

THOMAS P. DINAPOLI  
COMPTROLLER



110 STATE STREET  
ALBANY, NEW YORK 12236

STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

November 18, 2019

Carl A. Mattson  
Vice President, Empire Plan  
UnitedHealthcare  
13 Cornell Road  
Latham, NY 12110

Re: Overpayments for Out-of-Network  
Anesthesia Services Provided at In-  
Network Ambulatory Surgery  
Centers  
Report 2019-F-38

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 have followed up on the actions taken by officials of UnitedHealthcare to implement the recommendations contained in our audit report, *Overpayments for Out-of-Network Anesthesia Services Provided at In-Network Ambulatory Surgery Centers* (Report [2017-S-35](#)).

**Background, Scope, and Objective**

The New York State Health Insurance Program (NYSHIP) is one of the nation's largest public sector health insurance programs, covering over 1.2 million active and retired State, local government, and school district employees, and their dependents. The Department of Civil Service (Civil Service) administers NYSHIP. Civil Service contracts with UnitedHealthcare (United) to administer the medical/surgical portion of the Empire Plan (NYSHIP's primary health benefit plan). Medical/surgical benefits cover a range of services including, but not limited to, physician office visits, diagnostic testing, and outpatient surgical procedures.

United contracts with in-network providers who agree to accept payments at rates established by United. Ambulatory Surgery Centers (ASCs) are health care facilities focused on providing same-day surgical care. Certain in-network ASCs have contract provisions that require all anesthesia services provided to Empire Plan members at their facilities to be performed by in-network anesthesia providers. This acts to reduce costs because United's payments to in-network providers are generally less than United's payments to out-of-network providers for the same services.

We issued our initial audit report on August 13, 2018. The audit objective was to determine whether United overpaid for out-of-network anesthesia services provided at ASCs that were contractually required to use in-network anesthesia providers. The audit covered the period January 1, 2012 through December 31, 2016. We identified overpayments totaling \$991,357 that occurred because United paid for out-of-network anesthesia services provided at ASCs that were contractually required to use in-network anesthesia providers.

The objective of our follow-up was to assess the extent of implementation, as of October 25, 2019, of the two recommendations included in our initial audit report.

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

United officials made significant progress in addressing the problems we identified in the initial audit, including recovering \$780,478 of the \$991,357 in identified overpayments. Of the initial report's two audit recommendations, one was implemented and one was partially implemented.

### **Follow-Up Observations**

#### **Recommendation 1**

*Recover the \$991,357 in overpayments and refund Civil Service accordingly.*

Status – Partially Implemented

Agency Action – United recovered \$780,478 of the \$991,357 identified in the initial audit. The remaining \$210,879 was not recovered because, in some cases, settlement agreements were negotiated between United and the ASC, which took into account other factors that reduced the amount to be recovered; some claims had passed record retention requirements; or some overpayments were too small to make the recovery process cost beneficial.

#### **Recommendation 2**

*Enhance controls designed to prevent as well as identify and recover improper payments for out-of-network anesthesia services provided at in-network ASCs, including instructing providers on the proper use and billing of out-of-network anesthesia services.*

Status – Implemented

Agency Action – In United's December 2018 monthly Network News bulletin, United reminded in-network providers that, per the Empire Plan Network Administrative Guide as well as the Empire Plan Physician & Provider Manual, all anesthesia services rendered at their facilities should be performed by in-network anesthesia providers. Further, on a monthly basis, United reviews reports that will identify out-of-network anesthesia services provided at in-network ASCs. Based on these reviews, recoveries of improper payments may be made.

Major contributors to this report were Paul Alois, Cynthia Herubin, Gary Czosnykowski, and Suzette Millard.

We thank the management and staff of United 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  
James Dewan, Department of Civil Service  
Leif Engstrom, Department of Civil Service  
Ronald Kuiken, Department of Civil Service  
Sandra Schleicher, Department of Civil Service  
Daniel Yanulavich, Department of Civil Service  
Richard Maloney, UnitedHealthcare  
Mark Newman, UnitedHealthcare