupuncture and acupuncture-related services by month and identified patients with a total amount paid by month equal to or greater than \$2,000, totaling approximately \$19.4 million for 76,319 services. From the grouping of patients with monthly payments equal to or greater than \$2,000, we selected a random sample for each of the 10 providers using valid sampling methods, totaling 2,170 services. We requested documentation to support the services within the sample. For each provider, we verified whether the documentation supported the services and quantities paid. We identified 836 services with overpayments totaling \$210,068. We projected the 836 overpayments to the audit population of 76,319 services for the 10 providers (totaling approximately \$19.4 million), and we estimated (with a 95% single-sided confidence level) an overpayment of \$7,010,427 for the 10 providers.

# Statutory Requirements

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## 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 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 NYSHIP's oversight and administration of United's acupuncture and acupuncture-related services.

## Reporting Requirements

We provided a preliminary report of our audit observations to United officials for their review and comment. Their comments were considered in preparing this report.

Within 180 days after the release of this report, we request that United 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.

# Contributors to Report

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