



**U.S. OFFICE OF PERSONNEL MANAGEMENT
OFFICE OF THE INSPECTOR GENERAL
OFFICE OF AUDITS**

Final Audit Report

**Audit of CareFirst BlueChoice's
Federal Employees Health Benefits Program
Pharmacy Operations as Administered by
CVS Caremark for Contract Years 2014 through 2017**

Report Number 1H-07-00-19-017

July 20, 2020

EXECUTIVE SUMMARY

Audit of CareFirst BlueChoice's Federal Employees Health Benefits Program Pharmacy Operations as Administered by CVS Caremark

Report No. 1H-07-00-19-017

July 20, 2020

Why Did We Conduct the Audit?

The objective of the audit was to determine whether costs charged to the Federal Employees Health Benefits Program (FEHBP) and services provided to its members were in accordance with the U.S. Office of Personnel Management Contract Number CS 2879 and applicable Federal regulations.

What Did We Audit?

The Office of the Inspector General has completed a performance audit of CareFirst BlueChoice's (Carrier) pharmacy operations as administered by CVS Caremark (Pharmacy Benefits Manager or PBM). Our audit consisted of a review of the administrative fees, claims pricing and eligibility, drug manufacturer rebates, fraud and abuse program, and performance guarantees for FEHBP pharmacy operations from contract years 2014 through 2017. Our site visit was conducted from July 8 through July 19, 2019, at the PBM's office in Scottsdale, Arizona. Additional audit work was completed at our offices in Jacksonville, Florida; Washington, D.C.; and Cranberry Township, Pennsylvania.

What Did We Find?

We determined that the PBM and the Carrier need to strengthen their procedures and controls related to pass-through pricing and performance guarantees.

Specifically, our audit identified the following deficiencies that require corrective action for all years under review:

- The PBM overcharged the FEHBP \$4,743,399 by not providing pass-through pricing based on the actual acquisition cost of drugs filled by its mail order warehouses and specialty pharmacies.
- The PBM overcharged the FEHBP \$834,425 by not providing pass-through pricing at the value of the PBM's negotiated discounts with two retail pharmacies.
- The Carrier did not allocate or credit \$53,478 in penalties to the FEHBP due to the PBM not meeting its performance guarantees.

No other exceptions were identified from our reviews of the administrative fees, claims eligibility, drug manufacturer rebates, and fraud and abuse program.



Michael R. Esser
*Assistant Inspector General
for Audits*

ABBREVIATIONS

| | |
|------------------|---|
| 5 CFR 890 | Title 5, United States Code, Chapter 89; and Title 5, Code of Federal Regulations, Chapter 1, Part 890 |
| AAC | Actual Acquisition Cost |
| Act | Federal Employees Health Benefits Act |
| Agreement | The Pharmacy Benefit Management Agreement between the Carrier and the PBM |
| Carrier | CareFirst BlueChoice |
| Contract | OPM Contract CS 2879 |
| CY | Contract Year |
| FEHBP | Federal Employees Health Benefits Program |
| HIO | Healthcare and Insurance Office |
| LOCA | Letter of Credit Account |
| OIG | Office of the Inspector General |
| OPM | U.S. Office of Personnel Management |
| PBM | CVS Caremark (Pharmacy Benefits Manager) |

TABLE OF CONTENTS

| | <u>Page</u> |
|---|-------------|
| EXECUTIVE SUMMARY | i |
| ABBREVIATIONS | ii |
| I. BACKGROUND | 1 |
| II. OBJECTIVES, SCOPE, AND METHODOLOGY | 3 |
| III. AUDIT FINDINGS AND RECOMMENDATIONS | 7 |
| A. ADMINISTRATIVE FEES REVIEW | 7 |
| B. CLAIMS PRICING REVIEW | 7 |
| 1. Actual Acquisition Cost Not Received | 7 |
| 2. Retail Pass-Through Pricing | 9 |
| C. CLAIMS ELIGIBILITY REVIEW | 14 |
| D. DRUG MANUFACTURER REBATES REVIEW | 14 |
| E. FRAUD AND ABUSE PROGRAM REVIEW | 14 |
| F. PERFORMANCE GUARANTEES REVIEW | 14 |
| 1. Performance Penalties Due to the FEHBP..... | 14 |
| APPENDIX (Carrier and PBM’s combined response to the Draft Report, dated June 5, 2020) | |
| REPORT FRAUD, WASTE, AND MISMANAGEMENT | |

I. BACKGROUND

This report details the results of our audit of CareFirst BlueChoice's (Carrier) pharmacy operations as administered by CVS Caremark (Pharmacy Benefits Manager or PBM) for contract years (CY) 2014 through 2017. The audit was conducted pursuant to the provisions of Contract CS 2879 (Contract) between the U.S. Office of Personnel Management (OPM) and the Carrier; the Pharmacy Benefit Management Agreement between the Carrier and the PBM (Agreement); Title 5, United States Code, Chapter 89; and Title 5, Code of Federal Regulations, Chapter 1, Part 890 (5 CFR 890). The audit was performed by OPM's Office of the Inspector General (OIG), as established by the Inspector General Act of 1978, as amended.

The Federal Employees Health Benefits Program (FEHBP) was established by the Federal Employees Health Benefits Act (Act), Public Law 86-382, enacted on September 28, 1959. The FEHBP was created to provide health insurance benefits for Federal employees, annuitants, and dependents. OPM's Healthcare and Insurance Office (HIO) has the overall responsibility for the administration of the FEHBP, including the publication of program regulations and agency guidance. As part of its administrative responsibilities, the HIO contracts with various health insurance carriers that provide service benefits, indemnity benefits, and/or comprehensive medical services. The provisions of the Act are implemented by OPM through regulations codified in 5 CFR 890.

Pharmacy Benefit Managers are primarily responsible for processing and paying prescription drug claims. The services provided typically include retail pharmacy, mail order, and specialty drug benefits. For drugs acquired through retail, the PBM contracts directly with the approximately 50,000 retail pharmacies located throughout the United States. For maintenance prescriptions that typically do not need to be filled immediately, the PBM offers the option of a mail order pharmacy benefit. The PBM also provides specialty pharmacy services for members with rare and/or chronic medical conditions. Pharmacy Benefit Managers are used to develop, allocate, and control costs related to the pharmacy claims program.

The Carrier contracted with the PBM, located in Scottsdale, Arizona, to provide pharmacy benefits and services to Carrier members for CYs 2014 through 2017. Section 1.11 of the Contract includes a provision that allows for audits of the program's operations. Additionally, section 1.28(a) of the Contract outlines transparency standards that require the PBM to provide pass-through pricing based on its cost for drugs. Our responsibility is to review the performance of the PBM to determine if the Carrier charged costs to the FEHBP and provided services to its members in accordance with the Contract, the Agreement, and the Federal regulations.

This is the first audit of the Plan's pharmacy operations as administered by the PBM. The results of our audit were discussed with Carrier and PBM officials at an exit conference on April 15, 2020. In addition, a draft report, dated May 7, 2020, was provided to the Carrier and PBM for

review and comment. The Carrier and PBM's combined response to the draft report was considered in preparing the final report and is included as an Appendix to this report.

II. OBJECTIVES, SCOPE, AND METHODOLOGY

OBJECTIVES

The main objective of the audit was to determine whether the costs charged to the FEHBP and services provided to its members were in accordance with the terms of the Contract, the Agreement, and applicable Federal regulations.

Our specific audit objectives were to determine if:

Administrative Fees Review

- The Carrier paid the PBM administrative fees in accordance with their Agreement and if the fees were allowable, accurate, and reasonable.

Claims Pricing Review

- The pricing elements for retail, mail order, specialty, and other drug claims were transparent and priced correctly in accordance with the Contract, the Agreement, and individual pharmacy contracts.

Claims Eligibility Review

- Any claims were paid for ineligible dependents age 26 and older, excluded drugs, non-FEHBP members, or members from another group.

Drug Manufacturer Rebates Review

- The FEHBP was credited the appropriate amount of drug manufacturer rebates in a timely manner.

Fraud and Abuse Program Review

- The Carrier and the PBM complied with the fraud, waste, and abuse requirements in Carrier Letter 2017-13, and if potential fraud cases were being reported to OPM.

Performance Guarantees Review

- The Carrier and the PBM's performance standards were properly calculated, if the guarantees were met, and if any associated penalties were paid.

SCOPE AND 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 and appropriate evidence to provide a reasonable basis for our findings and

conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on the audit objectives.

This performance audit included a review of the administrative fees, claims payment and eligibility, drug manufacturer rebates, fraud and abuse program, and performance guarantees related to the FEHBP for CYs 2014 through 2017. As part of our survey work, we conducted a site visit at the PBM’s office in Scottsdale, Arizona from July 8 through July 19, 2019. The audit fieldwork was completed at our offices in Cranberry Township, Pennsylvania; Jacksonville, Florida; and Washington, D.C. from September 9, 2019, through April 15, 2020.

The Carrier is responsible for providing FEHBP members with medical and prescription drug benefits. To meet this responsibility, the Carrier collected healthcare premium payments of approximately \$1.4 billion in CYs 2014 through 2017, of which approximately two-thirds was paid by the government on behalf of Federal employees. In its annual accounting statements, the Carrier reported total pharmacy claims paid of approximately \$425.6 million for CYs 2014 through 2017 (See below).

| Contract Year | Earned Healthcare Premiums | Number of Pharmacy Claims | Amount of Pharmacy Claims Paid | Amount of Medical Claims Paid |
|----------------------|-----------------------------------|----------------------------------|---------------------------------------|--------------------------------------|
| 2014 | \$289,825,226 | 670,155 | \$73,454,819 | \$196,985,082 |
| 2015 | \$325,504,388 | 738,926 | \$98,693,090 | \$228,870,330 |
| 2016 | \$370,268,868 | 800,798 | \$117,671,600 | \$255,893,382 |
| 2017 | \$416,241,355 | 838,574 | \$135,743,181 | \$274,181,510 |
| Total | \$1,401,839,837 | 3,048,453 | \$425,562,690 | \$955,930,304 |

In planning and conducting the audit, we obtained an understanding of the Carrier’s and the PBM’s internal control structures to help determine the nature, timing, and extent of our auditing procedures. This was determined to be the most effective approach to select areas of audit. For those areas selected, we primarily relied on substantive tests of transactions and not tests of controls. Additionally, since our audit would not necessarily disclose all significant matters in the internal control structure, we do not express an opinion on the Carrier’s and the PBM’s systems of internal controls taken as a whole.

We also conducted tests of accounting records and other auditing procedures as we considered necessary to determine compliance with the Contract, the Agreement, and Federal regulations. Exceptions noted in the areas reviewed are set forth in the “Audit Findings and Recommendations” section of this report. With respect to the items not tested, nothing came to

our attention that caused us to believe that the Carrier and the PBM had not complied, in all material respects, with those provisions.

In conducting the audit, we relied to varying degrees on computer-generated data provided by the Carrier and PBM. Due to time constraints, we did not verify the reliability of the data generated by the various information systems involved. However, while utilizing the computer-generated data during our audit, nothing came to our attention to cause us to doubt its reliability. We believe that the data was sufficient to achieve our audit objectives.

To determine whether costs charged to the FEHBP and services provided to its members for CYs 2014 through 2017 were in accordance with the terms of the Contract, Agreement, and applicable Federal regulations, we performed the following audit steps:

Administrative Fees Review

- For each CY, we reviewed the monthly administrative fee invoices and line items to determine if the PBM's fees were properly calculated and supported in accordance with the terms of the Agreement.

Claims Pricing Review

Unless stated otherwise, the claim samples below were selected from the complete claims universe of 3,147,580 claims, totaling \$424,731,831, for CYs 2014 through 2017 (the paid claims data differs from the amounts reported in the table above due to timing, claim adjustments, and reversals).

- From a universe of 2,962,911 retail pharmacy claims, totaling \$322,410,664, we randomly selected 80 claims using SAS¹, totaling \$12,940, to determine if the pricing elements were transparent and if the claims were paid correctly.
- From a universe of 12,341 specialty pharmacy claims, totaling \$78,933,674, we randomly selected 80 claims using SAS, totaling \$567,461, to determine if the pricing elements were transparent and if the claims were paid correctly.
- From a universe of 89,520 mail order pharmacy claims, totaling \$16,828,274, we randomly selected 80 claims using SAS, totaling \$39,431, to determine if the pricing elements were transparent and if the claims were paid correctly.
- We identified a universe of 23,382 other pharmacy claims (those not included in the retail, mail, and specialty universes), totaling \$1,359,723, for CY 2017 only. From the CY 2017 universe, we randomly selected 21 claims using SAS, totaling \$1,067, to determine if the pricing elements were transparent and if the claims were paid correctly.

¹ SAS is a statistical software suite developed by SAS Institute for data management, advanced analytics, multivariate analysis, business intelligence, criminal investigation, and predictive analytics.

Claims Eligibility Review

- We identified and reviewed all dependents 26 years of age or older to determine if the members were eligible for coverage due to a disability and incapable of self-support.
- We identified and reviewed the Carrier's non-covered drugs list to determine if any claims were paid for excluded drugs.
- We reviewed all claims to determine if any were paid for non-FEHBP members or members enrolled in another FEHBP plan in which the Carrier participates.

Drug Manufacturer Rebates Review

- From a universe of \$70,377,594 in drug manufacturer rebates for contract years 2014 through 2017, we judgmentally selected 24 rebate collections, totaling \$7,236,889, based on a change to the drug manufacturer agreement. We then reviewed the collections to determine if the rebates were properly supported, accurately calculated, and remitted to the Carrier and FEHBP.

Fraud and Abuse Program Review

- We reviewed all potential fraud and abuse cases that were reported by the PBM to the Carrier to determine if those cases were subsequently reported to OPM.
- We reviewed the Carrier's policies and procedures for fraud and abuse to ensure that they complied with Carrier Letter 2017-13.

Performance Guarantees Review

- For each CY, we reviewed all performance guarantees to determine if the performance was accurately measured and compared to the guarantee, and if the penalties were properly calculated and credited to the FEHBP.

The samples that were selected and reviewed in performing the audit were not statistically based. Consequently, the results were not projected to the universe since it is unlikely that the results are representative of the universe taken as a whole.

III. AUDIT FINDINGS AND RECOMMENDATIONS

A. ADMINISTRATIVE FEES REVIEW

The results of our review showed that the administrative fees charged to the carrier and the FEHBP were in accordance with the Agreement.

B. CLAIMS PRICING REVIEW

1. Actual Acquisition Costs Not Received \$4,743,399

The PBM did not provide pass-through transparent pricing at the Actual Acquisition Cost (AAC) for drugs filled by its mail order warehouses and specialty pharmacies, resulting in an overcharge of \$4,743,399 to the FEHBP for CYs 2014 through 2018 (audit scope for this finding was extended to 2018 to account for the PBM's corrective action).

The PBM did not provide pass-through pricing for drugs filled at its mail order warehouses and specialty pharmacies.

Section 1.28(a)(2) of the Contract (between OPM and the Carrier) states, "The PBM agrees to provide pass-through transparent pricing based on the PBM's cost for drugs (as described below) in which the Carrier receives the value of the PBM's negotiated discounts, rebates, credits or other financial benefits. ... (ii) The PBM shall charge the Carrier the cost of drugs at mail order pharmacies based on the actual cost, plus a dispensing fee. Costs shall not be based on industry benchmarks"

Additionally, Section 3.2(b)(3) of the Agreement (between the Carrier and the PBM) states, "For Mail Order Pharmacy Claims and Specialty Drug Claims, PBM shall charge CareFirst no more than the Pass-Through Price"

As part of our audit notification letter and pre-audit information request, we asked for the PBM's AAC summaries for mail order and specialty drugs. The PBM forwarded this request to its accounting department who then identified an error in the pricing of mail order and specialty drugs that were dispensed to the Carrier's FEHBP members. The error was that all mail order and specialty drugs were priced based on a discount to the Average Wholesale Price, or AWP, which is an industry benchmark published by Medi-Span and/or First Databank. Beginning in 2011, the FEHBP required new PBM transparency standards for all fee-for-service carriers and experience-rated health maintenance organizations that renegotiate or amended their PBM contracts. The new standards required pass-through

transparent pricing based on the actual cost the PBM paid for the drugs. Because the PBM owns mail order warehouses and specialty pharmacies, the cost of drugs dispensed through those pharmacies is to be based on the AAC, not an industry benchmark where spread pricing is possible. The PBM should have priced the mail order and specialty drugs for FEHBP members based on the cost it paid for the drugs, or provided an end-of-year comparison and true-up to ensure that the AAC was passed-through to the FEHBP.

The Agreement between the Carrier and the PBM includes non-FEHBP commercial groups that have drugs priced by the PBM based on industry benchmarks or guarantees found in the Agreement. The Carrier's FEHBP group is only a small portion of its line of business. The pricing error occurred because the Carrier's FEHBP group was not appropriately flagged for inclusion within the PBM's AAC reconciliation and true-up procedures for its other stand-alone OPM clients with transparency standards. Because the PBM did not price the FEHBP drugs filled by its mail order warehouses and specialty pharmacies based on the AAC, or provide an end-of-year true-up for pass-through pricing, the FEHBP was overcharged \$4,743,399 from CYs 2014 through 2018.

To help resolve this finding, the PBM agreed to the pricing error and returned \$4,743,399 to the Carrier for overcharges related to mail order and specialty drug AAC from CYs 2014 through 2018. The PBM also reported that it had adopted the following new controls to help prevent similar pricing errors from occurring in the future:

- The PBM's accounting department adopted "ASC 606 Revenue Guidance" which contains enhanced revenue controls aimed to capture specific provisions such as AAC. The adoption of "ASC 606 Revenue Guidance" will help prevent similar omission errors from occurring.
- Quarterly meetings will now be held with the PBM's underwriting and legal departments to review new contractual performance obligations.
- The PBM's underwriting and legal departments have been made aware that its accounting department must be informed of unique pricing arrangements such as the one set-up for CareFirst (multiple carriers with only one specific carrier containing an AAC component).

Recommendation 1

We recommend that OPM's Contracting Officer and Chief Financial Officer verify that the \$4,743,399 credit to the Carrier from the PBM is properly returned to the FEHBP's Letter of

Credit Account (LOCA) for overcharges related to the AAC for mail order and specialty drugs from CY 2014 through 2018.

Carrier and PBM Response:

The Carrier agreed with the finding and stated that it returned \$4,743,399 to the FEHBP LOCA. “Additionally, the Carrier and the PBM have adopted new controls to help prevent the recurrence of this type of issue in the future.”

2. Retail Pass-Through Pricing \$834,425

The PBM did not provide pass-through transparent pricing based on the full value of the discounts it negotiated with two retail pharmacies for CYs 2014 through 2016, resulting in an overcharge of \$834,425 to the FEHBP.

Section 1.28(a)(2) of the Contract (between OPM and the Carrier) states that the PBM agrees to provide pass-through transparent pricing based on the PBM’s cost for drugs in which the Carrier receives the value of the PBM’s negotiated discounts.

Additionally, section 3.2 (a) of the Agreement (between the Carrier and the PBM) states, “‘Pass-Through Price’ is defined as the PBM’s drug cost and/or dispensing fee for a Prescription Dispensed, such cost to include the full value of the PBM’s negotiated discounts, Rebates, Manufacturer Payments, credits and all other financial benefits received by the PBM at any point in time in connection with the Prescription Dispensed.”

As part of our audit, we reviewed a random sample of 10 brand and 10 generic retail pharmacy claims for each year to ensure that the FEHBP received pass-through transparent pricing based on the full value of the PBM’s negotiated discounts listed in its pharmacy contracts. During this review we found that the FEHBP received a lessor discount than what was listed in the Walgreens and Rite Aid pharmacy contracts for CYs 2014 through 2016.

The PBM did not provide pass-through pricing based on the full value of its negotiated discounts with two retail pharmacies.

When we asked the PBM why it did not provide pass-through transparent pricing for Walgreens and Rite Aid claims, the PBM stated that the pharmacy claims were priced at the Carrier’s guaranteed discount (based on an annual true-up) listed in the Agreement and not at the discount found in the pharmacy contracts. Given the discrepancies noted in our sample, we repriced all Walgreens and Rite Aid pharmacy claims at the discount negotiated by the

PBM in its contract with these two pharmacies and found that the FEHBP was overcharged \$834,425 for CYs 2014 through 2016. The chart below represents the questioned costs after netting out each year's true-up payment by the PBM to meet the guaranteed discount given to the Carrier:

| Contract Year | Additional Discount Received by the PBM on FEHBP Claims | Less Year-End Penalty Payment to Carrier | Net Questioned Costs to Receive Value of PBM's Discounts |
|----------------------|--|---|---|
| 2014 | \$278,298 | \$0 | \$278,298 |
| 2015 | \$964,257 | \$801,987 | \$162,270 |
| 2016 | \$1,569,496 | \$1,175,639 | \$393,857 |
| Total | \$2,812,051 | \$1,977,626 | \$834,425 |

Recommendation 2

We recommend that the PBM return \$834,425 to the Carrier (to be credited to the FEHBP) for failing to provide pass-through pricing to the FEHBP at the full value of the PBM's negotiated discounts with Walgreens and Rite Aid retail pharmacy claims for CYs 2014 through 2016.

Carrier and PBM Response:

The Carrier and the PBM disagree that the FEHBP is due the value of the negotiated discounts found in each individual pharmacy contract. Instead, they insist that whatever amount the PBM pays the pharmacy, is the amount that should be charged to the FEHBP as stated here: "The Carrier and its PBM respectfully disagree with the OIG's interpretation of the OPM Transparency Standards set forth in section 1.28(a)(2) of the Contract between OPM and the Carrier. Section 1.28(a)(2) of the Contract states, in part: 'The PBM agrees to provide pass-through transparent pricing based on the PBM's cost for drugs (as described below).' Immediately following this general statement are three, more detailed subsections explaining what this means in terms of retail pharmacy claims, mail pharmacy claims, and Manufacturer Payments allocable to the Carrier. The subsection interpreting this general statement in the context of retail pharmacy claims states, as indicated in Finding B.2: '(i) The PBM shall charge the Carrier no more than the amount it pays the pharmacies in its retail network for brand and generic drugs plus a dispensing fee.' Unlike Contract provisions addressing mail pharmacy claims and Manufacturer Payments, this subsection governing retail pharmacy claims provides no additional specific mandate as to how the value of the PBM's negotiated discounts must be passed through to

the Carrier (which, as described in detail below, the PBM has done), only that the PBM may not charge the Carrier more than the amount it pays the retail pharmacy. The PBM has fully complied with this provision and has not charged the Carrier for any claims in an amount greater than the amount it reimbursed to the retail pharmacies.”

OIG Comment:

The OIG disagrees with the Carrier and PBM’s interpretation of pass-through pricing. The Contract and the Agreement clearly state that the FEHBP is to receive the full value of the PBM’s negotiated discounts. The PBM negotiated an overall effective discount with Walgreens and Rite Aid pharmacies that was greater than the discount that the PBM gave to the FEHBP for drugs filled by those two pharmacies. Consequently, the FEHBP did not receive the full value of the PBM’s negotiated discounts. Instead, when the PBM gave the FEHBP a lesser discount, it actually shifted greater discounts to other clients where it could potentially make additional profit. This variable and discretionary pricing by the PBM does not represent the FEHBP receiving the full value of the PBM’s negotiated discounts with Walgreens and Rite Aid, nor does it meet the requirements of the FEHBP transparency standards. The PBM already receives a per claim administrative fee with set profit under the FEHBP transparency standards. For that exact reason, the overall effective discounts listed in the pharmacy contracts are to be passed-through to the FEHBP, and the PBM should not price the pharmacy claims at higher amounts.

Additionally, the FEHBP’s transparency standards and the Agreement allow the OIG to audit prescription drug pricing back to the contracts between the PBM and the individual pharmacies. Using the Carrier and PBM’s argument, the PBM insists that it is allowed to charge any amount it chooses without regard to the negotiated discounts that are listed in the individual pharmacy contracts. If that statement were accurate, the OIG would have no purpose in obtaining pharmacy contracts or ensuring that the discounts in those contracts were passed-through to the FEHBP, which would essentially void the FEHBP’s transparency standards for PBMs.

To summarize, the OIG’s analysis and justification listed above clearly shows that the Carrier and PBM’s interpretation is flawed. The value of the PBM’s negotiated discounts with Walgreens and Rite Aid pharmacies are listed directly in their contracts, and those are the discounts that the FEHBP should receive on prescription drugs filled by those two pharmacies. The PBM is not allowed to price the claims at any discount or amount it chooses in an attempt to circumvent the FEHBP transparency standards, thereby giving other clients more favorable pricing with Walgreens and Rite Aid retail pharmacy claims.

Recommendation 3

We recommend that the PBM continue researching this issue and identify all other pharmacies whose full value of the negotiated discounts were not passed through to the FEHBP.

Carrier and PBM Response:

The Carrier and PBM disagree with this recommendation for the reasons stated in response to recommendation 2.

OIG Comment:

The OIG disagrees with the Carrier and PBM's response as shown in our comments following recommendation 2.

Recommendation 4

We recommend that the Carrier require the PBM to pay FEHBP pharmacy claims based on the full value of the PBM's negotiated discounts with retail pharmacies at the time of adjudication. The guarantee found in the Agreement (between the Carrier and the PBM) should only be applied as a true-up when that guaranteed discount exceeds the pass-through transparent pricing for the period being analyzed.

Carrier and PBM Response:

The Carrier and PBM disagree with this recommendation for the reasons stated in response to recommendation 2 and reaffirms it has fully complied with the OPM Transparency Standards.

OIG Comment:

The OIG disagrees with the Carrier and PBM's response as shown in our comments following recommendation 2.

Recommendation 5

We recommend that the Carrier require the PBM to provide annual comparisons and/or true-ups showing that the FEHBP received the larger discount of either the guarantee found in the

Agreement (between the Carrier and the PBM) or the pass-through transparent pricing equal to the full value of the PBM's negotiated discounts with retail pharmacies.

Carrier and PBM Response:

The Carrier and PBM disagree with this recommendation, stating, "There is no requirement under Contract No. CS 2879 that necessitates annual comparisons and/or true-ups between the retail pharmacy pricing discounts and the guarantees included in the agreement between the Carrier and the PBM. The Carrier receives all of the guarantees that are included in its agreement with the PBM each year. ... In addition, as described in detail above, the Carrier and its PBM have fully complied with the OPM Transparency Standards, as written, and has passed the value of its negotiated discounts to the Carrier."

OIG Comment:

The OIG disagrees with the Carrier and PBM's response as shown in our comments following recommendation 2. Additionally, the requirement to perform an end of the year comparison and true up between the AWP discount and Carrier guarantee is actually listed in the Agreement, not the Contract. As stated in the Agreement, under both the 2014 amendment for FEHBP transparency standards and page 14 of Schedule B, Part 1.2 for Total Ingredient Cost Guarantees, AWP Discount Guarantees, and Pricing Guarantees, the "PBM guarantees that within 45 days after the end of each Contract Year, it will calculate and report the actual Ingredient Cost discounts (based on the AWP discount, MAC, or U&C) expressed as a percentage off of AWP, for Claims Reimbursed in the prior Contract Year ('Actual Average AWP Discount')." If the Actual Average AWP Discount is less favorable to CareFirst than the corresponding AWP Discount Guarantee, then the PBM will pay CareFirst the shortfall on a dollar-for-dollar basis.

Recommendation 6

We recommend that the PBM adopt controls to ensure that the FEHBP always receives pass-through transparent pricing. Controls should include an annual check to ensure that the FEHBP received, at a minimum, the full value of the PBM's negotiated discounts with retail pharmacies.

Carrier and PBM Response:

The Carrier and PBM disagree with this recommendation, stating, "The PBM has fully complied with the OPM transparency standards reflected in Contract No. CS 2879. There

is no requirement set forth in Contract No CS 2879 that would necessitate a change in the PBM’s retail pharmacy claim adjudication and payment practices. The PBM and the Carrier have controls in place to ensure that the passthrough pricing requirements identified in the OPM Transparency Standards are met. The Carrier has also updated its processes to include the implementation of reconciliation audits to be conducted by an independent third-party auditor to ensure that FEHBP always receives passthrough transparent pricing.”

OIG Comment:

The OIG disagrees with the Carrier and PBM’s response as shown in our comments following recommendation 2.

C. CLAIMS ELIGIBILITY REVIEW

The results of our review showed that the PBM paid claims for eligible benefits in accordance with Federal and program requirements.

D. DRUG MANUFACTURER REBATES REVIEW

The results of our review showed that the PBM correctly billed, collected, and passed-through drug manufacturer rebates to the Carrier and the FEHBP.

E. FRAUD AND ABUSE PROGRAM REVIEW

The results of our review showed that the Carrier and the PBM had sufficient policies and procedures in place to help prevent fraud and abuse.

F. PERFORMANCE GUARANTEES REVIEW

1. Performance Penalties Due to the FEHBP \$53,478

The Carrier did not allocate or credit \$53,478 in PBM performance penalties to the FEHBP for CYs 2014 through 2017.

Section 1.28 of the Contract lists transparency standards that the PBM and Carrier must follow, to include pass-through pricing of all rebates, credits, and other financial benefits.

Additionally, Schedule F - Section 9.1 of the Agreement states that the PBM will include data associated with FEHBP members in the calculation of the performance guarantees, penalties, and minimum performance requirements.

The Carrier did not provide \$53,478 in PBM performance guarantee penalties to the FEHBP.

To determine if the PBM accurately calculated, reported, and paid any performance guarantees and penalties required by the Agreement, we compared the metrics and penalties reported by the PBM in the Performance Guarantee Tracking and Reporting annual report to the performance guarantees listed in the Agreement for CYs 2014 through 2017. We then recalculated the performance penalties due to the Carrier from the PBM. Because the annual report did not contain sufficient information to recalculate all metrics with a penalty due, we requested additional information from the Carrier. The additional information identified \$1,052,100 in PBM performance penalties that were credited to the Carrier for its book of business from CYs 2014 through 2017. The Carrier verified that FEHBP data was included in all applicable performance guarantees and provided the OIG with a breakout of the FEHBP membership percentage compared to its book of business. Using the membership percentages provided by the Carrier, we calculated the FEHBP's share of the PBM performance penalties that were not allocated to the FEHBP and determined that \$53,478 in penalties should have been allocated and credited to the FEHBP for CYs 2014 through 2017.

The Carrier stated, "In connection with this audit, CareFirst realized that it overlooked the allocation process and is in the process of determining the total amount that should be allocated to [the] FEHBP." By not allocating or crediting the FEHBP's portion of the PBM performance penalties from CYs 2014 through 2017, the FEHBP was overcharged \$53,478.

Recommendation 7

We recommend that the Carrier return \$53,478 to the FEHBP for the PBM's performance penalties received from CYs 2014 through 2017.

Carrier Response:

The Carrier agrees with this finding and stated that it returned \$53,478 to the FEHBP LOCA.

Recommendation 8

We recommend that the Carrier implement policies and procedures to ensure that all PBM performance penalties, and other financial benefits that include FEHBP data, are properly allocated and credited to the FEHBP in future years.

Carrier Response:

“The Carrier agrees with this recommendation. Policies and procedures are being completed and executed to ensure that all PBM performance guarantee penalties, and other financial benefits that include FEHBP data, are consistently and properly allocated and credited to the FEHBP in future years.”

APPENDIX

CareFirst BlueChoice, Inc.
10455 Mill Run Circle
Owings Mills, MD 21117
www.carefirst.com



June 5, 2020

████████████████████
Special Audits Group
Office of the Inspector General
U.S. Office of Personnel Management
1900 E Street, Room 6400
Washington, DC 20415

**Reference: OPM DRAFT AUDIT REPORT
CareFirst BlueChoice's Federal Employees Health Benefits Program Pharmacy
Operations as Administered by CVS Caremark for Contract Years 2014 through
2017
Audit Report No. 1H-07-00-19-017
(Dated May 7, 2020)**

Dear Mr. █████:

This is CareFirst BlueChoice's (Carrier's) response to the above referenced U.S. Office of Personnel Management (OPM) Draft Audit Report (Draft Audit Report) covering the Federal Employees' Health Benefits Program (FEHBP). The Carrier is committed to enhancing existing procedures on issues identified by OPM. Please consider this feedback when updating the OPM Final Audit Report.

Our comments concerning the findings in the report are as follows:

A. Administrative Fees Review

The Carrier acknowledges OIG's findings.

B. Claim Pricing Review

1. **Actual Acquisition Costs Not Received** **\$4,743,399**

Recommendation 1

We recommend that OPM's contracting officer and Office of the Chief Financial Officer verify that the \$4,743,399 credit to the Carrier from the PBM is properly returned to the FEHBP's letter of credit account for overcharges related to mail order and specialty drugs from CY 2014 through 2018.

Carrier's Response:

The Carrier agrees with this finding. Carrier has returned \$4,743,399 to the FEHBP Letter of Credit Account (LOCA). Please see Attachment # 1 which contains confirmation that the Carrier returned \$4,743,399 to the LOCA.

Additionally, the Carrier and the PBM have adopted new controls to help prevent the recurrence of this type of issue in the future.

2. Retail Pass-Through Pricing

\$ 4,357,131

Recommendation 2

We recommend that the PBM return \$4,357,131 to the Carrier (to be credited to the FEHBP) for failing to provide the full value of the PBM's negotiated discounts when paying CY 2014 through 2017 Walgreens and Rite Aid retail pharmacy claims.

Carrier's Response:

The Carrier and its PBM do not agree with this finding, for the following reasons:

1. OPM Transparency Standards.

The Carrier and its PBM respectfully disagree with the OIG's interpretation of the OPM Transparency Standards set forth in section 1.28(a)(2) of the Contract between OPM and the Carrier. Section 1.28(a)(2) of the Contract states, in part: "The PBM agrees to provide pass-through transparent pricing based on the PBM's cost for drugs (as described below)." Immediately following this general statement are three, more detailed subsections explaining what this means in terms of retail pharmacy claims, mail pharmacy claims, and Manufacturer Payments allocable to the Carrier. The subsection interpreting this general statement in the context of retail pharmacy claims states, as indicated in Finding B.2: "(i) The PBM shall charge the Carrier no more than the amount it pays the pharmacies in its retail network for brand and generic drugs plus a dispensing fee." Unlike Contract provisions addressing mail pharmacy claims and Manufacturer Payments, this subsection governing retail pharmacy claims provides no additional specific mandate as to how the value of the PBM's negotiated discounts must be passed through to the Carrier (which, as described in detail below, the PBM has done), only that the PBM may not charge the Carrier more than the amount it pays the retail pharmacy. The PBM has fully complied with this provision and has not charged the Carrier for any claims in an amount greater than the amount it reimbursed to the retail pharmacies.

Section 1.28(a)(2) also includes, as part of the general description of "pass-through transparent pricing", which describes all pricing in general and not retail network pricing in particular, the clause: "in which the Carrier receives the value of the PBM's negotiated discounts, rebates, credits or other financial benefits". The PBM has reasonably understood this portion of the provision to be a general statement regarding the overall pricing approach that applies to all channels of service in aggregate, and not explicitly to each channel individually. For instance, there are no rebates involved in the retail or mail channels (subsections (i) and (ii) of Section 1.28(a)(2)), so there is no rebate value to pass through with regard to those claims, demonstrating that this is a statement of general intent. In short, nothing in Section 1.28(a)(2) mandates passing through to the Carrier the aggregate rate the PBM contracted with the retail pharmacy, which rate is not claim or client specific, and which, as set forth in more detail below, cannot feasibly be applied on a claim-by-claim basis. The language requires that the amount charged to the Carrier must be no more than the amount paid to the pharmacy, and the PBM has complied with this mandate.

Furthermore, it is instructive that Section 1.28(a)(2)(ii) of the Transparency Standards, governing pass-through of a PBM's actual acquisition cost of drugs dispensed by the PBM's mail order and specialty pharmacies, states clearly that the PBM must base its pricing at such pharmacies on its actual costs for drugs, and not on an industry benchmark such as Average Acquisition Cost or Wholesale Acquisition Cost. As noted above, Section 1.28(a)(2)(i), governing the PBM's pricing through retail pharmacies, contains no such specificity regarding the use of industry benchmarks to set pricing. The only specific mandate governing retail pharmacy pricing is that the PBM cannot charge the Carrier more than the amount it pays to the pharmacies in its network.

2. Retail Pharmacy Effective Rate Guarantees.

The PBM's performance under its contract with the Carrier is consistent with general industry practice and the PBM's retail pharmacy network practices with its broader book of business. Under the pass-through pricing in place between the PBM and the Carrier, the amount billed to the Carrier equals the amount paid to the retail pharmacy. The PBM establishes the adjudication rates for a client's retail pharmacy claims based on a number of factors, including the terms it is able to negotiate with retail pharmacies, the network elections made by the client, the pharmacy utilization patterns of the client's plan membership, the mix of drugs filled under the plan benefit, changing marketplace conditions, and the overall pricing commitments made to the client during a competitive procurement, which includes minimum effective rate discount guarantees. The minimum retail effective rate discount guarantee between the PBM and the Carrier is a commitment by PBM that the Carrier will not pay more than the guaranteed discount level for drugs dispensed to their FEHBP members. This enables predictability of overall reimbursement performance over the course of the year. As is the case with other clients that have contracted for pass-through retail pharmacy pricing, the guarantee is measured in the aggregate at the end of the year based on the Carrier's FEHBP member claims utilization at all retail network pharmacies. The PBM's guarantee does not require the Carrier to repay any overperformance amount to PBM (i.e., if PBM is able to pass through to the Carrier pricing that is lower than the guaranteed discount level, the Carrier retains that value), while the PBM is required to reimburse the Carrier for any underperformance (i.e., PBM must financially true-up a failure to pass through to the Carrier pricing at the guaranteed discount level). It is a one-way guarantee. The Carrier is invoiced the same amount the PBM pays to the dispensing pharmacy for the claim. Our effective rate guarantees and reconciliation process with the retail pharmacy network do not involve claims level adjustments for the Carrier's FEHBP plan or any other PBM client. The reconciliations are not done on a claim, pharmacy, client, state or line of business-specific basis; indeed, such an exercise would be untenable due to the variability of the mix of drugs filled by plan members, the use of maximum allowable cost pricing² and the members' selection of which pharmacy to use to fill their claims. Any effective rate aggregate reconciliations occur at the pharmacy chain level and only contemplate aggregate performance across all pharmacies across the entire country within a pharmacy chain for all business with the PBM. As a result, there is no specific reconciliation made between the PBM and the retail pharmacy specific to the Carrier. The PBM is constantly balancing the performance of the retail network across all its clients using the network, while using its best efforts both to meet or exceed its client discount guarantees and to meet its retail pharmacy reimbursement guarantees.

² Maximum allowable cost pricing sets a maximum reimbursement rate for a specific generic drug, regardless of manufacturer. Because a more expensive version of a generic drug from one manufacturer will adjudicate at the same price as a lower list price version of the same generic drug from another manufacturer, the former drug with the higher list price will adjudicate at a deeper discount rate than the lower cost equivalent from another manufacturer, despite the fact that both equivalent products will adjudicate at the exact same price. For example, if Generic A has an Average Wholesale Price (AWP) of \$50 and equivalent Generic B has an AWP of \$45, and both have a maximum allowable cost of \$15, the adjudicated effective AWP discount of Generic Drug A is AWP-70%, and the effective AWP discount of Generic Drug B is AWP-67%.

3. Carrier Pricing Terms and Competitive Procurements.

When examining the pricing terms of a PBM client, it is essential to view all pricing terms in aggregate. It is deceptively easy to make the incorrect assumption that a client with a certain retail network effective discount rate is subsidizing another client that receives a deeper retail network effective discount rate, however, a client with a deeper retail network effective discount is no more being subsidized by a client with a less deep effective discount than a client with conventional mail pricing is subsidizing a client, like the Carrier, with acquisition cost mail pharmacy pricing. Individual pricing elements applied to subsets of claims is not an effective way to determine if a PBM has passed the value of the terms it has negotiated with its network pharmacies, wholesalers and manufacturers through to its client. To properly make this determination, it is necessary to consider all pricing terms in aggregate³ and to understand the manner in which the specific pricing elements for different channels arise. PBM contracts are universally derived from competitive procurements, consistent with the OPM standards for PBM arrangements. In these procurements, different clients have different plan designs and different objectives for their pharmacy program. This variability will often lead to significant variability in the pricing terms demanded by prospective or renewing clients, and guaranteed by the PBM. For instance, one client may highly value extremely deep retail pharmacy discount guarantees, while not being as concerned with mail pharmacy rates, rebates or administrative fees. Other clients may require relatively less in terms of retail pharmacy discounts, instead preferring to drive a high percentage of mail pharmacy utilization and deeper discounts in that channel, with very low administrative fees. Still other clients, such as the FEHBP carriers, value transparency very highly, with requirements for mail pharmacy acquisition cost pricing and full pass-through of all manufacturer revenues/rebates. The PBM must be responsive to the requirements of its different clients, while balancing the pricing terms it has or reasonably expects to have with pharmacies, wholesalers and manufacturers, and then present an offer financially compelling enough to win a competitive procurement.

The Carrier, consistent with OPM transparency requirements, required a competitive balanced offer with no spread pricing on retail pharmacy claims, acquisition cost pass-through pricing on mail pharmacy claims, pass-through of all Manufacturer Payments and competitive administrative fees. The PBM's contracted pricing met this requirement and, consistent with the OPM transparency requirements, passed through to the Carrier the collective value of the PBM's negotiated discounts, rebates, credits and other financial benefits. In determining the criteria for their respective RFPs, and which pricing requirements are the most important to their evaluation of the PBM's pricing proposal, FEHBP carriers engage industry consultants who evaluate pricing offers to determine the competitiveness of those offers, often giving substantial feedback as to which aspects of the pricing offer must be improved in order for a PBM to be determined to have the most attractive offer. The Carrier's FEHB Plan is no exception to this process. The Carrier has historically engaged top tier consultants to enhance its understanding of current market conditions during RFPs. This process of competitively procuring the PBM services, with the advice and resources of a top tier consultant, ensured that Carrier was obtaining the most competitive pricing offering available at the time of its procurements. This process ensured, no matter how the various aspects of the pricing offer were balanced in response to the RFP, that the PBM's offer was the most financially valuable offer to the Carrier's FEHB Plan. This process also ensured that the FEHB Plan received the value of the PBM's negotiated discounts, rebates, credits and other financial benefits.

³ See Section 5 (The Carrier Received the Value of PBM's Negotiated Discounts) below for a detailed explanation as to how the Carrier has received the full value of all PBM's negotiated discounts, rebates, credit and financial benefits, in aggregate.

4. Retail Pharmacy Contracting.

The production of a competitively successful proposal is made more complex by the fact that the PBM contracts most of its retail network pricing annually, and even in cases where the PBM has pharmacy pricing contracted on a multi-year basis, the timing of the negotiation of such pharmacy pricing terms may not coincide with the PBM's contracting with its clients. This means that when the PBM negotiates a multi-year PBM services arrangement with a client, such as the contract between PBM and the Carrier, the PBM has, at most, one year of retail pricing contracted with its broader retail network, and often does not even have that, resulting in the PBM's reliance on historic pricing trends. Accordingly, we must make educated guesses at where the retail network reimbursement rates are headed when committing to client pricing guarantees, and then we must attempt to negotiate rates with pharmacies to support the pricing commitments made. For retail pharmacies with whom the PBM has negotiated multi-year contracts, such as the two pharmacy chains specified in Finding B.2, the PBM generally contracts on an effective rate basis, where, as noted in Section 2 (Retail Pharmacy Effective Rate Guarantees), above, the PBM reconciles overall pricing annually with the pharmacy chain. An effective rate pricing arrangement enables the PBM to ensure it can meet all client contractual guarantees that are established during the competitive procurement.

5. The Carrier Received the Value of PBM's Negotiated Discounts.

As noted above, the OPM Transparency Standards' mandate that "the Carrier [must receive] the value of the PBM's negotiated discounts, rebates, credits or other financial benefits" which must be applied in aggregate to the overall pricing terms provided by the PBM to the Carrier. When properly reviewed in the aggregate, the pricing terms provided by the PBM to the Carrier passed through the value of the PBM's negotiated discounts, rebates, credits or other financial benefits, and more. This is revealed by a calculation of the gross margin received by the PBM from the FEHB Plan, in comparison to the operating income disclosures made in its 10K filings with the SEC. Please refer to PBM's May 8, 2020 supplement response to OIG's Notification of Finding and Recommendations ("NFR") () for the specific gross margin calculations⁴ for the Carrier's FEHB Plan, which margin calculations are all verifiable by the OIG pursuant to the Transparency Standards and FEHBA 1652.246-70, as well as the summary operating profit disclosures for CVS Health Corporation's Pharmacy Services segment, which disclosures are contained in SEC 10K filings available at the following url: <https://investors.cvshealth.com/investors/sec-filings/default.aspx>.

As set forth in detail in the NFR Response, the PBM's gross margin for the Carrier's FEHBP line of business was considerably lower than the operating profit for CVS Health Corporation's broader Pharmacy Services segment (of which, the PBM constitutes the vast majority of the operations). Accordingly, the differential between the amount the Carrier paid the PBM for fees and drugs, net of acquisition cost reconciliation payments and minimum pricing discount guarantee payments for retail network claims made to the Carrier by the PBM, and before the allocation of any of the PBM's operating expenses for providing services to the Carrier, was significantly lower than the PBM's operating profit measured across all its pharmacy services clients. The analysis in the NFR Response very clearly demonstrates that, in aggregate, the prices paid by the Carrier's FEHB Plan were substantially lower than the prices charged by the

⁴ The full NFR Response analysis contains confidential commercial information of the PBM under 5 C.F.R. §294.112, that constitutes trade secrets of the PBM, and was therefore not included in its entirety in this response to the Draft Audit Report.

PBM across its PBM book of business.⁵ This analysis demonstrates that the PBM has provided substantially higher value to the Carrier's FEHB Plan than the average value realized across its book of business and the PBM passed through to the Carrier the value of its negotiated discounts, rebates, credits and other financial benefits.

In addition, over the four years audited (2014 – 2017), notwithstanding the PBM's efforts to balance the retail pharmacy reimbursement terms it was able to negotiate with its pricing commitments to clients, the PBM missed its retail pharmacy generic pricing guarantee to the Carrier for its FEHBP plan for three of the four years, resulting in payments to the Carrier totaling approximately \$3,834,000. In addition, during this time period the PBM consistently overperformed on the retail dispensing fee and brand drug pricing guarantees to the Carrier – by approximately \$5,196,000 in the case of brand drug pricing guarantees. This overperformance, which the Carrier retained, coupled with the reconciliation payments on the generic drug guarantees, passed far more retail pharmacy value to the Carrier's FEHBP Plan than the amount of value perceived to have been lost in Finding B.2.

6. OIG has Audited Substantially Similar Pricing and Contracting Arrangements in the Past and Made No Findings.

In 2017 the OIG was completing an audit of other FEHBP carriers that the PBM provides PBM services to. That audit covered the time period from 2012-2014. In the course of that audit, OIG reviewed the PBM's retail network contracts with the same two retail pharmacy chains noted in Finding B.2 and raised similar questions to those being raised in Finding B.2. The PBM's retail network pharmacy contracting process and structure, as well as its process for determining the adjudication rates for pharmacy claims was materially the same from 2012 to 2014 as it was from 2014 to 2017. The PBM provided responses to OIG's questions relating to the 2012-2014 audit that were fully aligned with the explanations we provided in the NFR Response and in discussions with the OIG. In 2017, after providing its explanations, the PBM received no further communication from the OIG questioning the compliance of the PBM's retail pharmacy claim adjudication rate practices or the manner in which we provide the best overall value to an FEHBP carrier client. Accordingly, in light of the fact that the PBM has not materially changed its practices in this regard, the PBM believes that its practices continue to align with the Transparency Standards.

In conclusion, it remains the PBM's position that it complied with the stated requirements in Section 1.28(a)(2) of the Carrier's contract with OPM and passed through to the Carrier's FEHB Plan the value of its negotiated discounts, rebates, credits and other financial benefits.

Recommendation 3

We recommend that the PBM continue researching this issue and identify all other pharmacies whose full value of the negotiated discounts were not passed through to the FEHBP.

⁵ The substantial value of the rebates delivered to the FEHB Plan was not included in the NFR Response analysis because the Transparency Standards mandate a full pass-through of those rebates. Note however, that the PBM is permitted to retain a portion of the rebates it negotiates and collects for some of its clients, or related administrative fees, which is not a source of margin available on the FEHB business. Therefore, had the value of the rebates paid to the Carrier been factored into the value calculation as well, the value to the FEHB Plan would have increased further.

Carrier's Response:

The Carrier and PBM respectfully disagree with this recommendation. For the reasons set forth in detail above, the PBM reaffirms that it has fully complied with the OPM Transparency Standards, as written, and has passed the value of its negotiated discounts to the Carrier.

Recommendation 4

We recommend that the Carrier require the PBM to pay FEHBP pharmacy claims based on the full value of the PBM's negotiated discounts with retail pharmacies at the time of adjudication. The guarantee found in the PBM's agreement with the Carrier should only be applied as a true-up when that guaranteed discount exceeds the pass-through transparent pricing for the period being analyzed.

Carrier's Response:

The Carrier and PBM respectfully disagree with this recommendation. For the reasons set forth in detail above, the PBM reaffirms that it has fully complied with the OPM Transparency Standards, as written, and asserts that there is no requirement set forth in the OPM Transparency Standards that would necessitate a change in the PBM's retail pharmacy claim adjudication and payment practices.

Recommendation 5

We recommend that the Carrier require the PBM to provide annual comparisons and/or trueups showing that the FEHBP received the larger discount of either the guarantee found in the PBM's agreement with the Carrier or the pass-through transparent pricing equal to the full value of the PBM's negotiated discounts with retail pharmacies.

Carrier's Response:

There is no requirement under Contract No. CS 2879 that necessitates annual comparisons and/or true-ups between the retail pharmacy pricing discounts and the guarantees included in the agreement between the Carrier and the PBM. The Carrier receives all of the guarantees that are included in its agreement with the PBM each year. No true ups or comparisons are required to ensure that those guarantees are provided. In addition, as described in detail above, the Carrier and its PBM have fully complied with the OPM Transparency Standards, as written, and has passed the value of its negotiated discounts to the Carrier.

Recommendation 6

We recommend that the PBM adopt controls to ensure that the FEHBP always receives passthrough transparent pricing. Controls should include an annual check to ensure that the FEHBP received, at a minimum, the full value of the PBM's negotiated discounts with retail pharmacies.

Carrier's Response:

The PBM has fully complied with the OPM transparency standards reflected in Contract No. CS 2879. There is no requirement set forth in Contract No CS 2879 that would necessitate a change in the PBM's retail pharmacy claim adjudication and payment practices. The PBM and the Carrier have controls in place to ensure that the passthrough pricing requirements identified in the OPM Transparency Standards are met. The Carrier has also updated its processes to include the implementation of reconciliation audits to be conducted by an independent third-party auditor to ensure that FEHBP always receives passthrough transparent pricing.

C. Claims Eligibility Review

The Carrier acknowledges OIG's findings.

D. Drug Manufacturer Rebates Review

The Carrier acknowledges OIG's findings.

E. Fraud and Abuse Program Review

The Carrier acknowledges OIG's findings.

F. Performance Guarantees Review

1. Performance Penalties due to the FEHBP **\$53,478**

Recommendation 7

We recommend that the Carrier return \$53,478 to the FEHBP for the PBM's performance guarantee penalties from CY 2014 through 2017.

Carrier's Response:

The Carrier agrees with this finding. Carrier has returned \$53,478 to the FEHBP Letter of Credit Account (LOCA). Please see Attachment # 2 which contains confirmation that the Carrier returned \$53,478 to the FEHBP on May 26, 2020.

Recommendation 8

We recommend that the Carrier implement policies and procedures to ensure that all PBM performance guarantee penalties, and other financial benefits that include FEHBP data, are properly allocated and credited to the FEHBP in future years.

Carrier's Response:

The Carrier agrees with this recommendation. Policies and procedures are being completed and executed to ensure that all PBM performance guarantee penalties, and other financial benefits that include FEHBP data, are consistently and properly allocated and credited to the FEHBP in future years. This includes a comprehensive process to update the oversight and validation of the PBM's measurement processes, as well as resulting data associated with performance guarantees.

We appreciate the opportunity to provide our response to this Draft Audit Report and request that our comments be included in their entirety as an amendment to the Final Audit Report.

Sincerely,

Derek Butler, Director
FEP Audit and Advisory Services



Report Fraud, Waste, and Mismanagement

Fraud, waste, and mismanagement in Government concerns everyone: Office of the Inspector General staff, agency employees, and the general public. We actively solicit allegations of any inefficient and wasteful practices, fraud, and mismanagement related to OPM programs and operations. You can report allegations to us in several ways:

By Internet: <http://www.opm.gov/our-inspector-general/hotline-to-report-fraud-waste-or-abuse>

By Phone: Toll Free Number: (877) 499-7295
Washington Metro Area: (202) 606-2423

By Mail: Office of the Inspector General
U.S. Office of Personnel Management
1900 E Street, NW
Room 6400
Washington, DC 20415-1100