Department of Health

Medicaid Program – Impact of Rejected Encounters on the Collection of Drug Rebates

Report 2023-S-2 | December 2024

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

Division of State Government Accountability

Audit Highlights

Objective

To determine whether the Department of Health did not collect Medicaid drug rebates due to encounter system rejections of pharmacy encounter claims. The audit covered the period from January 2018 through March 2023.

About the Program

The Medicaid Drug Rebate Program (Rebate Program) helps offset the costs of covered outpatient drugs dispensed to Medicaid recipients through rebates received from drug manufacturers. The Department of Health (DOH) administers New York's Medicaid program. Many of the State's Medicaid recipients receive their services through managed care. Managed care organizations (MCOs) are required to send DOH detailed information about each drug dispensed to managed care recipients. MCOs send this information on encounter claims to DOH's encounter system. DOH and its rebate contractor use the drug utilization information on the encounter claims to submit rebate invoices to drug manufacturers.

Key Findings

For the period from January 2018 through March 2023, we identified 453,706 pharmacy encounter claims totaling $59.1 million in payments that were rejected by DOH's encounter system. As a result of these rejections, we estimated a total of $31.2 million in missed drug rebates. The encounter system rejected these claims because they could not be validated by system controls. We found that DOH does not have a process for performing detailed reviews of rejected encounter claim data. As a result, DOH did not include these claims in its rebate process. The most common encounter claim rejection reason identified was that the encounter system could not verify the managed care recipient had active enrollment with the MCO that submitted the encounter claim (often due to the untimeliness of recipient enrollment changes).

Key Recommendation

- Review the 453,706 encounter claims totaling an estimated $31.2 million in missed drug rebates and recover the corresponding missed rebates, as appropriate.

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

December 23, 2024

James V. McDonald, M.D., M.P.H.
Commissioner
Department of Health
Corning Tower
Empire State Plaza
Albany, NY 12237

Dear Dr. McDonald:

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 so doing, 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 Medicaid program entitled *Impact of Rejected Encounters on the Collection of Drug Rebates*. 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

Contents

Glossary of Terms

Term	Description	Identifier
DOH	Department of Health	*Auditee*
ACA	Patient Protection and Affordable Care Act	*Law*
eMedNY	Medicaid claims processing and payment system	*Key Term*
Encounter claim	Record of a health care service provided to a managed care recipient	*Key Term*
Encounter system	DOH's system for collecting encounter claims data	*System*
MCO	Managed care organization	*Key Term*
MDW	Medicaid Data Warehouse	*System*
NDC	National Drug Code	*Key Term*
Rebate Program	Medicaid Drug Rebate Program	*Key Term*

Background

The New York State Medicaid program is a federal, state, and local government-funded program that provides a wide range of medical services to those who are economically disadvantaged and/or have special health care needs. For the State fiscal year ended March 31, 2024, New York's Medicaid program had approximately 9.1 million recipients and Medicaid claim costs totaled about $87.5 billion (comprising $41.7 billion in fee-for-service payments and $45.8 billion in managed care premium payments). The federal government funded about 56.8% of New York's Medicaid claim costs, and the State and the localities (the City of New York and counties) funded the remaining 43.2%.

The Department of Health (DOH) administers the Medicaid program in New York State. DOH uses two methods to pay for Medicaid services: fee-for-service and managed care. Under managed care, DOH pays managed care organizations (MCOs) a monthly premium for each enrolled Medicaid recipient and, in turn, the MCOs arrange for the provision of services and reimburse providers for those services. Under fee-for-service, DOH, through its Medicaid claims processing and payment system (eMedNY), pays providers directly for services delivered to Medicaid recipients.

The Medicaid Drug Rebate Program (Rebate Program), created in 1990, helps to offset the costs of most covered outpatient drugs dispensed to Medicaid patients. The Rebate Program requires drug manufacturers to enter into a national drug rebate agreement in exchange for state Medicaid coverage of most of the manufacturers' drugs. Manufacturers then pay states rebates on those drugs for which Medicaid payments were made. Federal rebates help defray a significant portion of Medicaid prescription drug costs in New York. Additional cost savings are realized through State supplemental rebate agreements with manufacturers for certain drugs.

DOH and its rebate contractor administer the Rebate Program for the State. In the drug rebate process, DOH uses certain information, such as a drug's National Drug Code (NDC)—a universal product identifier for each medication—submitted on claims by providers and MCOs to obtain rebates. On a quarterly basis, rebate amounts are calculated for each drug claim, and rebate invoices are sent to drug manufacturers based on the utilization of drugs paid for by Medicaid.

The Patient Protection and Affordable Care Act (ACA), enacted in 2010, expanded the Rebate Program to include drugs dispensed to managed care recipients. The ACA also requires MCOs to report detailed information on each covered outpatient drug dispensed to managed care recipients. Medicaid MCOs typically use a pharmacy benefit manager to process and pay pharmacy claims. After payment, MCOs are required to submit claims that document recipients' drug utilization (referred to as encounter claims) to the State for the purpose of collecting rebates from manufacturers.

In accordance with Code of Federal Regulations title 42 section 438.242(d), the State must review and validate that the encounter data collected, maintained, and submitted to the State meets requirements. The State must have procedures and

quality assurance protocols to ensure that encounter data submitted is a complete and accurate representation of the services provided to the recipient under the contract between the State and MCO. Additionally, per DOH policy, the MCOs may face penalties imposed by DOH for not submitting complete, timely, and accurate encounter claim data.

DOH has a system for collecting encounter claims data, called the Original Source Data Submitter system (prior to April 2023, it was the Encounter Intake System). Our report refers to both systems collectively as the "encounter system." MCOs submit data files to the encounter system containing encounter claims for services provided to managed care recipients. The encounter system uses system controls, referred to as edits, to validate files and claims and rejects those not fitting certain criteria. When a file or claim is rejected, MCOs receive a response from the encounter system indicating it has been rejected. The MCOs can then correct corresponding files and claims and resubmit them to the encounter system. Claims accepted by the encounter system are transferred to the Medicaid Data Warehouse (MDW), where drug rebates can be processed.

Effective April 1, 2023, Medicaid recipients enrolled in mainstream Medicaid managed care plans, Health and Recovery Plans, and HIV Special Needs Plans receive their pharmacy benefits through fee-for-service instead of through managed care. A small number of recipients who receive pharmacy benefits through a Program of All-Inclusive Care for the Elderly plan continue to receive pharmacy benefits through managed care. The objective of the pharmacy carve-out was to provide the State with full visibility into prescription drug costs, centralize and leverage negotiation power, and provide a single drug formulary with standardized utilization management protocols.

In addition to encounter claim submissions, MCOs report their pharmacy costs annually to DOH, and DOH uses this information to establish the managed care premium payment amounts. The pharmacy benefit is one of the largest expenses reported by MCOs. For the period from January 2018 through March 2023, MCOs reported spending approximately $33.4 billion for prescription drugs.

Audit Findings and Recommendations

For the period from January 2018 through March 2023, we identified 453,706 pharmacy encounter claims totaling $59.1 million in payments that were rejected by the encounter system. As a result of these rejections, we estimated a total of $31.2 million in missed drug rebates. The encounter system rejected these claims because they could not be validated by system controls. The most common encounter claim rejection reason identified was that the encounter system could not verify the managed care recipient had active enrollment with the MCO that submitted the encounter claim. While DOH reviews encounter system rejection rates at the aggregate level, it does not have a process for performing a detailed review of the submitted encounter claim data. Accordingly, DOH did not include these claims in its rebate process.

Encounter System Claim Rejections

DOH uses its encounter system to help ensure complete, accurate, and timely encounter claim data is submitted by MCOs. Rejected encounter claims can't go through DOH's drug rebate invoicing process because they are never passed on to the MDW where rebates are processed, resulting in missed Medicaid drug rebates.

From January 2018 through March 2023, 453,706 pharmacy encounter claims totaling $59.1 million in payments were rejected by the encounter system and were not successfully resubmitted or processed, resulting in an estimated $31.2 million in missed drug rebates ($27.9 million in rebates from the Rebate Program, $3.3 million in State supplemental rebates). The top 10% (45,371) of the claims represent 96% ($30.1 million) of the estimated rebates.

DOH did not take adequate steps to ensure all rejected pharmacy claims were successfully resubmitted by MCOs and approved by the encounter system. DOH does not have a process for performing a detailed review of the submitted encounter claim data because the data needed is stored in a manner where it cannot be queried easily, and DOH stated it does not have sufficient staff resources to investigate all rejected encounter claims.

MCOs cannot resolve all encounter claim rejections without DOH involvement because the encounter system contains reference data with key information such as recipient enrollment data and NDC information used when accepting or rejecting claims. This is a validation process that MCOs cannot change or fix.

DOH officials explained that they examine encounter system acceptance and rejection rates at an aggregate level. DOH reviews the rate of rejected and accepted claims quarterly by claim type (e.g., pharmacy, inpatient) and assesses penalties if the threshold is not met. Specifically, MCOs must reach an acceptance rate of at least 95% of the submitted claims to avoid being assessed penalties.

Sample Review

We reviewed a judgmental sample of 140 encounter claims (totaling over $1 million in payments by five MCOs) that did not appear to be accepted by the encounter system based on our analysis. We determined the encounter system rejected 118 valid claims, where the MCOs incurred a cost for the drugs dispensed to recipients, with estimated missed rebates of $450,690. Regarding the remaining 22 claims, MCOs explained that pharmacies later rescinded 21 and changed the NDC for one (this encounter was subsequently accepted by the encounter system) and, therefore, no rebates were missed. See the following table for a detailed breakdown of claims by MCO.

Review of Sampled Claims

MCOs Reviewed	Number of Sampled Claims	MCO Payments	Number of Missed Rebate Claims	Missed Rebate Amount
MCO 1	29	$362,618	23	$143,474
MCO 2	28	188,933	26	107,162
MCO 3	29	254,473	15	77,764
MCO 4	24	112,174	24	68,038
MCO 5	30	94,338	30	54,252
Totals	**140**	**$1,012,536**	**118**	**$450,690**

Based on MCOs' responses, the top reason claims were rejected (accounting for 106 of 118 rejected encounter claims) was that the encounter system could not verify the managed care recipient had active enrollment with the MCO that submitted the encounter claim. For example, the recipient was enrolled in an MCO other than the MCO submitting the encounter claim; the recipient was eligible for fee-for-service; or the recipient was enrolled with the submitting MCO, but the enrollment information was delayed. The system rejected the remaining 12 of 118 claims where it could not validate the NDC listed, the adjudication date was not valid, a submission clarification code was invalid, or a possible duplicate was identified.

Many of the managed care enrollment rejections in our sample appear to have been caused by the timing of the transmission of recipient enrollment changes to either the MCOs, pharmacy benefit managers, pharmacies, and the encounter system, including instances of retroactive recipient enrollment transactions. We also saw instances where the MCO likely should have known that a recipient was no longer enrolled with its plan.

When encounter claims were rejected due to managed care enrollment issues (e.g., the recipient was enrolled in an MCO other than the submitting MCO), MCOs explained that they do not take any action to correct these claims because it is not feasible or appropriate to recover the money paid to the pharmacy, as the drugs had already been dispensed to recipients. However, these encounter claims would continue to be appropriate claims because MCOs incurred a cost for the drugs dispensed to recipients, yet they would likely continue to be rejected by the encounter system. Therefore, DOH involvement is needed to ensure these types

of rejected encounter claims are successfully resubmitted and that all rebates are collected.

For encounter claim rejections where the encounter system cannot validate an NDC listed on a claim, according to MCO officials, MCOs and DOH are likely using different NDC reference data or the frequency at which the data is updated differs. For example, the encounter system's reference data may not list a certain NDC as valid, while the MCO's data does. Therefore, when the MCO submits the claim, it is rejected because the encounter system does not see a valid NDC.

The MCOs also described different resubmission strategies. Only one of the five MCOs stated that it will resubmit claims as many times as needed. Meanwhile, the other four had varying degrees of tolerance, basing their decisions on how confident they were in resolving the rejections. Two MCOs indicated that repeat rejections negatively affect their acceptance rate and could trigger consequences, such as penalties, from DOH.

Program Changes

Effective April 1, 2023, Medicaid recipients enrolled in mainstream Medicaid managed care plans, Health and Recovery Plans, and HIV Special Needs Plans receive their pharmacy benefits through fee-for-service instead of through managed care. This means that when these managed care recipients receive a pharmacy service, the pharmacy will bill eMedNY directly and if the claim is rejected, the pharmacy will have to resubmit the claim to receive payment. Under the fee-for-service method, all Medicaid paid claims are "accepted" claims, making it possible for rebates to be collected on all paid claims, in contrast to the prior process where some claims that were paid by the MCO were not submitted for rebate because they were rejected by the encounter system.

Recommendation

1. Review the 453,706 encounter claims totaling an estimated $31.2 million in missed drug rebates and recover the corresponding missed rebates, as appropriate.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine whether DOH did not collect Medicaid drug rebates due to encounter system rejections of pharmacy encounter claims. The audit covered the period from January 2018 through March 2023.

To accomplish our objective and assess related internal controls, we interviewed officials and gathered information from DOH and five MCOs. We examined the relevant DOH policies and procedures and reviewed applicable federal and State laws, rules, and regulations. We used the encounter system (including MCO pharmacy encounter submission files provided by DOH), eMedNY, and the MDW to identify pharmacy encounter claims rejected by the encounter system that were eligible for drug rebates, but where rebates were missed by DOH.

We used a non-statistical sampling approach to provide conclusions on our audit objective. Because we used a non-statistical sampling approach for our tests, we cannot project the results to the population. The sample discussed in detail in the body of our report was a judgmental sample of 140 encounter claims based on the highest potential rebate amount across the top five highest-paid MCOs for encounter claim submissions that did not appear in the encounter system or the MDW. Sampling was used to assess whether the encounter claims were valid claims, where MCOs incurred a cost for the drugs dispensed to recipients, that were rejected by the encounter system and were not successfully resubmitted and approved by the encounter system.

We relied on data from DOH's encounter system (including MCO encounter submission files), eMedNY, and the MDW that, based on work performed by OSC, is sufficiently reliable for the purposes of this audit. We assessed the reliability of data by reviewing existing information, interviewing officials knowledgeable about the systems, performing electronic testing, and/or tracing to and from source data. We determined that the data from these systems was sufficiently reliable for the purposes of this report.

We shared our methodology and findings with DOH and Office of the Medicaid Inspector General officials during the audit for their review. We took their comments into consideration and adjusted our analyses as appropriate.

Statutory Requirements

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 DOH's oversight and administration of the impact of rejected Medicaid encounter claims on collections of drug rebates.

Reporting Requirements

We provided a draft copy of this report to DOH officials for their review and formal comment. We considered DOH's comments in preparing this report and have included them in their entirety at the end of the report. In their response, DOH officials generally concurred with the audit recommendation and indicated certain actions will be taken to address it. Our responses to certain DOH remarks are included in the report's State Comptroller Comments, which are embedded in DOH's response.

Within 180 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Health shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendation contained herein, and where the recommendation was not implemented, the reasons why.

NEW YORK STATE OF OPPORTUNITY. Department of Health

KATHY HOCHUL
Governor

JAMES V. McDONALD, M.D., M.P.H.
Commissioner

JOHANNE E. MORNE, M.S.
Executive Deputy Commissioner

September 3, 2024

Andrea Inman, Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street – 11th Floor
Albany, New York 12236-0001

Dear Andrea Inman:

Enclosed are the Department of Health's comments on the Office of the State Comptroller's Draft Audit Report 2023-S-2 entitled, "Medicaid Program – Impact of Rejected Encounters on the Collection of Drug Rebates."

Thank you for the opportunity to comment.

Sincerely,

Johanne E. Morne

Johanne E. Morne, M.S.
Executive Deputy Commissioner

Enclosure

cc: Melissa Fiore
Amir Bassiri
Jacqueline McGovern
Jennifer Danz
James Dematteo
James Cataldo
Brian Kiernan
Timothy Brown
Amber Rohan
Michael Atwood
OHIP Audit
DOH Audit

Empire State Plaza, Corning Tower, Albany, NY 12237 | health.ny.gov

Department of Health Comments on the Office of the State Comptroller's Draft Audit Report 2023-S-2 entitled, "Medicaid Program – Impact of Rejected Encounters on the Collection of Drug Rebates"

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Draft Audit Report 2023-S-2 entitled, "Medicaid Program – Impact of Rejected Encounters on the Collection of Drug Rebates." Included in the Department's response are the Office of the Medicaid Inspector General's (OMIG) replies to applicable recommendations. OMIG conducts and coordinates the investigation, detection, audit, and review of Medicaid providers and recipients to ensure they are complying with the laws and regulations.

General Comments:

The following comments address specific statements made in the draft audit report.

Sample Review (page 8, 1st paragraph)

We reviewed a judgmental sample of 140 encounters totaling over $1 million in payments to five MCOs) that did not appear to be accepted by the encounter system based on our analysis. We determined the encounter system rejected 118 valid claims, where the MCOs incurred a cost for the drugs dispensed to recipients, with estimated missed rebated of $450,690.

Audit, Scope, Objective, and Methodology (page 10, 3rd paragraph)

"We used a non-statistical sampling approach to provide conclusions on our audit objective. Because we used a non-statistical sampling approach, we cannot project the results to the population. The sample discussed in detail in the body of our report was a judgmental sample of 140 encounter claims based on the highest potential rebate amount across the top five highest-paid MCOs for encounter claim submissions that did not appear in the encounter system or the MDW."

Recommendation 1 (page 9, bottom of page)

1. *Review the 453,706 encounter claims totaling an estimated $31.2 million in missed drug rebates and recover the corresponding missed rebates, as appropriate."*

Department Comments

OSC indicates it conducted a judgmental sample review that found $450,690 in missed rebates. It recognizes that it cannot project its results to the population of 453,706 pharmacy encounter claims, because it used a judgmental sample of only 140 encounter claims (less than 1% of the at-risk population) selected based on the highest potential rebate amount. The Department therefore does not agree that this review provides a basis for OSC's estimate of $31.2 million in missed rebates. The Department acknowledges OSC's recommendation that the Department review the entire population of 453,706 pharmacy claims and will make such reviews to the

extent consistent with available resources and efficient use of resources to maximize the health of the Medicaid program, giving priority to other reviews with a higher likelihood of substantial impact as is appropriate.

State Comptroller's Comment – DOH incorrectly concluded that the 453,706 encounter claims representing $31.2 million in missed rebates was projected. To be clear, these claims are not a projection of the sample but, in fact, are the universe of pharmacy encounter claims that were not in DOH's Medicaid Data Warehouse due to rejections by DOH's encounter system. As a result, significant drug rebates on the claims (estimated at $31.2 million) were not processed or collected.

The audit sample of 140 encounter claims (totaling over $1 million) confirmed 118 of the claims (about 85%) were rejected by DOH's encounter system despite MCOs incurring a cost for the drugs dispensed to recipients. Accordingly, the sample supported the audit's conclusions. Additionally, within the sample, auditors found that 106 claims were rejected because the encounter system could not verify that the managed care recipients had active enrollment with the submitting MCO. This control cannot be overridden by the MCO and requires action from DOH. Without any action from DOH, the State will likely continue to miss tens of millions of dollars in drug rebates, which is a significant loss to the Medicaid program.

Further, DOH stated it will review the 453,706 pharmacy claims "to the extent consistent with available resources…giving priority to other reviews with a higher likelihood of substantial impact." However, as stated in our report, the top 10% of the claims (45,371 claims) represented 96% ($30.1 million) of the estimated missed rebates. We provided DOH the claim details for the audit population of 453,706 claims totaling $31.2 million in estimated missed rebates, and DOH can use the claim details—focusing on the highest risk—and work with MCOs to ensure that the Medicaid drug rebates owed to the State are collected.

Background (page 5, last paragraph, top of page 6)

In accordance with 42 CFR 438.242(d), the State must review and validate that the encounter data collected, maintained, and submitted to the State meets requirements. The State must have procedures and quality assurance protocols to ensure that encounter data submitted is a complete and accurate representation of the services provided to the recipient under the contract between the State and MCO.

DOH has a system for collecting encounter claims data, called the Original Source Data Submitter (prior to April 2023, it was the Encounter Intake System). Our report refers to both systems collectively as the "encounter system." MCOs submit data files to the encounter system containing encounter claims for services provided to managed care recipients. The encounter system uses system controls, referred to as edits, to validate files and claims and rejects those not fitting certain criteria. When a file or claim is rejected, MCOs receive a response from the encounter system indicating it has been rejected. The MCOs can then correct corresponding files and claims and resubmit them to the encounter system. Claims accepted by the encounter system are transferred to the Medicaid Data Warehouse (MDW), where drug rebates can be processed.

Encounter System Claim Rejections (Page 7, 3rd paragraph)

DOH did not take adequate steps to ensure all rejected pharmacy claims were successfully resubmitted by MCOs and approved by the encounter system. DOH does not have a process

for performing a detailed review of the submitted encounter claim data because the data needed is stored in a manner where it cannot be queried easily, and DOH stated it does not have sufficient staff resources to investigate all rejected encounter claims.

Encounter System Claim Rejections (Page 7, last paragraph)

DOH officials explain that they examine encounter system acceptance and rejection rates at an aggregate level. DOH reviews the rate of rejected and accepted claims quarterly by claim type (e.g., pharmacy, inpatient) and assesses penalties if the threshold is not met. Specifically, MCOs must reach an acceptance rate of at least 95% of the submitted claims to avoid being assessed penalties.

Department Comments

The Department works with plans via the Department's Encounter Data Quality (EDQ) compliance program to ensure encounter data is submitted, and/or resubmitted timely, and at a volume level the Department deems complete. This minimizes plan encounter rejections and allows drug rebate activities to properly occur. Timeliness, Completeness, and Accuracy reviews make up the EDQ performance measures upon which MCOs are evaluated and, if applicable, penalized. Below is the definition of each EDQ metric:

- Timeliness Measure: for each month in a calendar quarter, encounter data records are bucketed into either rejected or accepted status based on submission date (via the weekly transaction level metric counts of submitted, accepted, and rejected encounters). At quarter end, a MCO's percentage of accepted encounter data records by encounter claim type (Professional, Institutional, Dental) must be ≥ 95% to avoid penalty.
- Completeness Measure: compares the number of encounters submitted per member per month (PMPM) to the PMPM submitted in a prior period. This allows the Department to measure any encounter PMPM changes, which could be caused by differences in utilization, or an encounter rejection rate increase.
- Accuracy Measure: compares the encounter submissions to cost report submissions for a calendar year. Plans are required to explain any discrepancies in reporting between the two systems and any reasons why rejected encounters were not resubmitted if such rejections were believed to be the reason for the variance.

The EDQ compliance program and measures are specifically designed to ensure MCOs are maximizing their encounter submissions, and that the submissions are not unnecessarily rejected by the encounter system. The fewer encounter rejections there are, the greater chance there is that the Department has the appropriate volume of encounters to effectively conduct Departmental activities like drug rebates.

State Comptroller's Comment – As discussed on page 7 of our report, DOH lacks a detailed process to ensure all pharmacy encounter claims are successfully accepted; rather, DOH examines encounter system rejection information at an aggregate level. This led to 453,706 rejected claims, totaling an estimated $31.2 million in missed rebates. DOH's Encounter Data Quality (EDQ) compliance program did not ensure that rejected pharmacy claims were resubmitted by MCOs and approved by the encounter system.

Audit Recommendation Responses:

Recommendation #1

Review the 453,706 encounter claims totaling an estimated $31.2 million in missed drug rebates and recover the corresponding missed rebates, as appropriate.

Response #1

The Department does not agree that there is an estimated $31.2 million in missed drug rebates, which is based upon OSC's projection of the sampled audit results to the entire system. As noted above, OSC utilized a judgmental sample and a non-statistical sampling approach, the limitations of which it expressly admitted, and the Department agrees, is not appropriate for projection to the entire system. Regardless of this inconsistency, in an effort to utilize resources to maximize the health of the Medicaid program, the Department agrees to such reviews to the extent that resources are available, giving priority to other reviews with a higher likelihood of substantial impact, as is appropriate. The Department will also continue its work with plans via the EDQ compliance program to ensure encounter data is submitted, and/or resubmitted timely, and at a volume level the Department deems complete. This will minimize plan encounter rejections and allow for drug rebate activities to properly occur. In addition, the Department will continue to work hand in hand with MCOs on improving the quality and volume of encounter data submitted by MCOs.

State Comptroller's Comment – DOH incorrectly concluded that the 453,706 encounter claims representing $31.2 million in missed rebates was projected. To be clear, these claims are not a projection of the sample but, in fact, are the universe of pharmacy encounter claims that were not in DOH's Medicaid Data Warehouse due to rejections by DOH's encounter system. As a result, significant drug rebates on the claims (estimated at $31.2 million) were not processed or collected.

The audit sample of 140 encounter claims (totaling over $1 million) confirmed 118 of the claims (about 85%) were rejected by DOH's encounter system despite MCOs incurring a cost for the drugs dispensed to recipients. Accordingly, the sample supported the audit's conclusions. Additionally, within the sample, auditors found that 106 claims were rejected because the encounter system could not verify that the managed care recipients had active enrollment with the submitting MCO. This control cannot be overridden by the MCO and requires action from DOH. Without any action from DOH, the State will likely continue to miss tens of millions of dollars in drug rebates, which is a significant loss to the Medicaid program.

Further, DOH stated it will review the 453,706 pharmacy claims "to the extent that resources are available, giving priority to other reviews with a higher likelihood of substantial impact." However, as stated in our report, the top 10% of the claims (45,371 claims) represented 96% ($30.1 million) of the estimated missed rebates. We provided DOH the claim details for the audit population of 453,706 claims totaling $31.2 million in estimated missed rebates, and DOH can use the claim details—focusing on the highest risk—and work with MCOs to ensure that the Medicaid drug rebates owed to the State are collected.

Contributors to Report

Executive Team

Andrea C. Miller - *Executive Deputy Comptroller*
Tina Kim - *Deputy Comptroller*
Stephen C. Lynch - *Assistant Comptroller*

Audit Team

Andrea M. Inman - *Audit Director*
Mark W. Breunig - *Audit Manager*
Thomas K. Sunkel - *Audit Supervisor*
Yanfei Chen - *Examiner-in-Charge*
Francesca Greaney - *Examiner-in-Charge*
Edward Reynoso - *Examiner-in-Charge*
Benjamin Babendreier - *Senior Examiner*
Kenneth I. Gray - *Senior Examiner*
Jacob Stevens - *Staff Examiner*

Contact Information
(518) 474-3271
StateGovernmentAccountability@osc.ny.gov
Office of the New York State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236

For more audits or information, please visit: www.osc.state.ny.us/state-agencies/audits