



Office of Inspector General

Texas Health and Human Services Commission

Stuart W. Bowen, Jr., Inspector General

Performance Audit Report

CVS Pharmacy #07435

December 21, 2015

IG Report No. 14-35-465882-VD-01

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EXECUTIVE SUMMARY

The Health and Human Services Commission (HHSC), Inspector General, Audit Section (IG), has completed its performance audit of CVS Pharmacy #07435 (Vendor), vendor number 465882, as specified in the Texas Administrative Code (TAC), Title 1, Part 15, Chapter 354, Subchapter F, Division 5, Section 354.1891.

Objectives

The objectives of the audit were to determine if the Vendor accurately billed the Texas Medicaid Vendor Drug Program (VDP) and complied with contractual requirements and TAC.

Background

As part of the Texas Medical Assistance Program operated in accordance with the Title XIX of the Social Security Act, the VDP provides statewide outpatient pharmaceutical services to eligible recipients. Pharmaceutical services include the preparation, packaging, compounding, and labeling of covered legend and nonlegend drugs that appear in the latest revision of the Texas Drug Code Index. Contracted pharmacies and pharmacists provide the pharmaceutical services and submit claims for reimbursement to HHSC through an electronic adjudication system. Payments made to the Vendor during the audit period reviewed totaled \$5,360,359.83.

Summary of Scope and Methodology

The engagement covered the period of September 1, 2009 through February 29, 2012 and included obtaining an understanding of internal controls limited to the objectives described above. Additionally, IG examined pharmacy prescriptions, daily logs, and other applicable accounting records that supported the claims submitted for reimbursement. For sampling methodology, see Appendix B.

IG conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that IG plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. IG believes the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

Conclusions

The Vendor accurately billed the Texas Medicaid Vendor Drug Program and complied with contractual requirements and TAC rules.

DETAILED FINDINGS

Invalid Claims: Missing Prescriptions for Four Claims

The Vendor did not provide the prescription records to support four claims. The Vendor did not maintain the prescriptions billed. The Vendor was paid for claims that were not supported by a prescription. TAC requires an original prescription record for a prescription to be maintained by a pharmacy. According to TAC, Title 1, Part 15, Chapter 354, Subchapter F, Division 4, Section 354.1863(b), "The pharmacist must ensure that the original prescription conforms to the Texas State Board of Pharmacy rules concerning the records to be maintained by a pharmacy. A signed prescription must be maintained in the dispenser's file and available for audit at any reasonable time..." In these instances, the Vendor is not compliant in retaining prescription records in their files.

Recommendation

The Vendor should retain the original prescription written by the physician or an original phone order in the pharmacy's files and make available for audit at any reasonable time.

Management's Response

CVS Caremark would like to submit the following exhibits in response to the audit finding.

<i>Client Number</i>	<i>Prescription Number</i>	<i>Fill Date</i>	<i>Auditor Comments</i>	<i>CVS Comments</i>	<i>Exhibit</i>
████████	████████	████████	<i>Missing Prescription</i>	<i>*See Below</i>	<i>A</i>
████████	████████	████████	<i>Missing Prescription</i>	<i>*See Below</i>	<i>B</i>

**Exhibit A – The documentation presented includes the details contained within our dispensing system (Prescription Hardcopy & Prescription Label).*

**Exhibit B – The documentation presented includes the Prescription Label contained within our dispensing system and a Uniform Physician Statement signed by the prescribing physician.*

CVS Caremark agrees with the audit findings for the following prescription.

<i>Client Number</i>	<i>Prescription Number</i>	<i>Fill Date</i>	<i>Auditor Comments</i>
████████	████████	████████	<i>Missing Prescription</i>
████████	████████	████████	<i>Missing Prescription</i>

Auditor's Follow-up Comments

After reviewing the documentation provided by CVS Caremark, two exceptions were reduced to dispensing and administrative fees only. Two exceptions remain unchanged.

Invalid Claim: Missing Prescriber's Signature for One Claim

The Vendor dispensed medication for one prescription that did not have the prescriber's signature. The Vendor did not verify that the prescription was signed. As a result, the vendor was paid for a prescription that was not in compliance with TAC. TAC requires this information be provided on each prescription. TAC, Title 22, Part 15, Chapter 291, Subchapter B, Section 291.34 (b) states, "(2) Written prescription drug orders. (A) Practitioner's signature. (i) Except as noted in clause (ii) of this paragraph, written prescription drug orders shall be: (I) manually signed by the practitioner."

Recommendation

The Vendor must ensure that the prescription order conforms to the Texas State Board of Pharmacy rules concerning the format of a prescription.

Management's Response

CVS Caremark agrees with the audit findings for the following prescription. The CVS Caremark audit team will be in direct communication with the store management's staff regarding the Missing Prescriber's Signature.

<i>Client Number</i>	<i>Prescription Number</i>	<i>Fill Date</i>	<i>Auditor Comments</i>
			<i>Missing Prescriber's Signature</i>

Invalid Claim: Non Tamper-Resistant Prescription Paper for One Claim

The Vendor dispensed medication for one prescription written on paper that was not tamper-resistant. The Vendor did not verify that the prescription was tamper resistant. As a result, the Vendor was paid for a prescription that was not in compliance with TAC. Effective April 1, 2008, the TAC rule requires that tamper-resistant prescription paper should be used when prescribing any medication for Medicaid recipients. TAC, Title 1, Part 15, Chapter 354, Subchapter F, Division 4, Section 354.1863 (c) states, "prescriptions for covered pharmaceuticals submitted to a pharmacy in written form will be eligible for payment only if the prescription is executed on tamper-resistant prescription paper, as required by §1903(i)(23) of the Social Security Act (42 U.S.C. §1936b(i)(23))." Also, the Texas Medicare Provider Notice provided by the Vendor Drug Program states, "In order for a written prescription to be considered tamper-resistant by CMS, the prescription paper must meet the following three characteristics:

- Prevent unauthorized copying of completed or blank prescription forms.
- Prevent erasure or modification of information written on the prescription form.
- Prevent the use of counterfeit prescription forms."

Recommendation

The Vendor should comply with TAC by ensuring that all prescriptions submitted as claims for payment on or after April 1, 2008 are written on tamper resistant paper.

Management's Response

CVS Caremark agrees with the audit findings for the following prescription. The CVS Caremark audit team will be in direct communication with the store management's staff regarding the Tamper Resistant Prescription Requirements.

<i>Client Number</i>	<i>Prescription Number</i>	<i>Fill Date</i>	<i>Auditor Comments</i>
████████	████████	████████	<i>Non Tamper-Resistant Prescription Paper</i>

Invalid Claim: Expired Prescription for One Claim

The Vendor dispensed a refill for one expired prescription. TAC requires that refills must be dispensed within six months (185 days) of the original prescription date. TAC, Title 1, Part 15, Chapter 354, Subchapter F, Division 4, Section 354.1867 states, "As many as five refills may be authorized by the prescriber, but the total amount authorized must be dispensed within six months of the original prescriptions." The Vendor did not follow the criteria for dispensing refills within six months in this instance.

Recommendation

The Vendor should only dispense medications for prescriptions that are less than six months (185 days) from the date the prescription was written, as required by the Texas State Board of Pharmacy and Medicaid Rules.

Management's Response

CVS Caremark agrees with the audit findings for the following prescription.

<i>Client Number</i>	<i>Prescription Number</i>	<i>Fill Date</i>	<i>Auditor Comments</i>
████████	████████	████████	<i>Expired Prescription</i>

APPENDICES

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

The objectives of the audit were to determine if the Vendor accurately billed the Texas Medicaid VDP and complied with contractual requirements and TAC.

Scope

The engagement covered the period of September 1, 2009 through February 29, 2012. During the engagement, IG did not review all internal controls. IG limited the internal control review to the objectives described above.

Methodology

We conducted this 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.

An engagement letter was issued to the Vendor outlining the understanding of IG with respect to the audit of paid claims submitted by the Vendor for reimbursement. To obtain an understanding of the Vendor's internal controls, an internal control questionnaire was completed and observations were made throughout the audit. Additionally, IG examined prescriptions, daily logs, and other applicable accounting records that supported the claims submitted for reimbursement. Professional judgment was exercised in planning, executing, and reporting the results of our audit.

Criteria

- Texas Administrative Code, Title 1, Part 15, Chapter 354, Subchapter F, Divisions 1 through 7, Sections 354.1801 through 354.1928; Chapter 355, Subchapter J, Division 28
- Texas Vendor Drug Contract for CVS Pharmacy #07435
- Vendor Drug Program Pharmacy Provider Handbook, March 1, 2006
- Texas Drug Code Index
- Texas State Board of Pharmacy rules and regulations
- Health and Safety Code, Title 6, Subtitle C, Chapter 481, Subchapter A
- Revisions and updates to the aforementioned materials and information
- Notices or bulletins issued by the VDP concerning Medicaid pharmaceutical drug benefits

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SAMPLING METHODOLOGY**Summary of Sample Methodology**

IG used statistically valid random sampling to determine the extent to which the Vendor correctly billed the VDP for Medicaid prescription claims. IG conducted its sampling methodology in accordance with guidance from CMS Medicare Program Integrity Manual Chapter 8 - Administrative Actions and Statistical Sampling for Overpayment Estimates and guidance issued by the American Institute of Certified Public Accountants and Statement on Auditing Standards (SAS), Number 39. To determine the final extrapolated recoupment amount owed by the Vendor, IG utilized RAT-STATs Stratified Variable Appraisal functionality to evaluate the results of the samples. In order to ensure proper evaluation of the entire population, IG broke the population into two groups, a population for high dollar transactions and a population for low dollar transactions. Each population was then split into 13 strata. Sample sizes were calculated for each stratum in each population group. In any stratum containing only a single sample item, extrapolation was excluded for that stratum and any errors were calculated on a dollar-for-dollar basis. The results for the low and high dollar populations can be found in Tables A and B respectively.

Sample Results

To determine the dollar value of billing errors, IG tested 288 claims, of which seven constituted exceptions. To achieve valid sampling results, the population was separated into low and high dollar claims. Of the 288 claims, 153 low dollar and 135 high dollar claims were selected for testing based on statistically valid random sampling. Of the seven exceptions, two were from the low dollar claims and five were from the high dollar claims. The exceptions for low dollar and high dollar claims were categorized in two parts, a dollar-for-dollar population and an extrapolated population. The low dollar tested claims consisted of five dollar-for-dollar tested claims from the dollar-for-dollar population and 148 randomly sampled claims from the extrapolated population. The high dollar tested claims consisted of three dollar-for-dollar tested claims from the dollar-for-dollar population and 132 randomly sampled claims from the extrapolated population. The total recoupment amount for the low dollar sample was calculated to be \$0, and the high dollar sample totaled \$891.74, for a total combined recoupment amount of \$891.74 (Table A and B).

APPENDIX B (cont.)

During the engagement, IG identified the following instances of noncompliance for the claims:

Findings Type	Low Dollar Findings	High Dollar Findings	Total Findings
Invalid Claims			
Missing Prescriptions	1	3	4
Missing Prescriber's Signature	0	1	1
Non Tamper-Resistant Prescription Paper	1	0	1
Expired Prescription	0	1	1
Total	2	5	7

See the Detailed Findings section of this report for details.

Sampling Frame

The sampling frame (population) was the Vendor's claims paid by HHSC that had a "Date of Service" in the audit period of September 1, 2009 through February 29, 2012. The low dollar sample frame consisted of all paid claims less than or equal to \$572.73. The high dollar sample frame consisted of all paid claims greater in amount than \$572.73.

Sample Unit

The sample unit for both sample frames was a paid claim. A paid claim is a prescription dispensed to a Medicaid recipient by a contracted Vendor or Pharmacist for which the Commission paid the Vendor and the "Date of Service" was in the audit period of September 1, 2009 through February 29, 2012.

Table A**Total Population Paid and Recoupment Statistics (Low Dollar)**

Total Paid Dollar Amount in Extrapolation Population	\$3,416,198
Total Paid Dollar Amount in Dollar-For-Dollar Population	<u>808,168</u>
Total Population Paid Dollar Amount	<u>\$4,224,366</u>
Total Recoupment Amount from Extrapolation Population Using RAT-STATs 2007 Stratified Variable Appraisal (Calculated at lower limit of 90% confidence interval)	(\$4,529)
Total Recoupment Amount from Dollar-For-Dollar Population	0.00
Total Population Recoupment Amount	\$0¹

¹ The state has discretion in calculating recoupment amounts at either the lower or upper limits of the designated confidence levels. In this situation, recoupment amounts can range from (\$4,529) to \$42,298, respectively. In choosing to use the lower limit, the negative value translates to a \$0 recoupment due from the provider to the state.

Table B

Total Population Paid and Recoupment Statistics (High Dollar)

Total Paid Dollar Amount in Extrapolation Population	\$1,052,238
Total Paid Dollar Amount in Dollar-For-Dollar Population	<u>83,756</u>
Total Population Paid Dollar Amount	<u>\$1,135,994</u>
Total Recoupment Amount from Extrapolation Population Using RAT-STATs 2007 Stratified Variable Appraisal (Calculated at lower limit of 90% confidence interval)	\$812
Total Recoupment Amount from Dollar-For-Dollar Population	<u>79.74</u>
Total Population Recoupment Amount	<u>\$891.74</u>

Please note: Additional details regarding the samples and extrapolations will be provided upon request.

SCHEDULE OF EXCEPTIONS

**CVS Pharmacy #07435
Vendor Number: 465882
Over/(Under) Payments for Low Dollar Claims**

Client Number	Prescription Number	Fill Date	Amount Paid	Audited Cost	Over/(Under) Payments	Comments
██████	██████	██████	\$29.20	\$0.00	\$29.20	Non Tamper-Resistant Prescription Paper
		Sub Total	\$29.20	\$0.00	\$29.20	
██████	██████	██████	9.10	0.00	9.10	Missing Prescription
		Sub Total	\$9.10	\$0.00	\$9.10	
		Total	\$38.30	\$0.00	\$38.30	

APPENDIX C (cont.)

**CVS Pharmacy #07435
Vendor Number: 465882
Over/(Under) Payments for High Dollar Claims**

Client Number	Prescription Number	Fill Date	Amount Paid	Audited Cost	Over/(Under) Payments	Comments
██████	██████	██████	\$1,562.72	\$0.00	\$1,562.72	Expired Prescription
		Sub Total	\$1,562.72	\$0.00	\$1,562.72	
██████	██████	██████	\$673.22	\$0.00	\$673.22	Missing Prescriber's Signature
		Sub Total	\$673.22	\$0.00	\$673.22	
██████	██████	██████	\$590.80	\$0.00	\$590.80	Missing Prescription
██████	██████	██████	3,736.83	3,657.09	79.74	Missing Prescription*
██████	██████	██████	880.35	855.75	24.60	Missing Prescription*
		Sub Total	\$5,207.98	\$4,512.84	\$695.14	
		Total	\$7,443.92	\$4,512.84	\$2,931.08	

*Adjusted dispensing fee and administrative fee from amount paid.

REPORT DISTRIBUTION

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