Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

Official Audit Report – Issued August 29, 2019

Office of Medicaid (MassHealth)—Review of Claims Paid for Pharmacy Drugs

For the period January 1, 2015 through June 30, 2017

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Making government work better

August 29, 2019

Ms. Marylou Sudders, Secretary
Executive Office of Health and Human Services, Office of Medicaid
1 Ashburton Place, 11th Floor
Boston, MA 02108

Dear Secretary Sudders:

I am pleased to provide this performance audit of the Office of Medicaid's payments for pharmacy drugs. This report details the audit objective, scope, methodology, findings, and recommendation for the audit period, January 1, 2015 through June 30, 2017. My audit staff discussed the contents of this report with management of the agency, whose comments are reflected in this report.

I would also like to express my appreciation to the Office of Medicaid for the cooperation and assistance provided to my staff during the audit.

Sincerely,

Suzanne M. Bump
Auditor of the Commonwealth

cc: Daniel Tsai, Assistant Secretary and Director, Office of Medicaid
        Alda Rego, Assistant Secretary for Administration and Finance, Executive Office of Health and Human Services
        Susan Harrison, Director of Program Integrity, Office of Medicaid
        Joan Senatore, Director of Compliance, Office of Medicaid
        Teresa Reynolds, Executive Assistant to Secretary Sudders

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LIST OF ABBREVIATIONS

CMR	Code of Massachusetts Regulations
EOHHS	Executive Office of Health and Human Services
ISA	Interdepartmental Service Agreement
MHDL	MassHealth Drug List
OSA	Office of the State Auditor
OTC	over the counter
POPS	Pharmacy Online Processing System

EXECUTIVE SUMMARY

The Office of the State Auditor (OSA) receives an annual appropriation for the operation of a Medicaid Audit Unit to help prevent and identify fraud, waste, and abuse in the Commonwealth's Medicaid program. This program, known as MassHealth, is administered under Chapter 118E of the Massachusetts General Laws by the Executive Office of Health and Human Services, through the Division of Medical Assistance. Medicaid is a joint federal-state program created by Congress in 1965 as Title XIX of the Social Security Act. At the federal level, the Centers for Medicare & Medicaid Services, within the US Department of Health and Human Services, administer the Medicare program and work with state governments to administer state Medicaid programs.

OSA has conducted an audit of MassHealth payments for pharmacy drugs dispensed to certain MassHealth members, including those enrolled in its Primary Care Clinician Plan[1] and those who receive services paid for by MassHealth's fee-for-service payment model,[2] during the period January 1, 2015 through June 30, 2017. The purpose of this audit was to determine whether MassHealth paid for pharmacy drugs in accordance with its regulations.

This audit was conducted as part of OSA's ongoing independent statutory oversight of the state's Medicaid program. Several of our previously issued audit reports have disclosed significant weaknesses in MassHealth's claim-processing system and improper billing practices by MassHealth providers, which resulted in millions of dollars in potentially improper claim payments. As with any government program, public confidence is essential to the success and continued support of the state's Medicaid program.

Below is a summary of our findings and our recommendation, with links to each page listed.

Finding 1a Page 7	MassHealth paid pharmacies for unauthorized prescription drug refills totaling $300,863.
Finding 1b Page 8	MassHealth paid $526,229 for refills of emergency (i.e., non-refillable) drug fills.

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1. This is MassHealth's statewide managed-care plan for its enrolled members.
2. This payment model pays healthcare providers for the number of services provided or procedures ordered.

Finding 1c **Page 9**	MassHealth improperly paid $155,443 for over-the-counter (OTC) drugs supplied to members living in institutional settings.
Recommendation **Page 10**	MassHealth should ensure that system controls are developed and implemented in the Pharmacy Online Processing System to prevent payments to pharmacies for unauthorized prescription drug refills, refills of emergency (non-refillable) drug fills, and OTC drugs supplied to members living in institutional settings.

OVERVIEW OF AUDITED ENTITY

Under Chapter 118E of the Massachusetts General Laws, the Executive Office of Health and Human Services (EOHHS), through the Division of Medical Assistance, administers the state's Medicaid program, known as MassHealth. MassHealth provides access to healthcare services for approximately 1.9 million eligible low- and moderate-income children, families, seniors, and people with disabilities annually. In fiscal year 2017, MassHealth paid healthcare providers more than $15 billion, of which approximately 50% was funded by the Commonwealth. Medicaid expenditures represent approximately 39% of the Commonwealth's total annual budget.

Drug prescriptions are orders written by state-licensed prescribers and filled by state-licensed pharmacies. During the period January 1, 2015 through June 30, 2017, MassHealth paid pharmacies approximately $1,716,217,958 for 43,579,259 claims for non-compounded drugs prescribed and provided to 1,015,227 MassHealth members, as detailed below.

Payments for Non-Compounded Drugs Prescribed to MassHealth Members

Calendar Year	MassHealth Payments	Number of Claims	Members Served
2015	$ 669,954,587	17,299,891	704,018
2016	672,264,324	17,212,727	655,169
2017 (through June 30)	373,999,047	9,066,641	519,494
Total	$ 1,716,217,958	43,579,259	1,015,227*

*   This is the unduplicated total number of members served.

MassHealth Pharmacy Program

The MassHealth Pharmacy Program is administered by Commonwealth Medicine, a division of the University of Massachusetts Medical School, pursuant to an Interdepartmental Service Agreement (ISA)[3] that EOHHS entered into on behalf of MassHealth. Under the ISA, Commonwealth Medicine oversees MassHealth's pharmacy drug policy and benefits, including evidence-based, clinically appropriate, and cost-effective drug therapies for MassHealth members. It also conducts federally required reviews of drug use, processes prescription orders that require MassHealth approval before the drugs can be dispensed, manages the list of MassHealth-approved drugs, provides informational bulletins to

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3.   An ISA is the contract that documents the business agreement between two state departments within any branch of state government, pursuant to Section 6 of Title 815 of the Code of Massachusetts Regulations.

providers, and staffs a call center. Commonwealth Medicine also manages the Pharmacy Online Processing System (POPS), which is provided under contract with Conduent State Healthcare LLC (formerly Xerox State Healthcare LLC) and is MassHealth's system for processing pharmacy drug claim data. Commonwealth Medicine also provides a billing guide to pharmacies that submit electronic prescription drug claims to MassHealth for payment.

MassHealth Drug List

MassHealth pays only for prescribed drugs that have been approved by the US Food and Drug Administration, including certain over-the-counter drugs. Prescription orders must meet MassHealth requirements. To assist providers, MassHealth maintains the MassHealth Drug List (MHDL), an alphabetical, interactive Web-based list of common prescribed drugs eligible for payment by MassHealth. The MHDL also includes therapeutic class tables,[4] each of which includes brand names and generic names for drugs, their therapeutic uses, clinical notes, and criteria for drugs that need prior authorization.

Pharmacy Drug Process

To treat, and supply drugs to, MassHealth members, prescribers and pharmacies must be MassHealth-approved providers. Before a drug is dispensed, pharmacies must ensure that a prescription is valid. Each pharmacy uses its own data system to validate MassHealth member eligibility, record prescription orders, track the number of times each drug is dispensed, and submit electronic claims to POPS to be processed for payment.

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4. A therapeutic class is a set of drugs, such as antihistamines or cardiovascular agents, used to treat the same disease or condition.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor (OSA) has conducted a performance audit of certain activities of MassHealth for the period January 1, 2015 through June 30, 2017.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Below is our audit objective, indicating the question we intended our audit to answer, the conclusion we reached regarding the objective, and where the objective is discussed in the audit findings.

Objective	Conclusion
1. Does MassHealth pay for pharmacy drugs in accordance with its regulations?	**Partially; see Finding 1**

Methodology

From MassHealth's Pharmacy Online Processing System (POPS), which is used for processing pharmacy drug claim data and administered by the pharmacy program staff at the University of Massachusetts Medical School's Commonwealth Medicine division, we obtained claim data for non-compounded drugs that pharmacies supplied to MassHealth members during the audit period. It was also necessary to obtain pharmacy claims for drugs that were dispensed in 2014 to track the prescription histories for certain audit procedures.

We also interviewed MassHealth and MassHealth Pharmacy Program officials and other key staff members to gain an understanding of internal controls over POPS that we deemed significant to the audit objective. In addition, we visited five pharmacies to learn about the procedures they followed and the data systems they used to fill drug prescriptions for MassHealth members and submit drug claims to MassHealth for review.

To assess the reliability of the data, we relied on the work of other auditors who examined the information-system controls for POPS by reviewing applicable reports, known as Service Organization Control 1 reports, for 2015, 2016, and 2017. We also performed the following procedures: (1) testing for missing data, (2) testing for values outside designated ranges, and (3) reconciling record counts. Based on these procedures, we determined that POPS and the pharmacy drug claim data were sufficiently reliable for the purposes of this report.

To design tests to detect overpayments to pharmacies for improper drug claims, it was necessary to extend our audit period back through January 1, 2014 to account for drugs dispensed before January 1, 2015, the start of our audit. We next performed data analytics to compile all drug fills[5] related to each prescription by matching six data elements found in MassHealth's pharmacy drug claim data: (1) member identification number, (2) prescriber national provider identification number, (3) prescribed date, (4) National Drug Code,[6] (5) pharmacy national provider identification number, and (6) prescription number (a pharmacy-assigned control number). We then calculated the number of fills for each prescription (calculated fill number).

Using the results of the above compilation, we performed data analytics to identify drug claims improperly paid during the period January 1, 2015 through June 30, 2017. We filtered drug fill compilation data to identify the following:

- all drug claims in which the calculated fill number exceeded the number of refills authorized by the prescriber

- all drug claims with back-to-back emergency fills

- all over-the-counter drugs (except insulin[7]) supplied to MassHealth members living in nursing facilities or skilled nursing facilities

After we identified overpayments to pharmacies for drug claims, we performed audit procedures to ensure that there was no overlap among the improper payments described in our findings.

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5. The number of drug fills is the number of times a drug has been dispensed from the same prescription.
6. National Drug Codes are unique 10-digit product identifiers for drugs that indicate the manufacturer or distributor, the product strength and dose, and the package size and type.
7. Insulin, a drug used to manage blood sugar levels for patients with diabetes, is a MassHealth-covered drug for members in institutional settings.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. MassHealth improperly paid pharmacies for prescription drugs totaling $982,535.

We reviewed a total of 43,579,259 prescription drug claims paid by MassHealth, totaling $1,716,217,958, during the period January 1, 2015 through June 30, 2017 and found that MassHealth improperly paid 25,144 of these claims, totaling $982,535, as detailed below.

a. MassHealth paid pharmacies for unauthorized prescription drug refills totaling $300,863.

MassHealth improperly paid some pharmacies for more refills than had been prescribed. For example, in one instance, a MassHealth member was prescribed a 30-day supply of the drug amphetamine, with no refills. However, the member received two unauthorized 30-day-supply refills, which gave them a total 90-day supply of a drug with a high potential for abuse. During our audit period, MassHealth paid pharmacies a total of $300,863 for 4,332 prescription drug refills that exceeded the allowable number of refills authorized by prescribers.

Authoritative Guidance

According to MassHealth Pharmacy Program regulations in Section 406.411(C) of Title 130 of the Code of Massachusetts Regulations (CMR),

> (1) The MassHealth agency does not pay for prescription refills that exceed the specific number authorized by prescriber. . . .

> (5) The absence of an indication to refill by the prescriber renders the prescription nonrefillable.

Reasons for Issue

The Pharmacy Online Processing System (POPS), MassHealth's system for processing pharmacy drug claim data, lacks sufficient system controls to prevent payments to pharmacies for drug claims that exceed the number of drug refills authorized by prescribers.

Auditee's Response

> MassHealth does not agree with this finding . . . and believes that a substantial number of the claims identified in this finding were appropriately paid. Specifically, MassHealth is aware that some pharmacy providers had software issues during the audit period that

would have resulted in otherwise appropriate claims being flagged in MassHealth's system as either "incorrect fill number" or "inconsistent authorized refill number," and therefore authorized payment for those claims in order to ensure continued access to care to pharmacy services for impacted members. Other claims included by OSA in the finding originated from long-term care pharmacies, which typically dispense medication based on doctor's orders rather than traditional prescriptions, which can also trigger flags for "incorrect fill number" or "inconsistent authorized refill number," even when the claim is legitimate. Nevertheless, MassHealth has implemented system changes to eliminate the potential for future concerns similar to those raised by OSA—claims flagged for "incorrect fill number" were set to deny as of 10/24/17 and claims flagged for "inconsistent authorized refill number" were set to deny as of 5/29/2018.

Auditor's Reply

As noted above, during our audit period, MassHealth paid pharmacies a total of $300,863 for 4,332 prescription drug refills that exceeded the allowable number of refills authorized by the prescriber. In its response, MassHealth states that there are a number of reasons these claims were paid and asserts that some payments may have been legitimate. However, according to the documentation we reviewed, MassHealth paid some pharmacies for more refills than had been prescribed, and therefore none of the claims in question should have been paid. Based on its response, MassHealth is making system changes to address this problem.

b. MassHealth paid $526,229 for refills of emergency (i.e., non-refillable) drug fills.

MassHealth paid pharmacies for refills of emergency (i.e., non-refillable) drugs. MassHealth allows pharmacies to dispense an appropriate emergency supply of MassHealth-covered drugs to ensure that members are provided with an uninterrupted drug supply (for instance, when they have lost their supply of an existing prescription) or to fill a new prescription outside normal business hours that would normally require MassHealth's prior authorization. Typically, emergency drug fills treat serious, chronic conditions, such as high blood pressure, diabetes, asthma, and seizures. However, providing back-to-back emergency drug fills—in other words, refills of emergency drug fills—may jeopardize a member's health if the member's medical condition is not being monitored by a physician. MassHealth improperly paid $526,229 for 5,649 non-refillable prescriptions for drugs.

Authoritative Guidance

According to 130 CMR 406.411(B),

> *When the pharmacist determines that an emergency exists, the MassHealth agency will pay the pharmacy for at least a 72-hour, **non-refillable** supply of the drug.* [Emphasis added.]

Reasons for Issue

POPS lacks sufficient system controls to prevent payments to pharmacies for refills of non-refillable emergency drug fill claims.

Auditee's Response

> *To the extent that OSA is using the term "back-to-back emergency fills" to mean the same prescription number was used for successive emergency fills of a drug, MassHealth agrees with this finding and will recover the identified overpayments. In addition, MassHealth has implemented system changes to eliminate the potential for future concerns—claims where an emergency override is attempted more than once on the same prescription number were set to deny as of 2/5/19. However, MassHealth notes that its regulations do not prohibit a pharmacy provider from dispensing sequential emergency fills if each emergency fill has a different prescription number.*

Auditor's Reply

Within each set of claims that we identified in our report as back-to-back emergency fills, each claim used the same prescription number. Therefore, MassHealth improperly paid these claims. Based on its response, MassHealth is taking measures to address our concerns in this area.

c. MassHealth improperly paid $155,443 for over-the-counter drugs supplied to members living in institutional settings.

MassHealth improperly paid pharmacies for over-the-counter (OTC) drugs prescribed to members living in nursing facilities or skilled nursing facilities.[8] Although MassHealth covers the cost of certain OTC drugs prescribed to members to treat minor ailments, such as skin injuries or indigestion, or to supplement dietary needs, regulations prohibit it from paying for OTC drugs supplied to members living in facilities. Further, commonly used OTC drugs, such as antacids and aspirin, are typically stocked and dispensed by such facilities, which may be reimbursed for the cost of those drugs at

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8. Nursing facilities provide long-term care and custodial assistance to patients. Skilled nursing facilities provide temporary rehabilitation services to patients to meet a specific medical need or to allow recovery outside a hospital setting.

state-contracted rates. As a result of this issue, MassHealth overpaid pharmacies $155,443 for 15,163 OTC drug claims.

Authoritative Guidance

According to 130 CMR 406.421(B), "MassHealth does not pay for over-the-counter drugs . . . provided to institutionalized members." (MassHealth Pharmacy Program officials told us that they define institutional settings as nursing facilities and skilled nursing facilities.)

Reasons for Issue

POPS lacks sufficient system controls to prevent payment to pharmacies for OTC drugs supplied to MassHealth members living in institutional settings.

Auditee's Response

> *While MassHealth agrees that some pharmacies were paid for over-the-counter (OTC) drugs prescribed to members living in nursing facilities, and has enhanced system capabilities as of 12/14/17 to better prevent improper claims for OTC drugs provided to institutionalized members, MassHealth believes this finding may be overstated. Specifically, the First Data Bank (FDB), the database upon which MassHealth and many pharmacy providers rely for this information, changed the designation of certain drugs from "prescription" to "OTC" in 2018. MassHealth believes that drugs designated as "prescription" during the audit period but that have since been designated by FDB as "OTC" were appropriately paid, and should not be included in this finding.*

Auditor's Reply

Changes in First Data Bank regarding the designation of certain drugs—changes from "prescription" to "OTC"—occurred after our audit period. Therefore, all of the claims identified in this report as paid to pharmacies for OTC drugs prescribed to members living in nursing facilities or skilled nursing facilities were accurately described as improperly paid.

Based on its response, MassHealth is taking measures to address our concerns in this area.

Recommendation

MassHealth should ensure that system controls are developed and implemented in POPS to prevent payments to pharmacies for unauthorized prescription drug refills, refills of emergency (non-refillable) drug fills, and OTC drugs supplied to members living in institutional settings.