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

Final Audit Report

Audit of Compass Rose Health Plan's Pharmacy Operations as Administered by Express Scripts, Inc. for Contract Years 2017 through 2022

Report Number 2023-SAG-019
November 14, 2024

EXECUTIVE SUMMARY

Audit of Compass Rose Health Plan's Pharmacy Operations as Administered by Express Scripts, Inc. for Contract Years 2017 through 2022

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Why Did We Conduct the Audit?

The objective of this 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 (OPM) Contract Number CS 1065 and applicable federal regulations.

What Did We Audit?

The OPM's Office of the Inspector General has completed a performance audit of Compass Rose (Carrier) Health Plan's pharmacy operations as administered by Express Scripts, Inc. (Pharmacy Benefit Manager or PBM). Our audit consisted of reviewing the administrative fees, annual accounting statements, claims eligibility and pricing, drug manufacturer rebates, fraud and abuse program, and performance guarantees for FEHBP pharmacy operations during contract years 2017 through 2022.

Michael R. Esser
Assistant Inspector General for Audits

What Did We Find?

We found that the PBM overcharged the Carrier and the FEHBP $18,443,118, including lost investment income, by not passing through all discounts and credits related to prescription drug pricing as required under the PBM transparency standards found in the Carrier's contract with OPM.

Specifically, our audit identified the following four findings that require corrective action. The findings occurred across all years of the audit scope unless otherwise noted:

- The FEHBP did not receive pass-through transparent drug pricing from the PBM for retail pharmacy claims, resulting in a $6,555,372 overcharge.
- The PBM failed to return $1,045,333 in retail pharmacy claim transaction fees that it was credited for the Carrier's retail prescription drug benefits.
- The FEHBP did not receive several of the drug purchasing discounts collected by the PBM for drugs filled by its own mail order warehouses and specialty pharmacies, resulting in a $248,194 overcharge.
- The PBM's sister company, Ascent Health Services, erroneously withheld a portion of the FEHBP's drug manufacturer rebates from June 2019 through December 2021, resulting in $10,594,219 due to the Carrier and FEHBP.

No exceptions were identified from our reviews of the administrative fees, annual accounting statements, claims eligibility, fraud and abuse program, and performance guarantees.

ABBREVIATIONS

Agreement	**The Pharmacy Benefit Management Agreement between the Carrier and the PBM**
Carrier	**Compass Rose**
CFR	**Code of Federal Regulations**
Contract	**OPM Contract Number CS 1065**
CY	**Contract Year**
FEHBP	**Federal Employees Health Benefits Program**
LII	**Lost Investment Income**
OIG	**Office of the Inspector General**
OPM	**U.S. Office of Personnel Management**
PBM	**Express Scripts, Inc. (Pharmacy Benefit Manager)**

TABLE OF CONTENTS

I. BACKGROUND

This report details the results of our audit of Compass Rose (Carrier) Health Plan's pharmacy operations as administered by Express Scripts, Inc. (Pharmacy Benefit Manager or PBM) for contract years (CY) 2017 through 2022. The audit was conducted pursuant to the provisions of the U.S. Office of Personnel Management's (OPM) contract number CS 1065 (Contract); the PBM Agreement with the Carrier (Agreement); and Title 5, Code of Federal Regulations (CFR), Part 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, 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 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, OPM's Healthcare and Insurance office contracts with various health insurance carriers that provide service benefits, indemnity benefits, and/or comprehensive medical services. The provisions of the Federal Employees Health Benefits Act are implemented by OPM through regulations codified in 5 CFR 890 and the Contract.

The PBM is 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 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 mail order pharmacy benefits. The PBM also provides specialty pharmacy services for members with rare and/or chronic medical conditions. The PBM is used to develop, allocate, and control costs related to the prescription drug program.

The Carrier contracted with the PBM, Express Scripts, located in St. Louis, Missouri, to provide pharmacy benefits and services to FEHBP members for CYs 2017 through 2022. Cigna Health acquired Express Scripts, Inc. in December 2018, at which point Cigna Health became the parent company and the PBM became its subsidiary. Section 1.11 of the Contract includes a provision that allows for audits of the program's operations. Additionally, Section 1.26 of the Contract outlines transparency standards that require the PBM to provide pass-through pricing based on its cost for drugs so that the Carrier and FEHBP receive the value of the PBM's negotiated discounts, rebates, credits, and other financial benefits. Our responsibility is to review the performance of the PBM and the Carrier to ensure that costs charged to the FEHBP, and services provided to its members, are in accordance with the Contract, the Agreement, and federal regulations.

Our previous audit of the Compass Rose Benefits Group's Pharmacy Operations (Report Number 1H-06-00-17-026[1]), dated August 16, 2018, covered CYs 2012 through 2015 and included reviews of the administrative fees, claim payments, fraud and abuse program, performance guarantees, and pharmacy rebates. All findings and recommendations from that audit have been satisfactorily resolved. The results of our current audit were discussed with Carrier and PBM officials at an exit conference on May 29, 2024. The Carrier submitted its response to the draft report on August 9, 2024, which has been included as an Appendix to this report.

[1] Report 1H-06-00-17-026 available at https://oig.opm.gov/reports/audit/audit-compass-rose-health-plans-pharmacy-operations-administered-express-scripts-inc

II. OBJECTIVES, SCOPE, AND METHODOLOGY

OBJECTIVES

The main objective of this audit was to determine whether 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 assess the following:

Administrative Fees Review

- Whether the Carrier paid the PBM's administrative fees in accordance with the Agreement.

Annual Accounting Statements Review

- Whether the Carrier accurately reported to OPM the prescription drug charges and drug manufacturer rebates for FEHBP operations.

Claims Eligibility Review

- Whether any claims were paid for ineligible dependents age 26 and older, excluded drugs, zero quantity filled, or members enrolled in another group.
- Whether claims with a high dollar amount or high quantity filled were paid correctly.

Claims Pricing Review

- Whether the pricing elements for retail, mail order, and specialty drug claims were transparent and priced correctly in accordance with the Contract and the Agreement.
- Whether the financial pricing guarantees were met, and if any penalties were accurately returned/credited to the FEHBP.

Drug Manufacturer Rebates Review

- Whether all drug manufacturer rebates and corresponding administrative fees were properly credited to the FEHBP.

Fraud and Abuse Program Review

- Whether the Carrier and the PBM complied with the FEHBP's fraud and abuse program requirements.

Performance Guarantees Review

- Whether the PBM performance guarantees were met, and if any penalties were accurately returned/credited to the FEHBP.

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, annual accounting statements, claims eligibility and pricing, drug manufacturer rebates, fraud and abuse program, and performance guarantees related to FEHBP pharmacy operations for CYs 2017 through 2022. As part of our survey work, we conducted pre-audit meetings with the Carrier and PBM during the month of August 2023. The audit fieldwork was completed remotely from our offices in Jacksonville, Florida; Washington. D.C.; and Cranberry Township, Pennsylvania from August 30, 2023, through May 29, 2024.

The Carrier is responsible for providing FEHBP members with medical and prescription drug benefits. To meet its responsibility for pharmacy operations, the Carrier contracted with the PBM to process prescription drug claims and collect rebates on its behalf. The PBM submitted the following invoice totals to the Carrier for pharmacy operations during the scope of our audit.

Contract Year	Pharmacy Claims Paid	Drug Manufacturer Rebates Credited	PBM Administrative Fees	Total Amount Paid to PBM
2017	$76,419,349	$13,415,357	$2,748,681	$65,752,673
2018	$84,720,662	$19,825,097	$3,198,410	$68,093,975
2019	$89,307,436	$22,144,146	$3,558,366	$70,721,656
2020	$96,106,565	$24,696,431	$3,837,507	$75,247,641
2021	$98,475,224	$25,211,202	$3,541,333	$76,805,355
2022	$99,195,445	$31,478,486	$3,324,038	$71,040,997
Total	**$544,224,681**	**$136,770,719**	**$20,208,335**	**$427,662,297**

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 for 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 structures, 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 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 the 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, were in accordance with the terms of the Contract, Agreement, and applicable federal regulations for CYs 2017 through 2022, we performed the following audit steps:

Administrative Fees Review

- For each CY, we judgmentally selected and reviewed the largest monthly administrative fee invoices and their line items (sample population of 6 invoices totaling $2,405,535 out of a universe of 78 invoices totaling $20,208,335) to determine if the PBM's fees were properly calculated and supported in accordance with the terms of the Agreement.

Annual Accounting Statements Review

- For each CY, we reviewed the annual accounting statements to determine if the prescription drug charges and drug manufacturer rebates were properly reported based on a reconciliation with the claims and rebate payment data.

Claims Eligibility Review

The paid claims data below differs from the amounts reported in the table on page 4 due to timing and adjustments.

- We identified and reviewed all dependents age 26 and older from the most recent 2022 paid claims data to determine if the dependents were eligible for continued coverage due to a disability that renders them incapable of self-support.
- We compared the Carrier's non-covered drugs list to all claims to determine if any claims were paid for excluded drugs during the scope of our audit.
- We reviewed all claims to determine if any were paid with a quantity filled of zero.

- 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.
- From a universe of 3,445,970 pharmacy claims totaling $553,040,678 with an amount paid greater than zero dollars, we judgmentally selected and reviewed the top 10 claims with the highest dollar amounts paid, totaling $1,309,137, to determine if the high dollar claims were processed accurately with proper support.
- We judgmentally selected and reviewed all drug claims with quantities filled greater than 1,000 units and costs exceeding $10,000 (432 pharmacy claims totaling $14,051,227, from a universe of 3,445,970 pharmacy claims totaling $553,040,678 with an amount paid greater than zero dollars) to determine if prescriptions filled with a high quantity were processed appropriately.

Claims Pricing Review

The paid claims data below differs from the amounts reported in the table on page 4 due to timing and adjustments.

- From the universe of 2,603,932 retail pharmacy claims totaling $240,800,590 with an amount paid greater than zero dollars (excluding 340B[2] eligible pharmacy claims), we randomly selected 240 claims using SAS[3], totaling $330,184, to determine if the pricing elements were transparent and paid correctly.
- From the universe of 840,806 mail order pharmacy claims totaling $307,699,481 with an amount paid greater than zero dollars (excluding 340B eligible pharmacy claims), we randomly selected 240 claims using SAS, totaling $504,743, to determine if the member copays were accurate.
- From the population of 809,731 claims filled by the PBM's own mail order warehouses and specialty pharmacies totaling $314,093,503 (claims data set identified by the PBM), we randomly selected 60 claims using SAS, totaling $25,202, to determine if the drugs were priced at the PBM's actual acquisition cost for inventory purchases.
- From a universe of 784 340B eligible pharmacy claims totaling $4,516,648 with an amount paid greater than zero dollars, we randomly selected 40 claims using SAS, totaling $192,276, to determine if the pricing elements were transparent and paid correctly.
- We reviewed all financial pricing guarantees that were paid to the Carrier from the PBM to determine if the amounts were accurate and if the credits were passed through to the FEHBP.

[2] The 340B Drug Pricing Program is a federal program that requires pharmaceutical manufacturers to sell discounted outpatient drugs to certain health care organizations.
[3] SAS is a statistical software suite developed by SAS Institute for data management, advanced analytics, multivariate analysis, business intelligence, criminal investigation, and predictive analytics.

Drug Manufacturer Rebates Review

- We reviewed rebate guarantee reports and claims data to determine if the PBM paid the rebate guarantees in accordance with the Agreement for each year of the audit scope.
- For each CY, we reviewed a list of rebates received for the PBM's book of business compared to a list of rebates paid to the Carrier to determine if the PBM properly reported and credited all rebates.
- Using the PBM's most recent CY 2022 rebate guarantee report, we identified all 340B eligible pharmacy claims that were excluded from the guarantee to determine if the drugs were filled by pharmacies that qualified as a covered entity under the 340B Drug Pricing Program.
- For the period of June 1, 2019, through December 31, 2021, when the PBM used its own rebate aggregator, we judgmentally selected the top 5 drug manufacturers with the highest dollar amount of rebates invoiced (5 drug manufacturers totaling $28,402,095 from a population of 153 drug manufacturers totaling $61,069,742). Next, using Excel, we randomly selected a sample of 20 unique National Drug Codes from the top 5 drug manufacturers (20 National Drug Codes totaling $3,695,844 from a population of 149 National Drug Codes totaling $28,402,095) to determine whether the PBM accurately calculated and paid rebates to the Carrier and the FEHBP based on supporting documentation.

Fraud and Abuse Program Review

- We reviewed all potential fraud and abuse cases that were reported by the PBM to the Carrier during the scope of our audit to determine if those cases were properly referred to the OPM OIG.
- We reviewed the Carrier and PBM's policies and procedures for fraud and abuse to ensure that they complied with the most recent carrier letter guidelines published by OPM.

Performance Guarantees Review

- For each CY, we reviewed the PBM's performance and its guarantees to determine if the results were accurately reported to the Carrier and if any penalties were properly credited to the FEHBP.

The samples that we 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

Note: All monetary findings in this audit report are subject to lost investment income pursuant to Section 3.4 of OPM's Contract and the Federal Employees Health Benefits Acquisition Regulation 1652.215-71.

A. ADMINISTRATIVE FEES REVIEW

The results of our review showed that the PBM's administrative fees were paid accurately in accordance with the Agreement.

B. ANNUAL ACCOUNTING STATEMENTS REVIEW

The results of our review showed that the 2017 through 2022 annual accounting statements were accurate and properly reported to OPM.

C. CLAIMS ELIGIBILITY REVIEW

The results of our review showed that the Carrier and the PBM had sufficient policies and procedures in place to help prevent ineligible pharmacy claims from being processed.

D. CLAIMS PRICING REVIEW

1. Pass-Through of Retail Pharmacy Discounts $6,555,372

The PBM did not provide pass-through transparent pricing to the Carrier and the FEHBP at the value of the PBM's negotiated discounts found in its retail pharmacy/network agreements, leading to an overcharge of $5,819,737 to the FEHBP for CYs 2017 through 2022. Additionally, $735,635 is due to the FEHBP ($6,555,372 in total) for lost investment income (LII) calculated through June 30, 2024.

Section 1.26 of the Contract lists PBM transparency standards that the PBM and the Carrier must follow starting no later than January 1, 2013. These standards require 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, rebates, credits or other financial benefits." Additionally, the PBM must provide the OPM OIG with complete copies of its retail pharmacy agreements for audit purposes to ensure that the negotiated discount is passed through to the Carrier and the FEHBP.

The FEHBP did not receive pass-through pricing on retail drugs as required by the Contract's PBM transparency standards.

As part of our review for retail pharmacy claims pricing, we requested full unredacted copies of the PBM's top 10 retail pharmacy/network agreements in our pre-audit information request, along with several retail pharmacy agreements needed to review our retail claims sample. During our review of the retail pharmacy claims pricing, we found that the PBM paid retail pharmacy claims for the FEHBP at a lower discount than what was negotiated in the PBM's retail pharmacy/network agreements. This was due to the PBM using its own internal pricing that varied among its clients as long as the "value" or overall negotiated discounts within each retail pharmacy/network agreement was met in total for the PBM's book of business.

Because the Carrier reimbursement rates were set by the PBM and were less favorable than the negotiated discounts found in the retail pharmacy/network agreements, we asked the PBM to reprice all FEHBP retail pharmacy claims from the scope of our audit by using the actual discount negotiated in each retail pharmacy agreement. **The PBM identified $5,819,737 in overcharges related to the Carrier and the FEHBP's retail pharmacy claims for CYs 2017 through 2022 when using the value of the PBM's negotiated discounts**.

Overcharge When Using Retail Pharmacy Agreement Discounts	
Contract Year	**Amount**
2017	$139,335
2018	$709,806
2019	$1,491,435
2020	$1,541,921
2021	$1,278,817
2022	$658,423
Total	**$5,819,737**

Note: Any amount listed above as a positive number was an overcharge by the PBM during the year and is an amount due back to the FEHBP after repricing the claims according to the effective retail pharmacy agreements.

It should also be noted that at the end of 2022, the PBM retroactively renegotiated its retail pharmacy/network agreements by carving out all FEHBP business beginning January 1, 2022, at a lower discount than its commercial clients. The result of this change, a lower 2022 overcharge, can be seen in the exhibit displaying each year's overcharges when using the retail pharmacy agreement discounts. The PBM was unwilling to reprice the 2022 FEHBP retail pharmacy claims at the negotiated discounts found in the original 2022 retail pharmacy agreements.

Because the PBM used its own internal pricing with a higher reimbursement rate for FEHBP claims than the discounts negotiated in its retail pharmacy/network agreements, the FEHBP was overcharged $5,819,737 for CYs 2017 through 2022. Additionally, the FEHBP is due $735,635 for LII calculated through June 30, 2024, totaling $6,555,372 for this finding.

<u>Recommendation 1</u>

We recommend that OPM's Contracting Officer require the PBM to return $5,819,737 to the Carrier and the FEHBP for the portion of retail pharmacy discounts not passed through to the FEHBP during CYs 2017 through 2022.

__Carrier’s Response__:

“The Plan does not agree with the findings for CYs 2017 through 2022.

Section 16.1.2.1 from Schedule D (OPM Standards for PBM Services) of our PBM contract states the PBM shall charge the Plan no more than the amount it pays the pharmacies in its retail network for brand and generic drugs plus a dispensing fee. The transparency standards provided for retail pharmacy payments in FEHB Program Carrier Letters 2021-14c, 2016-12c, and 2013-17 all state ‘The PBM shall charge the Carrier no more than the amount as determined by Pass-Through Transparent Pricing paid to the pharmacy for each drug plus a dispensing fee.’ The PBM adhered to this standard by charging the Plan the amount that was paid to retail pharmacies.

Retail network pricing guarantees were managed based upon those negotiated during a PBM RFP or market check and the PBM reconciled any underperformance against the pricing guarantees to ensure we did not pay more than the negotiated guarantees. It is understood that the PBM has multiple options available for plans in selecting a retail network design, some of which may carry a greater retail discount (i.e., retail 90 only, restricted chain/grocery pharmacies). The Plan provided a retail network (i.e., broad 30-day retail network, chain based 90-day network) to our members and the PBM priced claims based on the guarantees negotiated and agreed to for those networks.”

__OIG Comments__:

The OIG reiterates that the negotiated discounts in the retail pharmacy/network agreements were greater than the discounts that the PBM provided to the Carrier. OPM requires audit rights that allow the OIG to trace discounts back to the retail pharmacy agreements. This explicit right is to ensure that the negotiated discounts found in the retail pharmacy agreements match the discounts given by the PBM to the Carrier, thereby verifying pass-through transparent pricing in which the Carrier receives “the value of the PBM’s negotiated discounts.” The Contract does not permit the PBM to charge a higher amount to the Carrier and the FEHBP than the discounted rate that was negotiated with retail pharmacies. The PBM essentially bypasses the transparency standards when it pays retail pharmacy claims at any amount it wants for different clients, so long as the overall effective discount shown in the retail pharmacy/network agreement is met for the PBM’s book of business.

__Recommendation 2__

We recommend that OPM’s Contracting Officer assess the PBM and Carrier $735,635 for LII on the questioned costs due back to the FEHBP for this finding, calculated through June 30, 2024. The LII should be adjusted to account for the date the questioned costs are returned to the program.

Carrier's Response:

"The Plan does not agree with the findings that the PBM failed to provide pass-through transparent pricing for retail pharmacy claims causing an overcharge to the Plan. There is no basis to direct the Contracting Officer to assess the Plan or PBM for Lost Investment Income."

OIG Comments:

LII is applied to the overcharges identified when the Carrier and the FEHBP did not receive the value of the PBM's negotiated discounts that are required by the FEHBP's transparency standards. The PBM calculated the overcharges itself using the discounts found in its retail pharmacy/network agreements. The overcharge is applicable to the Carrier's FEHBP claims and should not be contested, as the negotiated discount that needed to be passed through was not.

Recommendation 3

We recommend that OPM's Contracting Officer require the Carrier to adopt new controls to ensure that the PBM charges no greater than the value of the PBM's negotiated discounts with each retail pharmacy that was in effect at the time the claim was adjudicated. True ups to any retail pricing guarantees between the PBM and the Carrier should be performed quarterly or annually in accordance with the Carrier's PBM agreement.

Carrier's Response:

"The Plan disagrees with the findings that the PBM failed to provide pass-through transparent pricing for retail pharmacy claims. There is no basis to adopt new controls."

OIG Comments:

New controls are needed because the Carrier and the FEHBP did not receive the value of the PBM's negotiated discounts in its retail pharmacy agreements as required by the FEHBP's PBM transparency standards. Please note that the PBM was already paid a service fee to cover profit and administrative costs under the transparent pass-through pricing arrangement. The PBM should not pay retail pharmacies at the amount it guaranteed the Carrier or at an amount that differs from what was negotiated with the retail pharmacies. The retail pharmacy claims should only be priced at the value of the PBM's negotiated discounts, as required by the FEHBP's PBM transparency standards, then any guarantee between the PBM and the Carrier should be measured at the end of the period.

2. Pass-Through of Credits for Retail Pharmacy Transaction Fees $1,045,333

The PBM withheld $925,895 from the Carrier in retail pharmacy claim transaction fees that it was credited for the Carrier's retail prescription drug benefits during CYs 2017 through 2022. Additionally, $119,438 is due to the FEHBP ($1,045,333 in total) for LII calculated through June 30, 2024.

Section 1.26 of the Contract lists PBM transparency standards that the PBM and the Carrier must follow starting no later than January 1, 2013. These standards require 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, rebates, credits or other financial benefits."

Additionally, Section 1.26 of the Contract states that "The PBM shall charge the Carrier no more than the amount paid to the retail pharmacy for each drug plus a dispensing fee." Therefore, any credit that the PBM receives back from retail pharmacies related to the processing of the Carrier's prescription drug benefits should be deducted from the cost of drugs since the PBM is already paid an administrative fee by the Carrier that covers all administrative expenses and profit under pass-through transparent pricing in accordance with the PBM agreement.

The PBM withheld retail pharmacy claim transaction fees that it was credited back for the Carrier's prescription drug benefits.

Finally, Section 4.1 of Schedule A of the PBM Agreement states that the Carrier will pay the PBM a base administrative fee per transaction processed by the PBM under the Retail Pharmacy Program that includes electronic claims processing and pharmacy network management, reimbursement, and development.

During our review of the retail pharmacy claims pricing, we found that the PBM was collecting a per transaction fee back from retail pharmacies as shown in the individual retail pharmacy agreements. The PBM worked with us to identify all transaction fees that should have been credited back to the PBM for the Carrier's retail pharmacy claims. The total amount determined by the PBM was $925,895 for CYs 2017 through 2022. Although we agree with the PBM that these credits are not calculated within the individual pricing of each retail claim, the total credits received by the PBM must be passed through to the Carrier since the Carrier is already paying an administrative fee per transaction that includes electronic claims processing and pharmacy reimbursement. This monetary recovery from each retail pharmacy claim is just another source of profit for the PBM that should be passed through to the Carrier and FEHBP under a transparent pricing arrangement.

Because the PBM failed to return all credits to the Carrier that it received from retail pharmacy claim transaction fees, the PBM earned additional revenue on top of the set administrative fees already paid by the Carrier to cover its administrative expenses and profit as stated under pass-through transparent pricing in both the Contract and PBM Agreement. As a result, the Carrier and the FEHBP were overcharged $925,895 for prescription drug benefits during CYs 2017 through 2022. Additionally, the FEHBP is due $119,438 for LII calculated through June 30, 2024, totaling $1,045,333 for this finding.

Recommendation 4

We recommend that the Carrier collect $925,895 in claim transaction fees that were credited back to the PBM by retail pharmacies for the FEHBP's CY 2017 through 2022 prescription drug benefits and return this amount to the FEHBP.

Carrier's Response:

"The Plan was unaware of this type of financial transaction that existed between the PBM and pharmacy. Although the Plan is unable to independently validate the accuracy of the $925,895, we agree with the findings of OPM OIG if these fees can be attributed to the processing of the Plan's prescription drug benefits/claim utilization.

Section 4.1 from Schedule A of the PBM contract states that the Carrier will pay the PBM a base administrative fee per transaction processed by the PBM under the Retail Pharmacy Program that includes electronic claims processing, pharmacy network management, pharmacy reimbursement, and network development. The Plan believes that the fees were already incorporated as a part of Section 4.1 from Schedule A. Any fees collected by the PBM from retail pharmacies outside of the administrative fee paid by the Carrier to the PBM associated with the services in Section 4.1 from Schedule A that can be attributed to the processing of the Plan's prescription drug benefits/claim utilization should have been passed through to the Plan from the PBM."

Recommendation 5

We recommend that OPM's Contracting Officer assess the PBM and Carrier $119,438 for LII on the questioned costs due back to the FEHBP for this finding, calculated through June 30, 2024. The LII should be adjusted to account for the date the questioned costs are returned to the program.

Carrier's Response:

"The Plan agrees that lost investment income should be remitted by the PBM to the FEHB Program if the pharmacy transaction fees can be attributed to the processing of the Plan's prescription drug benefits/claim utilization."

Recommendation 6

We recommend that the PBM adopt policies and procedures to ensure that the Carrier receives the value of all credits (i.e., claim transaction fees) that the PBM collects from retail pharmacies under pass-through transparent pricing.

Carrier's Response:

"The Plan agrees with this recommendation. We will ensure this is included in future audits of our pharmacy benefit manager (PBM) and that retail pharmacy claim transaction fees credited to the PBM are passed through to the Plan if the PBM collects such fees."

3. Pass-Through of Drug Inventory Purchasing Discounts $248,194

The PBM did not pass through to the Carrier or the FEHBP several of the drug inventory purchasing discounts that it received from manufacturers and wholesalers related to its cost of drugs filled by its own mail-order warehouses and specialty pharmacies during CYs 2017 through 2022, resulting in a $190,134 overcharge to the FEHBP. Additionally, $58,060 is due to the FEHBP ($248,194 in total) for LII calculated through June 30, 2024.

The FEHBP did not receive any of the PBM's non-specific drug purchasing discounts.

Section 1.26 of the Contract lists PBM transparency standards that the PBM and the Carrier must follow starting no later than January 1, 2013. These standards require 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, rebates, credits or other financial benefits." In addition, the Contract requires that the cost of drugs filled by the PBM's own mail order warehouses and specialty pharmacies shall be based on the actual acquisition cost, plus a dispensing fee. Costs shall not be based on industry benchmarks.

Additionally, the PBM Agreement states, "the term 'Total Rebates' means … revenue actually received by ESI and may include but is not limited to discounts; credits; rebates, regardless of how categorized; market share incentives, chargebacks, commissions, and administrative or management fees to the extent not provided to Compass Rose Benefits Group in the form of a price reduction or discount."

During our review of pass-through pricing and actual acquisition cost for drugs filled by the PBM's own inventory for mail-order warehouses and specialty pharmacies, we requested information related to all purchasing discounts received by the PBM for its cost of drugs from manufacturers and wholesalers. The PBM disclosed all drug manufacturer and wholesaler discounts including those it termed "non-specific drug discounts" for inventory. [redacted] We then requested confirmation from the PBM that it passed through all non-specific drug discounts to the FEHBP, or that the PBM determine the amount of non-specific drug discounts that are allocable to the FEHBP for CYs 2017 through 2022. The PBM identified $190,134 in non-specific drug purchasing discounts attributable to the FEHBP that were not passed through to the Carrier for CYs 2017 through 2022.

The PBM stated that because the credits for non-specific drug discounts are received based on the total purchases made from drug manufacturers and wholesalers for the PBM's inventory, not each individual drug filled by the PBM, it did not consider these discounts as pass-through amounts under the FEHBP's PBM transparency standards. As a result of the PBM not passing through all its drug inventory purchasing discounts to the Carrier, we found that the FEHBP was overcharged $190,134 for CYs 2017 through 2022. Additionally, the FEHBP is due $58,060 for LII calculated through June 30, 2024, totaling $248,194 for this finding.

Recommendation 7

We recommend that OPM's Contracting Officer require the PBM and Carrier to return $190,134 to the FEHBP for its portion of the PBM's non-specific drug inventory purchasing discounts that were not received for CYs 2017 through 2022.

Carrier's Response:

"Although the Plan is unable to independently validate the accuracy of the $190,134, we agree with the findings of OPM OIG that any non-specific drug discounts that are attributable to the Plan's prescription drug benefits/claim utilization should have been passed through to the Plan based on Section 8.1 from Schedule A of the PBM contract.

Section 8.1 from Schedule A of the PBM contract states that 'PBM guarantees that the Plan will pay no more for Covered Drugs billed to the Plan by the PBM under Mail Order Pharmacy Program in aggregate, than the Actual Acquisition Cost, in aggregate,

for Covered Drugs dispensed under the Mail Order Pharmacy Programs to Eligible Persons and paid for by the Plan for each Contract Year during the Initial Term of this Agreement.' Non-specific drug discounts attributable to the Plan's claim utilization should be considered a part of the Actual Acquisition Cost in aggregate and passed back to the Plan from the PBM. The Plan's interpretation is that non-specific drug discounts should have been included in the calculation of the aggregate Actual Acquisition Cost."

Recommendation 8

We recommend that OPM's Contracting Officer assess the PBM and Carrier $58,060 for LII on the questioned costs due back to the FEHBP for this finding, calculated through June 30, 2024. The LII should be adjusted to account for the date the questioned costs are returned to the program.

Carrier's Response:

"The Plan agrees that lost investment income should be remitted by the PBM to the FEHB Program if the non-specific drug discounts are attributable to the Plan's prescription drug benefits/claim utilization."

Recommendation 9

We recommend that the Carrier adopt new controls to ensure that the PBM passes through all its drug inventory purchasing discounts associated with the Carrier and the FEHBP in accordance with the PBM transparency standards for mail order and specialty drug actual acquisition costs.

Carrier's Response:

"The Plan agrees with this recommendation. We will ensure this is included in future acquisition cost reconciliations and audits of the PBM."

E. DRUG MANUFACTURER REBATES REVIEW

1. Pass-Through of Drug Manufacturer Rebates from Ascent Health Services $10,594,219

The PBM did not pass through all drug manufacturer rebates collected by its sister company, Ascent Health Services, resulting in $9,524,945 due back to the Carrier and the FEHBP for the period of June 1, 2019, through December 31, 2021. Additionally, $1,069,274 is due to the FEHBP ($10,594,219 in total) for LII calculated through June 30, 2024.

Section 1.26 of the Contract lists PBM transparency standards that the PBM and the Carrier must follow starting no later than January 1, 2013. These standards require 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, rebates, credits or other financial benefits. Additonally, it requires that "The PBM, or any other entity that negotiates and collects Manufacturer Payments allocable to the Carrier, agrees to credit to the Carrier either as a price reduction or by cash refund the value of all Manufacturer Payments properly allocated to the Carrier. … Manufacturer Payments are any and all compensation, financial benefits, or remuneration the PBM receives from a pharmaceutical manufacturer, including but not limited to, discounts; credits; rebates, regardless of how categorized; market share incentives, chargebacks, commissions, and administrative or management fees."

The PBM established a group purchasing organization under its parent company Cigna, who then kept a portion of the rebates.

Cigna Health acquired the PBM in 2018. In 2019, the PBM partnered with a co-founder to establish a group purchasing organization known as Ascent Health Services to handle all drug manufacturer rebate administration. Based on 2019, 2021, and 2023 SEC filings, Ascent Health Services and the PBM were both listed as subsidiaries of Cigna Health under its Evernorth division, thereby making Ascent Health Services a sister company to the PBM. We reviewed the PBM's drug manufacturer agreements (used by both Express Scripts and Ascent) to verify full pass-through of the rebate amounts due back to the FEHBP from either the PBM, Ascent, or any third-party rebate aggregator. We found that there was a shortfall in the contracted rebate percentages compared to what was received by the Carrier and the FEHBP. As a result, we asked the PBM to identify the rebate amounts withheld by Ascent for the period of June 1, 2019, through December 31, 2021. The PBM provided evidence showing that Ascent collected $70,382,646 in rebates for the Carrier and the FEHBP, but only passed-through $60,343,427, resulting in an underpayment of $10,039,219 to the Carrier and the FEHBP. Because the PBM paid the Carrier rebate guarantees in the amount of $514,274, we netted that amount from the finding resulting in a total rebate underpayment of $9,524,945.

The PBM reported that once it established Ascent Health Services in 2019, all its rebate administration was switched over to Ascent, except for Medicare. The PBM realized that this was inadequate for federal business and pulled the rebate administration back after 2021 without any monetary adjustments for the FEHBP. The differences in rebate percentages between what was received by the Carrier and the FEHBP in comparison to the PBM's drug manufacturer agreements were due to lower rebate percentages agreed to internally between the PBM and Ascent, thereby allowing Ascent to keep the portion of rebates that we are questioning. Although contractual interpretations may vary, the PBM asked to resolve the finding expeditiously and willfully credited the Carrier $9,524,945 on March 11, 2024, for rebates withheld by Ascent from June 1, 2019, through December 31, 2021. The PBM also noted that although Ascent is listed as a subsidiary under Cigna Health, the PBM does not consider it to be a sister company since it currently has two other co-owners.

Recommendation 10

We recommend that OPM's Contracting Officer ensure that the PBM's credit of $9,524,945 is fully returned to the FEHBP by having the Carrier offset future prescription drug invoices.

Carrier's Response:

"The Plan confirms that the PBM provided the $9,524,945 via wire transfer on March 11th, 2024, and the dollars were returned to the FEHB Program."

Recommendation 11

We recommend that OPM's Contracting Officer assess the PBM and the Carrier $1,069,274 for LII on the questioned costs due back to the FEHBP for this finding, calculated through June 30, 2024. The LII should be adjusted to account for the date the questioned costs are fully returned to the program.

Carrier's Response:

"The Plan agrees that lost investment income, adjusted for the date the funds were returned, should be remitted to the FEHB Program by the PBM. The PBM has agreed to pay LII upon validation of the calculated amount."

F. 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.

G. PERFORMANCE GUARANTEES REVIEW

The results of our review showed that the PBM's performance guarantees were accurately reported and credited to the Carrier and the FEHBP.

APPENDIX

Compass Rose Benefits Group

August 9, 2024

Report No. 2023-SAG-019

James L. Tuel, Jr.
Chief, Special Audits Group
Office of the Inspector General
U.S. Office of Personnel Management

Dear Mr. Tuel:

Below is our response to the draft audit report for the “Audit of the Compass Rose Health Plan’s Pharmacy Operations as Administered by Express Scripts, Inc. for Contract Years 2017 through 2022”. We appreciate the opportunity to review your findings and recommendations, and to provide a response. We have responded directly below each recommendation from the draft report. Please let me know if you need any additional information for any of our responses.

Questions or requests can be directed to me at [redacted] and [redacted] at [redacted]

Thank you for your time, support, and suggestions. All are much appreciated and are making us a better Plan.

Sincerely,

[redacted]
Compass Rose Benefits Group

D. CLAIMS PRICING REVIEW

1. Pass-Through of Retail Pharmacy Discounts

Recommendation 1:

We recommend that OPM's Contracting Officer require the PBM to return $5,819,737 to the Carrier for its portion of retail pharmacy pricing discounts not received from the PBM for CYs 2017 through 2022.

Carrier's Response:

The Plan does not agree with the findings for CYs 2017 through 2022.

Section 16.1.2.1 from Schedule D (OPM Standards for PBM Services) of our PBM contract states the PBM shall charge the Plan no more than the amount it pays the pharmacies in its retail network for brand and generic drugs plus a dispensing fee. The transparency standards provided for retail pharmacy payments in FEHB Program Carrier Letters 2021-14c, 2016-12c, and 2013-17 all state "The PBM shall charge the Carrier no more than the amount as determined by Pass-Through Transparent Pricing paid to the pharmacy for each drug plus a dispensing fee." The PBM adhered to this standard by charging the Plan the amount that was paid to retail pharmacies.

Retail network pricing guarantees were managed based upon those negotiated during a PBM RFP or market check and the PBM reconciled any underperformance against the pricing guarantees to ensure we did not pay more than the negotiated guarantees. It is understood that the PBM has multiple options available for plans in selecting a retail network design, some of which may carry a greater retail discount (i.e., retail 90 only, restricted chain/grocery pharmacies). The Plan provided a retail network (i.e., broad 30-day retail network, chain based 90-day network) to our members and the PBM priced claims based on the guarantees negotiated and agreed to for those networks.

Recommendation 2:

We recommend that OPM's Contracting Officer assess the PBM and Carrier $735,635 for LII on the questioned costs due back to the FEHBP for this finding, calculated through June 30, 2024. The LII should be adjusted to account for the date the questioned costs are returned to the program.

Carrier's Response:

The Plan does not agree with the findings that the PBM failed to provide pass-through transparent pricing for retail pharmacy claims causing an overcharge to the Plan. There is no basis to direct the Contracting Officer to assess the Plan or PBM for Lost Investment Income.

Recommendation 3

We recommend that OPM's Contracting Officer require the Carrier to adopt new controls to ensure that the PBM charges no greater than the value of the PBM's negotiated discounts with each retail pharmacy in effect at the time of claim adjudication. True ups to any retail pricing guarantees should be performed quarterly or annually in accordance with the Carrier's PBM agreement.

Carrier's Response:

The Plan disagrees with the findings that the PBM failed to provide pass-through transparent pricing for retail pharmacy claims. There is no basis to adopt new controls.

2. Pass-Through of Credits for Retail Pharmacy Transaction Fees

Recommendation 4:

We recommend that the Carrier collect $925,895 in claim transaction fees that were credited back to the PBM by retail pharmacies for the Carrier's CY 2017 through 2022 prescription drug benefits.

Carrier's Response:

The Plan was unaware of this type of financial transaction that existed between the PBM and pharmacy. Although the Plan is unable to independently validate the accuracy of the $925,895, we agree with the findings of OPM OIG if these fees can be attributed to the processing of the Plan's prescription drug benefits/claim utilization.

Section 4.1 from Schedule A of the PBM contract states that the Carrier will pay the PBM a base administrative fee per transaction processed by the PBM under the Retail Pharmacy Program that includes electronic claims processing, pharmacy network management, pharmacy reimbursement, and network development. The Plan believes that the fees were already incorporated as a part of Section 4.1 from Schedule A. Any fees collected by the PBM from retail pharmacies outside of the administrative fee paid by the Carrier to the PBM associated with the services in Section 4.1 from Schedule A that can be attributed to the processing of the Plan's prescription drug benefits/claim utilization should have been passed through to the Plan from the PBM.

Recommendation 5:

We recommend that OPM's Contracting Officer assess the PBM and Carrier $119,438 for LII on the questioned costs due back to the FEHBP for this finding, calculated through June 30, 2024. The LII should be adjusted to account for the date the questioned costs are returned to the program.

<u>Carrier's Response</u>:

The Plan agrees that lost investment income should be remitted by the PBM to the FEHB Program if the pharmacy transaction fees can be attributed to the processing of the Plan's prescription drug benefits/claim utilization.

<u>Recommendation 6</u>:

We recommend that the PBM adopt policies and procedures to ensure that the Carrier receives the value of all credits (i.e., claim transaction fees) that the PBM collects from retail pharmacies under pass-through transparent pricing.

<u>Carrier's Response</u>:

The Plan agrees with this recommendation. We will ensure this is included in future audits of our pharmacy benefit manager (PBM) and that retail pharmacy claim transaction fees credited to the PBM are passed through to the Plan if the PBM collects such fees.

3. <u>Pass-Through of Drug Inventory Purchasing Discounts</u>

<u>Recommendation 7</u>:

We recommend that OPM's Contracting Officer require the PBM and Carrier to return $190,134 to the FEHBP for its portion of the PBM's non-specific drug inventory purchasing discounts that were not received for CYs 2017 through 2022.

<u>Carrier's Response</u>:

Although the Plan is unable to independently validate the accuracy of the $190,134, we agree with the findings of OPM OIG that any non-specific drug discounts that are attributable to the Plan's prescription drug benefits/claim utilization should have been passed through to the Plan based on Section 8.1 from Schedule A of the PBM contract.
Section 8.1 from Schedule A of the PBM contract states that "PBM guarantees that the Plan will pay no more for Covered Drugs billed to the Plan by the PBM under Mail Order Pharmacy Program in aggregate, than the Actual Acquisition Cost, in aggregate, for Covered Drugs dispensed under the Mail Order Pharmacy Programs to Eligible Persons and paid for by the Plan for each Contract Year during the Initial Term of this Agreement." Non-specific drug discounts attributable to the Plan's claim utilization should be considered a part of the Actual Acquisition Cost in aggregate and passed back to the Plan from the PBM. The Plan's interpretation is that non-specific drug discounts should have been included in the calculation of the aggregate Actual Acquisition Cost.

<u>Recommendation 8</u>:

We recommend that OPM's Contracting Officer assess the PBM and Carrier $58,060 for LII on the questioned costs due back to the FEHBP for this finding, calculated through June 30, 2024.

The LII should be adjusted to account for the date the questioned costs are returned to the program.

Carrier's Response:

The Plan agrees that lost investment income should be remitted by the PBM to the FEHB Program if the non-specific drug discounts are attributable to the Plan's prescription drug benefits/claim utilization.

Recommendation 9:

We recommend that the Carrier adopt new controls to ensure that the PBM passes through all its drug inventory purchasing discounts associated with the Carrier and the FEHBP in accordance with the PBM transparency standards for mail order and specialty drug actual acquisition costs.

Carrier's Response:

The Plan agrees with this recommendation. We will ensure this is included in future acquisition cost reconciliations and audits of the PBM.

E. DRUG MANUFACTURER REBATES REVIEW

1. Pass-Through of Drug Manufacturer Rebates from Sister Company

Recommendation 10:

We recommend that OPM's Contracting Officer ensure that the PBM's credit of $9,524,945 is fully returned to the FEHBP by having the Carrier offset future prescription drug invoices.

Carrier's Response:

The Plan confirms that the PBM provided the $9,524,945 via wire transfer on March 11th, 2024, and the dollars were returned to the FEHB Program.

Recommendation 11:

We recommend that OPM's Contracting Officer assess the PBM and Carrier $1,069,274 for LII on the questioned costs due back to the FEHBP for this finding, calculated through June 30, 2024. The LII should be adjusted to account for the date the questioned costs are fully returned to the program.

Carrier's Response:

The Plan agrees that lost investment income, adjusted for the date the funds were returned, should be remitted to the FEHB Program by the PBM. The PBM has agreed to pay LII upon validation of the calculated amount.

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: https://oig.opm.gov/contact/hotline

By Phone: Toll Free Number: (877) 499-7295

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

Addendum

Non-Governmental Organization or Business Entity Response

This report is followed by a response from a non-governmental organization or business entity specifically identified in this audit report.

Pursuant to Section 5274 of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Pub. L. No. 117-263 (Section 5274), OPM OIG is required to notify non-governmental organizations or business entities when they are specifically identified in a published audit, evaluation, inspection, or other non-investigative report.

The purpose of the notification is to afford the specifically identified non-governmental organization or business entity an opportunity to submit a written response to OPM OIG to clarify or provide additional context for each such reference to the non-governmental organization or business entity in the published report. Section 5274 requires the OPM OIG to attach any response received from a non-governmental organization or business entity to the report in which they are mentioned.

Andrea L. Nelson
Chief Legal Officer

THE CIGNA GROUP

Routing W361A
900 Cottage Grove Road
Hartford, CT 06152

December 13, 2024

VIA FIRST CLASS MAIL AND ELECTRONIC MAIL
(NGOreportcommentstoOIG@opm.gov)

Krista A. Boyd
Inspector General
U.S. Office of Personnel Management
1900 E Street, N.W.
Room 6400
Washington, D.C. 20415

Re: OIG Audit of Compass Rose Health Plans' Pharmacy Operations as Administered by Express Scripts, Inc. (Audit) (Report No. 2023-SAG-019)

Dear Inspector General Boyd:

On November 14, 2024, the U.S. Office of Personnel Management (OPM) issued correspondence to The Cigna Group (Cigna) regarding the above-referenced Audit conducted by the Office of the Inspector General (OIG) of Compass Rose Health Plans' (Compass Rose) pharmacy operations as administered by Cigna's subsidiary, Express Scripts, Inc. (ESI). The Audit also references other Cigna subsidiaries, including Evernorth Health, Inc. and Ascent Health Services, LLC.

Pursuant to Public Law 117-263, section 5274, your office provided Cigna 30 days to submit a written response to provide clarifying comments or additional context regarding the Audit.

Recommendations 1-3: Pass-Through of Retail Pharmacy Discounts ($6,555,372)

We respectfully disagree with the "Pass-Through of Retail Pharmacy Discounts" findings for several reasons and provide the following additional statement:

It is our understanding that, prior to January 1, 2022, any compensation ESI received from retail pharmacies, independent of the prescription orders of Compass Rose (Carrier) members, fell outside the scope of the OPM's pass-through transparent pricing standards and, at all relevant times, ESI's operations with respect to the pass-through of retail pharmacy discounts for the Carrier were appropriate and compliant.

There was no language in the Carrier's PBM Agreement with ESI requiring to pass through the value it receives for *other* carriers' prescription orders prior to January 1, 2022, and we are not aware of any guidance suggesting that the Carrier or OPM intended this approach. Additionally, as of 2021, the Agreement between Carrier and ESI specifically contemplated that ESI *may* maintain non-client specific guarantees and realize positive margin therein.

In 2021, OPM revised the PBM Transparency Standard for the 2022 plan year to incorporate cost adjustments arising from a 'true up or reconciliation.' This was a substantive and material change, and ESI adjusted its operations accordingly to comply after enactment, but this new standard cannot fairly be used to support a finding with respect to the applicable years under audit review that precede such changes (2017-2021).

As a result, we disagree that there is any amount due to Carrier for these findings, and therefore no resulting Lost Investment Income (LII).

Recommendations 4-6: Pharmacy Transaction Fees ($1,045,333)

We respectfully disagree with the "Pharmacy Transaction Fees" findings for several reasons and provide the following additional statement:

It is our understanding that retail pharmacy transaction fees fall outside the scope of the OPM's pass-through transparent pricing standards and, at all relevant times, ESI's operations with respect to such retail pharmacy transaction fees were appropriate and compliant.

The assessed transaction fees in question are to compensate ESI for pharmacy network services that it provides to retail pharmacies. These services fees are not part of the drug pricing to Carrier or its members. OPM Transparency Standards do not extend to ESI services that are not tied specifically to drug pricing and the cost of Carrier's prescription orders.

As of 2018, the PBM Agreement between Carrier and ESI specifically contemplated that ESI may assess and retain such transaction fees. Additionally, there was no language requiring ESI to pay the Carrier or OPM such transaction fees, and we are not aware of any guidance suggesting that the Carrier or OPM intended this approach.

As a result, we disagree that there is any amount due to the Carrier for these findings, and therefore no resulting LII.

Recommendations 7-9: Pass-Through of Drug Inventory Purchasing Discounts ($248,194)

We respectfully disagree with the "Pass-Through of Drug Inventory Purchasing Discounts" findings for several reasons and provide the following additional statement:

It is our understanding that ESI complied with applicable language of the Carrier's PBM Agreement and OPM's pass-through transparent pricing standards during the entire audit period. In accordance with the PBM Agreement, the Carrier was charged the cost of drugs at mail order pharmacies based on the actual cost, plus a dispense fee. Costs were not "based on industry benchmarks, for example, Average Acquisition Cost (AAC) or Wholesale Acquisition Cost." There was no language requiring ESI to credit Carrier with adjustments that were unrelated to Carrier's individual prescription orders, and we are not aware of any guidance suggesting that the Carrier or OPM intended this approach. Non-specific drug purchase discounts fell outside the scope of the OPM's pass-through transparent pricing standards and, at all times, ESI's operations with respect to pass-through of drug inventory purchase discounts were appropriate and compliant.

As a result, we disagree that there is any amount due to the Carrier for these findings, and therefore no resulting LII.

Recommendations 10-11: Pass-Through of Drug Manufacturer Rebates ($10,594,219)

Ascent Health Services, LLC is a group purchasing organization (GPO) that aggregates purchasing volume to negotiate greater savings through rebates with pharmaceutical manufacturers. It is partially owned by Cigna Spruce Holdings GmbH (a wholly-owned subsidiary of Cigna), and other third parties. The Audit refers to Ascent as ESI's "sister" company. We disagree with that characterization.

In the Audit, ESI reported that from June 1, 2019 through December 31, 2020, ESI contracted with Ascent to perform rebate management services in connection with ESI's Agreement with Carrier. The Audit states that ESI "realized" that contracting through Ascent to process rebates for FEHBP business during this short time period was "inadequate."

It is our understanding that throughout the audit process, ESI reiterated that its operations were appropriate and compliant under the Agreement, however understood that OIG took the position that contracting through Ascent for this short period of time without providing a monetary adjustment was inadequate. While contractual interpretations may vary, given its commitment to its FEHB customers, ESI voluntarily agreed to credit the amount to Compass Rose rather than contest OIG's position, and will also credit LII upon validation of the calculated amount.

***

We thank you for the opportunity to provide these additional comments and context. Please do not hesitate to reach out if you have any questions or concerns.

Sincerely,

Andrea L. Nelson
Chief Legal Office
The Cigna Group