

# New York State Health Insurance Program

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## Empire BlueCross: Improper Payments for Special Items Billed by Hospitals Within Long Island Health Network

Report 2017-S-43 | November 2019

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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## Objectives

To determine whether Empire BlueCross paid claims for special items according to the terms of its contract with Long Island Health Network and, if not, whether Empire BlueCross made overpayments on any of those claims. The audit covered the period January 1, 2013 through December 31, 2017.

## 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, local government, and school district employees and their dependents. The Empire Plan is the primary health benefits plan for NYSHIP, covering nearly 1.1 million members. Civil Service contracted with Empire BlueCross (Empire) to administer the hospital portion of this plan.

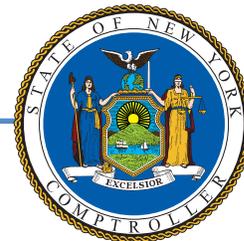
Empire processes claims for hospital services according to contracts it negotiates with hospitals. The hospital contracts include reimbursement fee schedules for inpatient and outpatient hospital services. Hospitals may be entitled to additional payments for special items (e.g., implants, drugs, and blood) that are not covered by standard fee schedules. Under Empire's contract with Long Island Health Network (LIHN), which covered ten hospitals on Long Island, Empire paid about \$180.5 million for 158,305 special item claims during the audit period.

## Key Findings

- We found Empire did not pay for special item claims according to the terms of its contract with LIHN. From a sample of 874 claims, we found Empire overpaid LIHN hospitals \$3,597,688 for 722 special item claims (83 percent of the claims sampled). As of July 23, 2019, Empire had recovered \$262,467.

## Key Recommendations

- Recover the remaining \$3,335,221 out of \$3,597,688 in special item claim overpayments.
- Develop a corrective action plan with LIHN hospitals to prevent these errors from occurring in the future.



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

November 29, 2019

Mr. Jason O'Malley  
Regional Vice President, Sales  
Empire BlueCross  
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 entitled *Empire BlueCross: Improper Payments for Special Items Billed by Hospitals Within Long Island Health Network*. 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.

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>
Civil Service	Department of Civil Service	<i>Agency</i>
Empire	Empire BlueCross	<i>Auditee</i>
HCPCS	Healthcare Common Procedure Coding System	<i>Key Term</i>
LIHN	Long Island Health Network	<i>Provider</i>
NYSHIP	New York State Health Insurance Program	<i>Program</i>
Special items	Implants, drugs, or blood	<i>Key Term</i>
Empire Plan	The primary health benefits plan for NYSHIP, which serves about 1.1 million members	<i>Key Term</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 benefits plan for NYSHIP, covering about 1.1 million members. The Empire Plan provides its members with four types of health insurance coverage: hospital, prescription drug, medical/surgical, and mental health and substance abuse coverage.

Civil Service contracts with Empire BlueCross (Empire) to administer the hospital portion of the Empire Plan, which includes coverage for inpatient and outpatient services provided by hospitals, skilled nursing facilities, and hospice providers. Empire processes claims for hospital services according to contracts it negotiates with member hospitals in 28 eastern and southeastern counties of New York State. (Note: in the remainder of the State, Empire processes claims through its BlueCard network. BlueCard is a national program that enables members to obtain services by linking providers that participate in the BlueCard network with a member's Empire coverage plan, and corresponding claims are processed through a single electronic network for reimbursement.)

As of August 2018, Empire had contracts with 162 hospitals, which set reimbursement rate schedules for inpatient and outpatient hospital services. Payments for hospital services are generally based on standard fee schedules that are negotiated between Empire and its member providers. However, hospitals may be entitled to additional payments for special items (e.g., implants, drugs, and blood) that are not covered by the standard fee schedules. Contracts with 140 of the 162 hospitals limited payments for special items; agreements with the other hospitals did not have similar limitations.

During the audit period January 1, 2013 through December 31, 2017, Empire paid over \$12.2 billion for 7,112,111 claims for services provided to Empire Plan members, including \$651.2 million for 412,594 special item claims. Over that time, Empire paid Long Island Health Network (LIHN) hospitals about \$180.5 million (28 percent of \$651.2 million) for 158,305 special item claims.

Prior to April 2017, LIHN included ten hospitals (Brookhaven Memorial Hospital, Good Samaritan Hospital of West Islip, John T. Mather Memorial Hospital, Mercy Medical Center, South Nassau Communities Hospital, St. Catherine of Siena Hospital, St. Charles Hospital and Rehabilitation Center, St. Francis Hospital, St. Joseph Hospital, and Winthrop University Hospital), which were covered under one contract with Empire. In April 2017, three of

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the hospitals left the group (John T. Mather Memorial Hospital, South Nassau Communities Hospital, and Winthrop University Hospital).

# Audit Findings and Recommendations

We reviewed 874 claims paid to LIHN hospitals and found errors with 722 (83 percent), which resulted in overpayments of \$3,597,688. The Table below summarizes the results of the 874 claim payments we reviewed.

Identified Errors	Number of Claims	Percentage of Claims	Amount Overpaid
Payments Exceeded Contract Allowances	577	66%	\$2,235,958
No or Incomplete Supporting Documentation	81	9.3	998,689
Supply Billed as Implant	499	57.1	363,041
<b>Subtotal of Overpaid Claims (Adjusting for Claims in Multiple Categories)</b>	722	82.6%	\$3,597,688
No Errors Identified	152	17.4	0
<b>Totals</b>	874	100%	\$3,597,688

## Inaccurate and Unsupported Special Item Claims

We obtained supporting medical records and invoices from hospital officials for each selected claim and compared the invoiced costs of special items to the amounts paid by Empire. If a payment exceeded the hospital contract terms or was unsupported, we considered it an overpayment.

Of the 874 special item claims, we found:

- 577 were overpaid by \$2,235,958 because Empire paid more than the amounts allowed per the contract with LIHN. Empire's hospital contract limited the amounts the hospitals could charge Empire for the special items. Nevertheless, the hospitals billed Empire excessive amounts for certain items, which Empire paid. For example, for one hospital, Empire paid about \$3 million for 215 special item claims. Of those, 198 claims (92 percent) contained overpayments totaling \$890,033.
- 81 were overpaid by \$998,689 because the hospitals could not provide adequate supporting documentation. For example, item descriptions were inconsistent between documents, and sections of documents (e.g., vendor invoice, operative report, implant log) were missing. For instance, one hospital had 15 claims accounting for \$389,903, or 39 percent, of the \$998,689 in insufficiently documented claims.

Empire informed us that hospitals have typically had problems correctly billing special item claims because of the need to identify and crosswalk the specific cost associated with each special item on a claim to an invoice. This process is different from a hospital's normal billing practice of using a master pricing

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list for the services they provide. Therefore, the special item claim has been prone to error, and hospitals may not always be able to find the supporting claim documentation.

## Supplies Billed as Implants

Empire's Provider Manual, which contains billing guidance for providers, states that implants are objects or materials (e.g., stents, artificial joints, pins, plates, and screws) that are implanted or placed into the human body, where they remain upon discharge. While implants are eligible for reimbursement, supplies have not been reimbursable under the contract between Empire and LIHN since October 2015.

Of the 874 claims reviewed, 499 had overpayments totaling \$363,041 because they improperly billed supply items as implants. For example, diabetic compression stockings, x-ray machine covers, drill bits, drapes, IV tubing, blankets, and skin staplers were billed as implants. We note that these examples do not meet the definition of an implant. One hospital was reimbursed over \$1 million for 54 claims, of which \$82,261 for 38 claims (70 percent) contained supply items billed incorrectly as implants.

Empire officials stated that some LIHN hospitals do not agree with its definition of implants and, therefore, bill (and are paid) for supplies as implants. However, Empire is currently working with LIHN to address this issue.

## Post-Payment Controls

From 2009 through 2017, the Office of the State Comptroller completed 22 audits of Empire's payments for special items, finding problems with Empire's controls leading to over \$14 million in overpayments. While Empire has taken steps to improve its payments of special items, such as conducting manual audit reviews, it continues to overpay hospitals for special item claims.

For instance, Empire queries special item claims for Healthcare Common Procedure Coding System (HCPCS) codes to identify supplies billed as implants and flags those claims for review. However, claims may be submitted without HCPCS codes, in which case the only way Empire can identify improperly billed supply items is through a post-payment review process.

From the claim overpayments of \$3,597,688 that we identified in this audit, Empire has recovered \$262,467 as of July 23, 2019; it should recover the remaining \$3,335,221.

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## Recommendations

1. Recover the remaining \$3,335,221 out of \$3,597,688 for special item claim overpayments from LIHN.
2. Ensure LIHN hospital officials are instructed on Empire's Provider Manual definition of an implant.
3. Develop a corrective action plan with LIHN hospitals to prevent the types of errors identified by the audit from occurring in the future.
4. Continue to monitor special item claims and consider implementing a risk-based approach that incorporates reviews of more hospitals and claims, and targets hospitals with patterns of billing errors.

# Audit Scope, Objectives, and Methodology

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The objectives of our audit were to determine whether Empire paid claims for special items according to the terms of its contract with LIHN and, if not, whether Empire made overpayments on any of those claims. The audit covered the period January 1, 2013 through December 31, 2017.

To accomplish our audit objectives and assess related internal controls, we reviewed two groups of claims totaling 874 claims from ten hospitals. We obtained corresponding medical records and invoices from the hospitals for each selected claim payment. We reviewed the medical records provided by the hospitals to determine whether the services billed were, in fact, provided and whether those records matched Empire's billing records. We also compared the invoice cost of special items to the amounts paid by Empire. If a payment was unsupported, exceeded the hospital contract terms, or covered supply items billed as implants, we considered it an overpayment.

To select the first group of claims (Group A), we did a risk analysis based on the amount paid for each special item category (implants, drugs, and blood), placing a higher risk on larger payments. We then chose the provider group (LIHN) that made up more than 25 percent of the claims (both by dollars and count) to review. We selected a judgmental sample of 100 claims from the period January 1, 2013 through June 30, 2017 that showed a higher risk based on our analysis (claims with higher payments than other claims within the same special item category). We reviewed blood- and implant-related special items and drug-related special items worth more than \$500 per unit. Because this is a judgmental sample, the results cannot be projected to the population as a whole.

Based on our review of claims in Group A, we added a second claim group (Group B) for fieldwork, increasing the claim set size and changing the scope of claims reviewed. We selected those claims for the same provider group in Group A (LIHN), but lowered the threshold of our risk analysis (which was based on the amount paid for each special item category). We selected 774 claims from the period January 1, 2017 through December 31, 2017. We limited this review to only implant-related special items where the hospital charged \$3,000 or more. We did not review blood- or drug-related special items for this group.

# 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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 to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

## Reporting Requirements

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

Within 180 days of the final release of this report, we request that Empire 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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