
# Office of Inspector General

## Texas Health and Human Services Commission

## Stuart W. Bowen, Jr., Inspector General

# Performance Audit Report

# Kroger Pharmacy #107

## October 19, 2015

IG Report No. 14-35-464514-VD-01

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# EXECUTIVE SUMMARY

The Health and Human Services Commission (HHSC), Office of Inspector General (IG), Audit Section has completed its performance audit of Kroger Pharmacy #107 (Vendor), contract number 464514, as specified in the Texas Administrative Code (TAC), Title 1, Part 15, Chapter 354, Subchapter F, Division 5, Section 354.1891.

**Results (*Statement of Findings*)**

To estimate the potential dollar value of billing errors, IG tested 261 claims, 5 of which constituted exceptions. To achieve statistically valid sampling results, the population was separated into low, medium, and high dollar claims. Of the 261 claims, 153 low dollar and 107 medium dollar claims were selected for testing based on statistically valid random sampling. There was 1 claim in the high dollar population, which was tested. Of the 5 exceptions, 1 was from the low dollar claims and 4 were from the medium dollar claims. There were no high dollar exceptions. The low dollar questioned costs of $2.41 as well as the medium dollar questioned costs of $2,374.15 were evaluated dollar-for-dollar due to the exception rate being too low to obtain a meaningful extrapolated result to their respective populations. This resulted in the total questioned costs of $2,376.56 ($2,374.15 plus $2.41).

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

| Finding Type | Low Dollar Findings | Medium Dollar Findings | Total Findings |
|---|---|---|---|
| Invalid Claims: | | | |
| Prescriptions Not Dated | 0 | 1 | 1 |
| Billing Errors: | | | |
| Incorrect NDC | 0 | 1 | 1 |
| Quantity Error: | | | |
| Unauthorized Quantity Increase | 0 | 1 | 1 |
| Refill Errors: | | | |
| Refills Not Indicated | 1 | 1 | 2 |
| **Total** | 1 | 4 | 5 |

See the Detailed Findings Section of this report for details.

## Objectives (*Subject*)

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 the TAC rules.

## Summary of Sample Methodology

IG used statistically valid random sampling to determine if the Vendor billed the VDP for Medicaid prescription claims correctly. 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 Statements on Auditing Standards (SAS), Number 39. The final exception and recoupment amount was determined on a dollar-for-dollar basis due to the low exception rate, and extrapolation was not used. The population paid amounts and exception amounts for the low, medium and high dollar claims can be found in tables A, B, and C respectively in Appendix B.

## 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 non legend 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 $2,585,523.81.

## Summary of Scope and Methodology (*Summary of Activities Performed*)

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.

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 (*Results*)

The audit evidence provides the basis for our findings and conclusions. Therefore, except for the findings noted in this report, the Vendor accurately billed the Texas Medicaid Vendor Drug Program (VDP) and complied with contractual requirements and the TAC rules.

# DETAILED FINDINGS

## Invalid Claim: Prescription Not Dated for One Claim

The Vendor dispensed medication for one prescription that was not dated. The Texas Administrative Code (TAC) requires this information be provided on each prescription; however, the Vendor did not obtain a dated prescription. Dispensing medication on an Invalid Prescription resulted in an overpayment of Medicaid funds. The TAC, Title 22, Part 15, Chapter 291, Subchapter B, Rule §291.34(7)(A)(viii) states, "All original prescriptions shall bear: date of issuance...". The Vendor did not follow the criteria for ensuring prescription information is complete.

**Recommendation**

The Vendor should ensure that prescriptions contain all the necessary information, including prescription date, as required by Texas State Board of Pharmacy and Medicaid Rules.

**Management's Response**

1. *Agree*
2. *It was noted the Prescription was not dated. At the conclusion of our research there was not a date noted. To address this we have re-trained prior to dispensing a medication to a patient.*

## Billing Error: Incorrect National Drug Code (NDC) for One Claim

For one claim, the Vendor's billed NDC was different from the dispensed NDC. The Vendor dispensed medication with an incorrect NDC number recorded under cash sale on the daily log. The Vendor did not record the NDC number of the dispensed medication accurately. Recording an incorrect NDC number resulted in an overpayment of Medicaid funds. The Texas Administrative Code, Title 1, Part 15, Chapter 354, Subchapter F, Division 6, Section 354.1901(a) states, "To receive payment from the Health and Human Services Commission (Commission), the provider must submit a pharmacy claim through the electronic adjudication system. A separate entry is submitted for each prescription or refill. For the original dispensing and each subsequent refill, the provider indicates on the corresponding pharmacy claim submitted to the Commission the usual and customary price, the purchasing method, and the National Drug Code (NDC)...". Generally, the Vendor follows the criteria for dispensing the correct NDC. In this this instance, the Vendor did not follow the criteria for billing the correct NDC.

Subsequent to the Exit Conference, the IG accepted documentation for the exception referenced in the finding above submitted by the Vendor. The documentation submitted included a revised Daily Log dated August 2, 2010. The Vendor did not supply accurate Daily Log information during fieldwork. Therefore, the exception was reduced to the dispensing fee plus the administrative fee.

**Recommendation**

The Vendor should ensure that prescriptions reported contain correct information including correct NDC numbers on the daily log as required by Texas State Board of Pharmacy and Medicaid Rules.

**Management's Response**

1. *Disagree*
2. *It was noted incorrect NDC was utilized in filling this prescription. The pharmacy did fill the prescription with the correct NDC. The claim was processed under a cash code with the NDC [redacted] on [redacted]. After review, the claim was reversed and reprocessed via Texas Medicaid with NDC [redacted] on [redacted], please see attached documents provided.*

**Auditor's Notes:**

The documentation correcting the log was submitted by the Vendor subsequent to the onsite audit which resulted in the reduction of the finding to administrative fee plus dispensing fee.

## Quantity Error: Unauthorized Quantity Increase for One Claim.

The Vendor dispensed 180 Lamictal ODT tablets on a prescription written for 170 Lamictal ODT tablets without authorization from the prescribing physician. Reimbursement is reduced by the difference between the number of tablets prescribed, and the number of tablets billed and dispensed. Vendor dispensed a greater quantity than prescribed without the physician authorization. This resulted in an overpayment of Medicaid funds. Texas Administrative Code, Title 1, Part 15, Chapter 354, Subchapter F, Division 6, Rule 354.1901(b), states, "Providers must dispense the quantity prescribed or ordered by the prescriber except as limited by the policies and procedures described in the Commission's Pharmacy Provider Handbook…".

**Recommendation**

The Vendor should ensure that the quantity prescribed is the quantity dispensed.

**Management's Response**

1. *Disagree*
2. *It was noted as an unauthorized quantity increase. In this case the prescription was written originally for 170 tablets- based upon the originally written medication Lamictal 200 mg. However, we contacted the physician to change the medication to the ODT (oral disintegrating tablet) form. This form of the medication is available in a pre-packaged compliance packet from the manufacturer that should not be broken- for this reason the quantity was dispensed for 180. We did contact the physician for the change in the prescription, but the person who made the call forgot to write down the change in quantity, please see the attached documents provided (Appendix C)*

**Auditor's Notes:**

The documentation submitted supports the finding noted. The pharmacy increased the quantity without a documented contact with the prescribing physician. The difference in cost for quantity requested and quantity dispensed will remain on report.

## Refill Errors: Refills Not Indicated for Two Claims

The Vendor did not provide accurate Daily Logs indicating dispensing of refills for two claims. One claim was on the Medium Dollar Sample and one claim was on the Low Dollar Sample. The Vendor could not provide the Daily Log (dispensing record) within 72 hours. Lack of Daily Log information resulted in an overpayment of Medicaid funds. Texas Administrative Code, Title 22,

Part 15, Chapter 291, Subchapter B, Rule 291.34, states (2) "Records of dispensing ... (C) The data processing system shall have the capacity to produce a daily hard copy printout of all original prescriptions dispensed and refilled... (D) The daily hard copy printout shall be produced within 72 hours of the date on which the prescription drug orders were dispensed and shall be maintained in a separate file at the pharmacy...".

**Recommendation**

The Vendor should ensure that daily log information is accurate and producible within 72 hours.

**Management's Response**

*1. Disagree*

*2. It was noted that the refill was not indicated on the prescription processed. The refill was indicated, please see the attached documents provided ( Appendix A and Appendix D)*

**Auditor's Note:**

Subsequent to the exit conference, the Vendor submitted acceptable daily log information; however, the daily logs supporting the two refill claims noted were not presented within 72 hours as required. Since the information was presented post exit, the amounts paid for these claims were reduced by dispensing fees plus administrative fees.

# APPENDICES

# OBJECTIVES, SCOPE, AND METHODOLOGY

## Objectives

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

## 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 the 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 Used to Determine Compliance with Contractual Requirements and the TAC

- 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 Kroger Pharmacy #107
- 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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# APPENDIX B

## SAMPLING METHODOLOGY

### Summary of Sample Methodology

IG used statistically valid random sampling to determine if the Vendor billed the VDP for Medicaid prescription claims correctly. 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 Statements on Auditing Standards (SAS), Number 39. The final exception and recoupment amount was determined on a dollar-for-dollar basis due to the low exception rate, and extrapolation was not used. The population paid amounts and exception amounts for the low, medium and high dollar claims can be found in Tables A, B, and C respectively.

### Results

To estimate the potential dollar value of billing errors, IG tested 261 claims, 5 of which constituted exceptions. To achieve statistically valid sampling results, the population was separated into low, medium, and high dollar claims. Of the 261 claims, 153 low dollar and 107 medium dollar claims were selected for testing based on statistically valid random sampling. There was 1 claim in the high dollar population, which was tested. Of the 5 exceptions, 1 was from the low dollar claims and 4 were from the medium dollar claims. There were no high dollar exceptions. The low dollar questioned costs of $2.41 as well as the medium dollar questioned costs of $2,374.15 were evaluated dollar-for-dollar due to the exception rate being too low to obtain a meaningful extrapolated result to their respective populations.

### 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.

### Sample Unit

The sample unit was a paid claim. A paid claim is a prescription dispensed to a Medicaid recipient by a contracted Vendor or Pharmacist for which HHSC 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 Population Paid Dollar Amount | $2,284,645.52 |
| Total Dollar-For-Dollar Exceptions | $2.41 |

*Extrapolation was not performed due to the low exception rate found in this population.

## Table B

### Total Population Paid and Recoupment Statistics (Medium Dollar)

| | |
|---|---|
| Total Population Paid Dollar Amount | $296,074.77 |
| Total Dollar-For-Dollar Exceptions | $2,374.15 |

*Extrapolation was not performed due to the low exception rate found in this population.

## Table C

### Total Population Paid and Recoupment Statistics (High Dollar)

| | |
|---|---|
| Total Population Paid Dollar Amount | $4,803.52 |
| Total Dollar-For-Dollar Exceptions | $0.00 |

*Extrapolation was not performed due to the low exception rate found in this population.

## APPENDIX C

**Schedule of Findings**
**Kroger Pharmacy # 107**
**Vendor Number: 464514**
**Over/Under Payments for Low Dollar Claims**

| Client Number | Prescription Number | Fill Date | Amount Paid | Audited Cost | Over/(Under) Payments | Comments |
|---|---|---|---|---|---|---|
| [redacted] | | | $4.00 | $1.59 | $2.41 | *Refill Not Indicated** |
| | | Sub Total | $4.00 | $1.59 | $2.41 | |
| | | Total | $4.00 | $1.59 | $2.41 | |

* Adjusted dispensing fee and administrative fee from amount paid.
** Amount due does not meet threshold. Amount due will not be extrapolated.

**Schedule of Findings**
**Kroger Pharmacy # 107**
**Vendor Number: 464514**
**Over/Under Payments for Medium Dollar Claims**

| Client Number | Prescription Number | Fill Date | Amount Paid | Audited Cost | Over/(Under) Payments | Comments |
|---|---|---|---|---|---|---|
| [redacted] | | | $2,265.72 | $0.00 | $2,265.72 | Prescription Not Dated |
| | | Sub Total | $2,265.72 | $0.00 | $2,265.72 | |
| [redacted] | | | $753.09 | $730.53 | $22.56 | Incorrect NDC* |
| | | Sub Total | $753.09 | $730.53 | $22.56 | |
| [redacted] | | | $1,189.53 | $1,123.87 | $65.66 | Unauthorized Quantity Increase |
| | | Sub Total | $1,189.53 | $1,123.87 | $65.66 | |
| [redacted] | | | $635.73 | $615.52 | $20.21 | Refill Not Indicated* |
| | | Sub Total | $635.73 | $615.52 | $20.21 | |
| | | Total | $4,844.07 | $2,469.92 | $2,374.15 | |

* Adjusted dispensing fee and administrative fee from amount paid.

## REPORT DISTRIBUTION

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