

**TEXAS HEALTH AND HUMAN SERVICES COMMISSION**  
**INSPECTOR GENERAL**

**AUDIT OF HEB PHARMACY #084**

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*A Texas Vendor Drug Program Provider*



**August 31, 2017**  
**OIG Report No. AUD-17-019**



## HHSC IG

TEXAS HEALTH AND HUMAN  
SERVICES COMMISSION  
INSPECTOR GENERAL

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# AUDIT OF HEB PHARMACY #084

*A Texas Vendor Drug Program Provider*

### WHY THE IG CONDUCTED THIS AUDIT

The Texas Vendor Drug Program (VDP) provides statewide access to covered outpatient drugs for individuals enrolled in Medicaid, the Children's Health Insurance Program, the Children with Special Health Care Needs Services program, the Healthy Texas Women program, and the Kidney Healthcare program.

HEB Pharmacy #084 claimed and received payment for 86,937 Medicaid claims during the audit period of September 1, 2009, through February 29, 2012. These claims resulted in the pharmacy receiving reimbursements of almost \$6.4 million.

The objectives of this audit were to determine whether HEB Pharmacy #084 (a) properly billed Texas VDP for Medicaid claims submitted and (b) complied with contractual and Texas Administrative Code (TAC) requirements.

### WHAT THE IG RECOMMENDS

HEB Pharmacy #084 should (a) verify all required data elements appear on the original prescription before it is dispensed and verified again prior to refill, (b) verify that the prescriber identification number matches the prescriber name prior to dispensing, (c) ensure that all hard copy prescriptions are written on tamper-resistant paper, and (d) retain all records related to Medicaid prescription services.

For more information, contact:

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### WHAT THE IG FOUND

The IG Audit Division tested HEB Pharmacy #084's compliance with contractual and TAC requirements in seven areas: claims validity, National Drug Code (NDC) usage, quantity, refills, controlled substances, warehouse billing, and acquisition cost. This report details results, issues, and recommendations in those areas, when applicable. The testing resulted in no findings related to quantity, refills, controlled substances, and acquisition cost.

VDP participating pharmacies are contractually required to maintain documents to support Medicaid claims for reimbursement. Claims validity is demonstrated by prescriptions and medication purchase invoices maintained by the pharmacy.

HEB Pharmacy #084 did not bill VDP properly, or comply with other contractual or TAC requirements, for 57 of 290 claims.

There were exceptions in which HEB Pharmacy #084:

- Dispensed medication
  - For prescriptions missing issuance dates
  - For a refill request that did not identify the correct prescriber
  - For prescriptions not on tamper resistant paper
  - For a prescription the did not contain the prescribers signature
- Did not produce invoices to verify NDC numbers billed to VDP
- Did not produce invoices to verify the non-warehouse pricing

### LESSONS LEARNED

VDP providers that use a warehouse pricing model should retain invoices for the purchase of medication in an emergency or immediate need situation. These invoices will justify the greater than normal warehouse prices reported to VDP.

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# INTRODUCTION

The Texas Health and Human Services Commission (HHSC) Inspector General (IG) Audit Division has completed an audit of HEB Pharmacy #084, a Texas Vendor Drug Program (VDP) provider, vendor number 464943.

## Objectives

The objectives of this audit were to determine whether HEB Pharmacy #084 (a) properly billed VDP for Medicaid claims submitted and (b) complied with contractual and Texas Administrative Code (TAC) requirements during the audit period of September 1, 2009, through February 29, 2012.

## Background

VDP provides statewide access to covered outpatient drugs for individuals enrolled in Medicaid, the Children's Health Insurance Program (CHIP), the Children with Special Health Care Needs Services program, the Healthy Texas Women program, and the Kidney Health Care program. This audit is focused on VDP Medicaid claims.

HEB Pharmacy #084, a retail pharmacy located in San Antonio, Texas, operates under license number 21091. HEB Pharmacy #084 claimed and received payment for 86,937 Medicaid claims during the audit period, for which it received reimbursements totaling \$6,352,422.07.

The IG Audit Division conducted the audit in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Unless otherwise described, any year that is referenced is the state fiscal year, which covers the period from September 1 through August 31.

The IG Audit Division presented the audit results, issues, and recommendations to HEB Pharmacy # 084 in a draft report dated February 29, 2016. HEB Pharmacy #084's management responses are included in the report following each recommendation.

## AUDIT RESULTS

VDP pharmacy providers must follow TAC and contract provisions when filling, dispensing, and billing for prescriptions. Texas State Board of Pharmacy (Pharmacy Board) and VDP rules require prescriptions to include specific elements to be valid. The IG Audit Division tested HEB Pharmacy #084's compliance in seven areas: (a) claims validity, represented by claims documentation maintained by the provider, (b) National Drug Code (NDC) usage, (c) quantity, (d) refills, (e) controlled substances, (f) warehouse billing, and (g) acquisition cost. This report details results, issues, and recommendations in those areas, when applicable.

The testing resulted in no findings related to quantity, refills, controlled substances, and acquisition cost.

The IG Audit Division obtained claims data for testing from the IG claims database warehouse. The data request was for fee-for-service only paid claims for 2009, 2010, and 2011. Given the total number of claims submitted by HEB Pharmacy #084, it was determined to be administratively infeasible to review every claim in the population. The IG Audit Division therefore selected a random sample of 290 claims to test. The IG Audit Division visited the pharmacy to review the records during May 2014.

### CLAIMS VALIDITY

VDP participating pharmacies are contractually required to maintain documents to support Medicaid claims. Claims validity is demonstrated by documentation maintained by the pharmacy. If the pharmacy (a) does not maintain or cannot produce documents to support the dispensing of a medication, or (b) if any of the required elements are not documented on the face of the prescription or physician order, then the related claim is invalid and not eligible for reimbursement by VDP.

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#### Finding 1: Prescriptions Not Dated for Six Claims

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HEB Pharmacy #084 dispensed and billed VDP for six incomplete original prescriptions. VDP was billed and paid \$1,546.88 for these six claims. The prescribers did not include the prescription issuance dates and there was no indication HEB Pharmacy #084 contacted the prescribers for verification of the issuance dates. TAC states, "All original prescriptions shall bear ... date of issuance."<sup>1</sup>

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<sup>1</sup> 22 Tex. Admin. Code § 291.34(b)(6)(A)(viii) (Jun. 7, 2009) through (Nov. 24, 2011).

### **Recommendation 1**

HEB Pharmacy #084 should verify all required data elements appear on the original prescription before it is dispensed and verified again prior to refill, as required by TAC.

### **Management Response**

*Agree with one; pharmacist wrote a telephone prescription and did not date the prescription ( [REDACTED] ).*

*Disagree with five ( [REDACTED] ). Letters from the prescribers verifying the dates of the prescriptions are provided.*

### **Auditor Response**

The IG Audit Division accepted and reviewed the documents provided with the management response. The letters from the prescribers did verify the dates of the prescriptions; however, the documentation provided was obtained from the prescribers after the fact, and the verification was not recorded on the original prescriptions as required.

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## **Finding 2: Incorrect Prescriber Identification Number for One Claim**

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HEB Pharmacy #084 dispensed and billed VDP for one prescription with a prescriber number that did not match the prescriber name listed on the dispensing label. VDP was billed and paid \$721.65 for this claim. The prescriber name and number were not verified prior to dispensing the medication. TAC states, "Vendors must enter the identification number of the prescriber, as listed with the appropriate medical specialty board, on each claim."<sup>2</sup>

### **Recommendation 2**

HEB Pharmacy #084 should verify that the prescriber identification number matches the prescriber name prior to dispensing, as required by TAC.

### **Management Response**

*Agree. Pharmacy selected the incorrect prescriber ID in the dispensing system ( [REDACTED] ).*

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<sup>2</sup> 1 Tex. Admin. Code § 354.1835 (Sept. 1, 2001).

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### **Finding 3: Non-Tamper Resistant Prescriptions for Four Claims**

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HEB Pharmacy #084 dispensed and billed VDP for four prescriptions written on non-tamper resistant paper. VDP was billed and paid \$2,019.78 for these claims. The prescription paper was not checked for tamper-resistant authenticity prior to dispensing the medications. TAC 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))."<sup>3</sup>

#### **Recommendation 3**

HEB Pharmacy #084 should ensure that all hard copy prescriptions are written on tamper-resistant paper, as required by TAC.

#### **Management Response**

*Agree with three. Pharmacy team will be re-trained on the tamper proof requirement ( [REDACTED] ).*

*Disagree with one ( [REDACTED] ). A letter from the prescriber verifying the validity of the prescription is provided.*

#### **Auditor's Response**

The IG Audit Division accepted and reviewed the document provided with management responses. However, the document provided was obtained from the prescriber after the fact, and the original prescription was not on tamper resistant paper, as required by TAC.

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### **Finding 4: Prescription Not Signed for One Claim**

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HEB Pharmacy #084 dispensed and billed VDP for one prescription that did not have a prescriber signature. VDP was billed and paid \$86.73 for this claim. The prescription was not examined to ensure it contained the prescriber's signature. TAC states, "The pharmacist must ensure that the original prescription conforms to the Pharmacy Board 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."<sup>4</sup>

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<sup>3</sup> 1 Tex. Admin. Code § 354.1863(c) (Sept. 23, 2008).

<sup>4</sup> 1 Tex. Admin. Code § 354.1863(b) (Sept. 23, 2008).

#### **Recommendation 4**

HEB Pharmacy #084 should ensure that all prescriptions contain the prescriber's signature, as required by TAC.

#### **Management Response**

*Agree. This was a refill request that was approved and noted by the prescriber but not signed ( [REDACTED] ).*

### ***NATIONAL DRUG CODE***

The NDC dispensed by a pharmacy must match the NDC billed to VDP. Only medications listed on the VDP formulary are eligible for reimbursement.

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#### **Finding 5: NDC Not Supported for 13 Claims**

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HEB Pharmacy #084 billed VDP for 13 prescriptions for which the auditors could not verify the NDC of the medication dispensed, because invoices were not provided for review. VDP was billed and paid \$9,576.02 for these claims. The missing invoices prevented verification that the dispensed NDCs were available at the pharmacy for distribution. The VDP contract states the provider will "Keep and maintain all the records necessary for the purchasing and dispensing of Recipient prescriptions, and furnish all reports in such form and scope as HHSC may require. This includes without limitation: (a) All prescription documents, medication invoices and medication acquisition documents."<sup>5</sup>

#### **Recommendation 5**

HEB Pharmacy #084 should maintain and make available all records related to Medicaid prescription services, as required by the VDP contract.

#### **Management Response**

*Agree with three. Wholesaler could not locate these invoices at time of audit ( [REDACTED] ).*

*Disagree with 14. Cardinal invoices and warehouse billings as applicable are provided [REDACTED].*

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<sup>5</sup> Vendor Drug Program Pharmacy Provider Contract #529-08-0073-01288, Part 2: Terms and Conditions, H.



## **Auditor's Response**

The IG Audit Division reviewed the documents provided with management responses for the 14 prescriptions with which HEB Pharmacy #084 disagreed. Four prescriptions were removed as exceptions. The remaining ten exceptions are unchanged. The documentation provided with management responses was the same as that provided during the audit. These ten exceptions combined with the three exceptions previously agreed upon brings the total to 13 exceptions. Invoices show that the warehouse had the inventory, but the quantities transferred to the store do not support the quantities that were billed to VDP.

## ***WAREHOUSE BILLING***

Pharmacies with multiple locations (chains) use a central (warehouse) purchasing process to purchase medications in large volumes to obtain bulk discount pricing. The medications are shipped to individual locations from the warehouse as needed. The pharmacies must designate these purchases as Code "9" when submitting claims for reimbursement to VDP. There are emergency or immediate need occasions when a pharmacy may purchase medication from a local wholesaler instead of waiting for a shipment from the warehouse. In these instances, the pharmacy must maintain the invoice for these purchases and designate the cost basis in the cost basis column to reflect the actual purchase price. If the pharmacy does not maintain the invoice and designate the cost basis correctly, a warehouse billing error occurs.

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## **Finding 6: Supporting Invoices Missing for 32 Claims**

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HEB Pharmacy #084 dispensed and billed VDP for 32 prescriptions for which the drug purchase invoice was not maintained. VDP was billed and paid \$33,405.22 for these claims. The missing invoices prevented verification that the dispensed medications met the packaging and pricing requirements set forth by VDP. The VDP contract states the provider will "Keep and maintain all the records necessary for the purchasing and dispensing of Recipient prescriptions, and furnish all reports in such form and scope as HHSC may require. This includes without limitation: (a) All prescription documents, medication invoices and medication acquisition documents."<sup>6</sup>

## **Recommendation 6**

HEB Pharmacy #084 should ensure that invoices containing price information are maintained and are available for review and verification, as required by the VDP contract.

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<sup>6</sup> VDP Pharmacy Provider Contract #529-08-0073-01288, Part 2: Terms & Conditions, H.

**Management Response**

*Agree with 32. Warehouse billing could not be provided within 60 days of dispense date on 32 claims (*

*[REDACTED]*  
*[REDACTED]*  
*).*

*Disagree with 6. Cardinal invoices and warehouse billings as applicable are provided (*

*[REDACTED]*  
*)*

**Auditor's Response**

The IG Audit Division reviewed the documents provided for the six prescriptions with which HEB Pharmacy #084 disagreed. The exceptions associated with these prescriptions were removed, bringing the total number of exceptions to 32, rather than 38 exceptions originally identified.

## CONCLUSION

The IG Audit Division completed an audit of HEB Pharmacy #084. The audit evaluated HEB Pharmacy #084 to determine whether it properly billed VDP and complied with contractual and TAC requirements. The IG Audit Division conducted site visits from May 19, 2014, through May 23, 2014.

HEB Pharmacy #084 did not bill VDP properly, or comply with other contractual or TAC requirements, for 57 of 290 claims.

There were exceptions in which HEB Pharmacy #084:

- Dispensed medication
  - For prescriptions missing issuance dates
  - For a refill request that did not identify the correct physician
  - For prescriptions written on non-tamper resistant paper
  - For a prescription the did not contain the prescriber's signature
- Did not produce invoices to verify NDC numbers billed to VDP
- Did not produce invoices to verify the non-warehouse pricing

The IG Audit Division offered recommendations to HEB Pharmacy #084 which, if implemented, will correct deficiencies in compliance with contractual and TAC requirements.

The IG Audit Division thanks management and staff at HEB Pharmacy #084, including its corporate management team, for their cooperation and assistance during this audit.

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## Appendix A: Objective, Scope, and Methodology

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### Objectives

The objectives of the audit were to determine whether HEB Pharmacy #084 (a) properly billed Texas VDP for Medicaid claims submitted and (b) complied with contractual and TAC requirements.

### Scope

The audit scope included the period from September 1, 2009, through February 29, 2012.

### Methodology

To accomplish its audit objectives, the IG Audit Division collected information through discussions and interviews with HEB Pharmacy #084 management and staff, and by reviewing:

- Supporting documentation for a sample of all Medicaid claims billed to VDP during the audit scope
- Policies and procedures of HEB Pharmacy #084

The IG Audit Division issued an engagement letter on May 8, 2014, to HEB Pharmacy #084 providing information about the upcoming audit, and conducted fieldwork at the San Antonio, Texas, facility in May 2014. While on site, the IG Audit Division interviewed responsible personnel and reviewed documents related to sampled claims billed to VDP.

Auditors did not remove original records from the HEB Pharmacy #084 premises. During fieldwork, auditors requested additional document, which HEB Pharmacy #084 provided.

### Criteria

The IG Audit Division used the following criteria to evaluate the information provided:

- VDP Pharmacy Provider Contract # 529-08-0073-01288 Part 2: Terms and Conditions
- 1 Tex. Admin. Code § 354.1863(b) (Sept. 23, 2008)

- 1 Tex. Admin. Code § 354.1835 (Sept. 1, 2001)
- 22 Tex. Admin. Code § 291.34(b)(6)(A)(viii) (June 7, 2009) through (Nov. 24, 2011)

### **Auditing Standards**

The IG Audit Division conducted this audit in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the issues and conclusions based on our audit objectives. The IG Audit Division believes the evidence obtained provides a reasonable basis for our issues and conclusions based on our audit objectives.

## Appendix B: Sampling Methodology

### Summary of Sample Methodology

The IG Audit Division ran a Business Objects data query on the IG claims data warehouse. The data query defined the population as Medicaid fee-for-service paid claims with dates of service starting September 1, 2009, through February 29, 2012. The population was stratified into low, medium, and high dollar claims. The low-dollar stratum consisted of all paid claims less than or equal to \$645.98. The medium-dollar stratum consisted of all paid claims greater than \$645.98 but less than or equal to \$3,360.47. The high-dollar stratum consisted of all paid claims greater than \$3,360.47 but less than or equal to \$6,116.33. A stratified random sample was drawn from the population. The random sample included 153 claims from the low-dollar population and 131 claims from the medium-dollar population. There were six high-dollar claims, all of which were tested. All 290 claims in the sample were tested and 57 resulted in exceptions. Of the 57 exceptions, 22 were from the low-dollar claims, 30 were from the medium-dollar claims, and 4 were from the high-dollar claims. These amounts are provided for in Appendix C.

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

Finding Type	Low Dollar Findings	Medium Dollar Findings	High Dollar Findings	Total Findings
Invalid Claims:				
Prescriptions Not Dated	4	2	0	6
Incorrect Prescriber Identification Number	0	1	0	1
Non-Tamper Resistant Prescriptions	3	1	0	4
Prescription Not Signed	1	0	0	1
Billing Errors:				
NDC Not Supported	4	9	0	13
Warehouse Billing Errors:	10	18	4	32
<b>Total</b>	<b>22</b>	<b>31</b>	<b>4</b>	<b>57</b>

**Appendix C: Schedule of Findings**

- Finding 1: Prescriptions not dated
- Finding 2: Incorrect prescriber identification number
- Finding 3: Non-tamper resistant prescriptions
- Finding 4: Prescription not signed
- Finding 5: NDC not supported
- Finding 6: Supporting invoices missing

**Table C-1: Overpayments for Low-Dollar Claims**

Prescription Number	Fill Date	Amount Paid	Audited Cost	Over-Payments	Finding Number
	01/28/2012	\$ 1.38	\$ 0.92	\$ 0.46	1
	09/04/2011	103.17	94.66	8.51	1
	05/14/2011	10.35	2.80	7.55	1
	01/17/2011	38.56	30.38	8.18	1
	06/12/2011	219.10	207.47	11.63	3
	12/09/2009	5.00	0.00	5.00	3
	12/31/2009	9.75	0.00	9.75	3
	12/01/2009	86.73	0.00	86.73	4
	11/16/2009	23.49	0.00	23.49	5
	02/17/2012	28.60	0.00	28.60	5
	10/14/2010	134.11	0.00	134.11	5
	01/13/2011	162.49	0.00	162.49	5
	10/24/2009	65.56	62.15	3.41	6
	12/13/2010	63.78	56.45	7.33	6
	04/05/2010	175.11	164.01	11.10	6
	07/06/2011	272.08	254.55	17.53	6
	03/28/2011	186.74	171.26	15.48	6
	12/02/2010	431.66	386.24	45.42	6
	07/15/2011	49.08	47.46	1.62	6
	08/12/2010	38.64	35.33	3.31	6
	04/27/2010	92.37	82.65	9.72	6
	05/04/2010	81.93	60.38	21.55	6
<b>Total</b>		<b>\$2,279.68</b>	<b>\$ 1,656.71</b>	<b>\$ 654.42</b>	

**Table C-2: Overpayments for Medium-Dollar Claims**

Prescription Number	Fill Date	Amount Paid	Audited Cost	Over-Payments	Finding Number
1060108	01/30/2012	\$ 745.71	\$ 724.61	\$ 21.10	1
1055903	01/18/2012	647.71	0.00	647.71	1
978523	06/08/2011	721.65	700.16	21.49	2
886130	01/12/2011	1,785.93	0.00	1,785.93	3
1019161	12/01/2011	1,255.09	0.00	1,255.09	5
944566	03/03/2011	1,752.21	0.00	1,752.21	5
981241	09/12/2011	675.16	0.00	675.16	5
1021433	10/13/2011	764.13	0.00	764.13	5
1006877	09/06/2011	764.13	0.00	764.13	5
893313	11/04/2010	719.32	0.00	719.32	5
1024115	02/05/2012	853.09	0.00	853.09	5
948138	04/06/2011	1,255.96	0.00	1,255.96	5
960251	06/06/2011	1,188.24	0.00	1,188.24	5
1068413	02/23/2012	731.92	654.22	77.70	6
990727	07/20/2011	937.53	844.01	93.52	6
830639	07/06/2010	1,042.20	930.55	111.65	6
1065121	02/09/2012	1,098.47	981.49	116.98	6
944266	03/29/2011	1,119.40	1,000.28	119.12	6
1011776	09/19/2011	1,647.25	1,471.48	175.77	6
1001004	08/18/2011	732.79	655.09	77.70	6
1004669	09/06/2011	679.74	653.36	26.38	6
841784	07/21/2010	1,384.03	1,261.53	122.50	6
823599	04/01/2010	648.66	590.81	57.85	6
880662	09/14/2010	1,091.92	975.75	116.17	6
946505	09/19/2011	1,097.37	1,076.00	21.37	6
981241	06/16/2011	676.03	604.41	71.62	6
1054341	01/31/2012	699.73	686.12	13.61	6
944266	03/02/2011	1,119.40	1,000.28	119.12	6
858547	10/12/2010	1,298.57	1,273.26	25.31	6
1013708	11/02/2011	1,889.49	1,815.65	73.84	6
1024361	11/10/2011	925.44	789.12	136.32	6
Total		\$31,948.27	\$18,688.18	\$13,260.09	



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## Appendix D: Report Team and Distribution

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### Report Team

The IG staff members who contributed to this audit report include:

- Kacy J. VerColen, CPA, Audit Director
- Kanette Blomberg, CPA, Audit Manager
- Rifat Ameen, Lead Auditor
- Jesus Vega, CIGA, Senior Auditor
- Carolyn Cadena, CRMA, CIGA, CICA, Staff Auditor
- Mo Brantley, Senior Audit Operations Analyst

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- Kimberly Royal, Manager, Contract Compliance and Performance Management, Medicaid and CHIP Services Department

- Lisa Cruz Hidrogo, Special Projects Manager, Medicaid and CHIP Services Department

#### HEB Pharmacy

- Jay Bueche, Director of Pharmacy Managed Care
- Kimberly Lavrack, Manager Third Party
- Joe Fielder, Corporate Counsel
- Dennis Wiesner, Director of Regulatory and Industry Affairs
- Craig Norman, Senior Vice President of Pharmacy

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## Appendix E: IG Mission and Contact Information

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The mission of the IG is to prevent, detect, and deter fraud, waste, and abuse through the audit, investigation, and inspection of federal and state taxpayer dollars used in the provision and delivery of health and human services in Texas. The senior leadership guiding the fulfillment of IG's mission and statutory responsibility includes:

- Sylvia Hernandez Kauffman, Principal Deputy Inspector General
- Christine Maldonado, Chief of Staff and Deputy IG for Operations
- Olga Rodriguez, Senior Advisor and Director of Policy and Publications
- Roland Luna, Deputy IG for Investigations
- David Griffith, Deputy IG for Audit
- Quinton Arnold, Deputy IG for Inspections
- Alan Scantlen, Deputy IG for Data and Technology
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- Anita D'Souza, Chief Counsel

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