

**Pharmacy Benefit Management  
Audit of CVS Health (CVS)  
Calendar Year 2022**

**FINAL SUMMARY REPORT**

*Prepared for*  
**State Employee Health Plan (SEHP)**  
**State of Kansas**  
January 19, 2024

*Submitted by:*

**Sagebrush Analytic Solutions LLC**  
5015 Addison Circle #208  
Addison, Texas 75001  
(214) 273-4302 Main  
(214)273-4310 Facsimile  
[www.eSagebrush.com](http://www.eSagebrush.com)





## TABLE OF CONTENTS

I. EXECUTIVE SUMMARY .....	1
SCOPE OF WORK.....	1
CONCLUSIONS.....	1
KEY FINDINGS.....	2
II. Audit Findings and Resolutions .....	4
Finding 2 Pricing Discounts.....	6
Duplicate Payments.....	9
III. MANUFACTURER REBATE REVIEW.....	16
IV. ELIGIBILITY ACCURACY REVIEW .....	22
V. ADMINISTRATOR RESPONSE .....	23

## TABLE OF EXHIBITS

TABLE 1A. SNAPSHOT OF STATISTICAL AUDIT RESULTS – FINANCIAL IMPACT ....	2
TABLE 1B. SNAPSHOT OF STATISTICAL AUDIT RESULTS – ACCURACY.....	2
TABLE 1C. KEY FINDINGS OF AUDIT PROGRAM <sup>1</sup> .....	3
TABLE 2A. 2022 MEASURED VERSUS REPORTED DISPENSING FEES .....	5
TABLE 2B. SAGEBRUSH 2022 PRICING DISCOUNT GUARANTEE CALCULATION .....	7
TABLE 2C. CVS REPORTED 2022 PRICING DISCOUNT GUARANTEE CALCULATION	8
TABLE 2F. PRIOR AUTHORIZATION EXCEPTIONS .....	11
TABLE 3A. SAMPLE EXCEPTIONS BY TYPE OF EXCEPTION.....	13
TABLE 3B: CALCULATION OF GROSS FINANCIAL IMPACT FOR THE POPULATION	14
TABLE 3C: SUMMARY OF ACCURACY RATES .....	15
TABLE 4A. INVOICED REBATES FOR SELECTED MANUFACTURERS VS TOTAL REBATES.....	16
TABLE 4B. INVOICED REBATES VS TOTAL UNREBATED EXPENSE .....	16
TABLE 4C. ACTUAL REBATES COMPARED TO REBATE GUARANTEES .....	18
TABLE 4D. POS REBATES DATA COMPARED TO POS REBATE GUARANTEE.....	19
TABLE 4E. INVOICE DISCREPANCIES .....	20
TABLE 4F. REBATE DISCREPANCIES .....	21



## **I. EXECUTIVE SUMMARY**

The State Employee Health Plan (SEHP), State of Kansas, engaged Sagebrush Analytic Solutions (Sagebrush) to conduct audits of the administration of the pharmacy benefits, by CVS Health (CVS), to determine overall claims processing accuracy and efficiency, assess customer service, verify the accuracy of manufacturer rebates, and to identify opportunities for improved administration.

Sagebrush audited statistical samples *and* conducted focused electronic testing on 100% of the claims for the pharmacy claim populations. Sagebrush also conducted an audit of the pharmacy manufacturer rebates. This audit report contains the results of the audit of the pharmacy plan administration from January 1, 2022 through December 31, 2022.

### **SCOPE OF WORK**

The scope of the audit included the validation and review of the follow components:

- **Statistical Sample** – review of a stratified random sample of 250 claims
- **Pricing Discount Accuracy Review** – validation and review of 100% of the pricing discounts, dispensing fees, and administrative fees associated with all claims processed during the study period.
- **Plan Design Accuracy Review** – determination of the accuracy of the application of benefit provisions and exclusions through statistical sampling and 100% electronic review of claims processed during the study period.
- **Rebate Audit** – evaluation of the accuracy of rebates received by CVS, relative to manufacturer contracts, and the amounts credited to the SEHP account.
- **Drug Pricing Guarantee** – review and comparison the actual pricing discounts compared to reported pricing discounts and to pricing guarantees set forth in SEHP's agreement with CVS.
- **Eligibility Accuracy Review** – validation that CVS uploaded eligibility files accurately and timely.
- **Review of Controls** – review of CVS system and process controls to ensure accuracy, integrity, and privacy.

### **CONCLUSIONS**

Based on Sagebrush's review of the CVS claims data, contracts, manufacturer rebates, and other documents and information provided by CVS and SEHP, CVS administered the pharmacy benefits within the scope of the contract with SEHP.

**KEY FINDINGS**

During the audit period, Sagebrush reviewed a random sample of 250 SEHP pharmacy claims totaling \$2,058,997.26 in paid dollars randomly selected and tested from the population of SEHP claims processed by CVS during calendar year 2022. The total population of claims is 1,229,441 claims with a total paid amount of \$97,255,135.83. In addition to the random sample, Sagebrush electronic tested and reviewed 100% of the claims for focused tests, including pricing guarantees and benefits tests, and audited the rebates received from the pharmaceutical manufacturers.

The following key findings were identified during the audit:

TABLE 1A. SNAPSHOT OF STATISTICAL AUDIT RESULTS – FINANCIAL IMPACT <sup>1</sup>

	ERROR AMOUNT IN SAMPLE	ESTIMATED GROSS FINANCIAL IMPACT FOR POPULATION
Total Financial Impact	\$9.10	\$6,147.05
Total Claims in Error	1	

TABLE 1B. SNAPSHOT OF STATISTICAL AUDIT RESULTS – ACCURACY <sup>1</sup>

ACCURACY MEASUREMENT	MEASURED ACCURACY RATIO	GENERALLY ACCEPTED INDUSTRY BENCHMARKS	SEHP's PERFORMANCE GUARANTEE
<i>Random Sample</i>			
Financial (Dollar) Accuracy	99.99%	99.00%	99.25%
Payment (Incidence) Accuracy	99.95%	95.00% - 97.00%	98.00%
Processing Accuracy	100.00%	95.00%	98.00%




<sup>1</sup>Represents claims errors identified through the audit of the statistical sample only. Other errors, identified through focused testing, with a financial impact are described below.

*Pharmacy Benefit Management Audit of CVS Health  
January 1, 2022 through December 31, 2022*




**TABLE 1C. KEY FINDINGS OF AUDIT PROGRAM<sup>1</sup>**

<b>TYPE OF FINDING</b>	<b>FINDING</b>	<b>TOTAL MISPAID</b>	<b>RATING</b>
<b>Testing Dispensing Fee Guarantees</b> <ul style="list-style-type: none"> <li>Testing shows an underperformance of the discount guarantee on the retail brand and generic drugs</li> <li>CVS has reimbursed SEHP for the dispense fee guarantee shortfall</li> </ul>	Finding 1	\$81,136.03	●
<b>Pricing Guarantees –</b> <ul style="list-style-type: none"> <li>Testing shows an underperformance of the discount guarantee on the specialty, retail 30-day brand drugs and mail generic.</li> <li>CVS has reimbursed SEHP for the pricing guarantee shortfall</li> </ul>	Finding 2	\$1,485,841.93	●
<b>Duplicate Claim Payments</b> <ul style="list-style-type: none"> <li>Sagebrush did not identify any instances where a claim was paid more than once.</li> </ul>	Finding 3	\$0.00	●
<b>Copays/Coinsurance</b> <ul style="list-style-type: none"> <li>PLAN A – No exceptions found</li> <li>PLAN C, J, &amp; N – No exceptions found</li> </ul>	Findings 4-5	\$0.00	●
<b>Non-Covered Drugs</b> <ul style="list-style-type: none"> <li>Non-covered injectables and Fertility Drugs</li> </ul>	Finding 6	\$0.00	●
<b>Quantity Limits</b> <ul style="list-style-type: none"> <li>Exceeds Maximum Mail Order Supply – No Exceptions Found</li> <li>Opioids and Lidocaine – No exceptions found</li> </ul>	Finding 7	\$0.00	●
<b>Prior Authorization (PA) and Step Therapy</b> <ul style="list-style-type: none"> <li>606 claims totaling \$70,346.82 paid for prescriptions without authorizations in the electronic record for drugs requiring pre-authorizations. The errors included prescriptions for Abilify, Adderall XR, Fluoxetine, Humulin R, Mesalimine, ProAir HFA &amp; Ventolin HFA, to name a few.</li> <li>Compound Drugs with an ingredient cost &gt; \$300 requires prior auth – No Exceptions Found</li> </ul>	Finding 8	\$70,346.82	●
<b>Coordination of Benefits Opportunities</b>	Finding 9	\$0.00	●
<b>Tier 1 Strategy Drugs</b> <ul style="list-style-type: none"> <li>Sagebrush did not identify any instances where a Tier 1 Strategy drug applied more than the 20% coinsurance.</li> </ul>	Finding 10	\$0.00	●
<b>Statistical Sample Claims</b> The audit of the statistical sample of claims identified the following: <ul style="list-style-type: none"> <li>Sample #58 Per contract provided for the audit the provider discount should be 20.45% for payment of \$398.46. Claim priced AWP 713.64667 x 1.5 = \$1070.47 - 19.6% = \$860.66 + \$.10 dispense fee = \$860.76 minus \$413.20 POS rebate less \$40 copayment = \$407.56 paid.</li> </ul>	Finding 11	\$9.10	●
<b>Turnaround Time</b> CVS is meeting contractual guarantees.	Finding 12	\$0.00	●

*Pharmacy Benefit Management Audit of CVS Health  
January 1, 2022 through December 31, 2022*

TYPE OF FINDING	FINDING	TOTAL MISPAID	RATING
<b>Verification of Pharmacy Payments</b> No exceptions were identified.	Findings 13 - 15	\$0.00	
<b>Manufacturer Rebate Review</b> <ul style="list-style-type: none"> <li>• Outsourcing of Rebate Process</li> <li>• Minimum rebate guarantees were met</li> <li>• POS guarantee not met \$5,785,660.54</li> <li>• Variations in data provided audit and Settlement</li> <li>• Effect of POS rebates on high-deductible participants</li> <li>• Rebate invoice discrepancies (not supported or not invoiced) \$1,859.52</li> <li>• Rebate amount for individual claims is miscalculated \$3,890.78</li> </ul>	Finding 16 - 22	\$5,791,410.74	
<b>Eligibility Accuracy Review</b> The audit revealed 674 participants that appear to have claims paid after the coverage termination date. <ul style="list-style-type: none"> <li>• 810 claims were paid after the participant’s termination date. These claims totaled \$78,537.86.</li> <li>• Claims were paid correctly at the time of processing. Members were retroactively terminated.</li> </ul> These claims paid in error due to retroactivity represent less than 0.09% of total paid, are within expected industry tolerances for retroactivity, and are not material.	Finding 23	\$78,537.86	
<b>Total</b>		<b>\$7,507,282.48</b>	

<sup>1</sup>Material findings from the entire audit program, including statistical audit, electronic reviews, rebate audit, and other reviews.

- Audit Ratings:**
-  No further action necessary
  -  Satisfactory, but may need action
  -  Less than satisfactory, needs immediate action

## II. Audit Findings and Resolutions

### ***Finding 1: Retail Dispensing Fees***

Sagebrush electronically tested the claims population to determine if the proper dispensing fees were applied. This was done by dividing the total overall dispensing fee applied to the claims population by the number of claims that should have applied a dispensing fee, separated by rate type for retail, mail or specialty. A summary of Sagebrush’s average dispensing fee results by drug type and rate type are summarized in Table 2A.



*Pharmacy Benefit Management Audit of CVS Health  
January 1, 2022 through December 31, 2022*

Sagebrush’s findings are generally consistent with CVS findings. Any inconsistencies likely result from excluding claims from the guarantee calculations based solely on the CVS text description of excluded categories; no technical descriptions were provided.

**TABLE 2A. 2022 MEASURED VERSUS REPORTED DISPENSING FEES**

Guarantee	# of Claims	Actual Dispense Fee	Contracted Disp Fee	Achieved Rate	Guaranteed Rate	\$ Guarantee Overage/ Shortfall
<i>Fees Measured from Claims Data:</i>						
Retail Brand (1-34 Days Supply)	80,309	\$22,092.19	\$16,061.80	\$0.28	\$ .20	(\$6,030.39)
Retail Brand (90 Days Supply)	427	\$778.87	\$0.00	\$1.82	\$ .00	(\$778.87)
Retail Generic (1-34 Days Supply)	483,457	\$158,380.86	\$96,691.40	\$0.33	\$ .20	(\$61,689.46)
Retail Generic (90 Days Supply)	6,499	\$12,637.31	\$0.00	\$1.94	\$ .00	(\$12,637.31)
TOTAL						(\$81,136.03)
<i>Reported by CVS:</i>						
Retail Brand (1-34 Days Supply)	89,808	\$25,146.24	\$17,961.60	\$0.28	\$0.20	(\$7,184.64)
Retail Brand (90 Days Supply)	12,867	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Retail Generic (1-34 Days Supply)	531,089	\$169,948.48	\$106,217.80	\$0.32	\$0.20	(\$63,730.68)
Retail Generic (90 Days Supply)	168,589	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL AMOUNT DUE						(\$70,915.32)

**Resolution 1:** The total dispense fee applied to the retail brand and generic claims was in excess of the expected contracted rate. CVS will need to provide the check number and the date that this amount was issued to SEHP.

Also, CVS should provide a technical description, using data fields and specific values, of determining claims excluded from guarantee calculations. The technical description should be included in the documents provided for audit.

Sagebrush’s findings are generally consistent with CVS findings. Any inconsistencies likely result from excluding claims from the guarantee calculations based solely on the CVS text description of excluded categories; no technical descriptions were provided. Therefore,

Sagebrush considers this issue closed based on the amount reimbursed to SEHP on June 29, 2023.

**CVS Caremark Response:** CVS Caremark reviewed the pricing guarantee reconciliation and confirmed that SEHP was reimbursed for the self-reported Retail Pricing and Dispensing Fee guarantee shortfall of \$420,027.28 via check #7971859 on June 29, 2023. CVS Caremark provided claim level support demonstrating our analysis and classification of claims. CVS Caremark requested Sagebrush provided additional support for their analysis on December 11, 2023. In response, Sagebrush reiterated their point that their findings are generally consistent with CVS findings and that any inconsistencies are due to a number of factors, all of which are listed in their report. CVS Caremark maintains our position that the reconciliation reporting provided in support of the audit is complete and accurate.

It is our view that we are in compliance with the contract and plan design, and there are no additional material financial discrepancies related to this finding.

## **Finding 2 Pricing Discounts**

Sagebrush totaled the number of claims, AWP pricing, and actual pricing to determine whether the measured pricing discount is consistent with the rates reported by CVS and the guaranteed rates. The analysis was tabulated by rate type, excluding specific types of claims not included in the contractual guarantees.

The retail and mail order discount guarantees are shown in the table that follows. Table 2B shows the results, material issues, and the difference calculations of the aggregate discount for calendar year 2022, calculated by Sagebrush.

Pharmacy Benefit Management Audit of CVS Health  
January 1, 2022 through December 31, 2022

TABLE 2B. SAGEBRUSH 2022 PRICING DISCOUNT GUARANTEE CALCULATION

Rate Type Description	Claims	Ingredient Cost	Total AWP	Actual Discount Rate	Contracted Discount Rate	Variance/Performance
SPECIALTY	10,318	\$62,002,454.74	\$78,058,457.91	20.57%	22.00%	(\$1,116,235.95) <
	<b>TOTAL SPECIALTY DUE</b>					(\$1,116,235.95) <
BRAND TOTAL						
Retail Brands (30-Day)	86,964	\$50,812,209.82	\$62,588,759.94	18.82%	19.40%	(\$363,014.81) <
Retail Brands (90-Day)	13,242	\$9,750,263.25	\$12,636,411.40	22.84%	22.75%	\$11,372.77 >
GENERIC TOTAL						
Retail Generics	688,974	\$16,824,667.29	\$118,337,683.30	85.78%	85.50%	\$331,345.51 >
30-Day	514,981					
90- Day	173,993					
	<b>TOTAL RETAIL DUE</b>					(\$363,014.81) <
Mail Brands	1,573	\$1,353,251.37	\$1,798,089.56	24.75	24.75	\$0.00
Mail Generics	11,501	\$427,796.16	\$3,661,757.32	88.32%	88.50%	(\$6,591.17) <
MAIL TOTAL						
	<b>TOTAL MAIL DUE</b>					(\$6,591.17) <
	<b>TOTAL AMOUNT DUE</b>					(\$1,485,841.93) <

TABLE 2C. CVS REPORTED 2022 PRICING DISCOUNT GUARANTEE CALCULATION

Rate Type Description	Claims	Ingredient Cost	Total AWP	Actual Discount Rate	Contracted Discount Rate	Variance/Performance
SPECIALTY	10,820	73,509,498.28	\$58,391,914.75	20.57%	22.00%	(\$1,051,185.83) <
	SPECIALTY TOTAL DUE					(\$1,051,185.83) <
BRAND TOTAL						
Retail Brands (30-Day)	89,808	\$48,863,740.10	\$60,191,717.78	18.82%	19.40%	(\$349,111.96) <
Retail Brands (90-Day)	12,867	\$9,360,317.88	\$12,130,894.40	22.84%	22.75%	\$10,917.80 >
GENERIC TOTAL						
Retail Generics	699,678	\$16,986,764.56	\$119,913,157.02	85.83%	85.50%	\$395,713.42 >
30-Day	531,089					
90-Day	168,589					
TOTAL RETAIL DUE						(\$349,111.96) <
Mail Brands	1,399	\$1,156,795.97	\$1,537,269.74	24.75%	24.75%	\$0.00 -
Mail Generics	11,510	\$397,277.57	\$3,596,265.72	88.95%	88.50%	\$16,183.20 >
MAIL TOTAL <						
TOTAL MAIL DUE						\$0.00
TOTAL AMOUNT DUE						(\$1,400,297.79)

Table 2B and 2C PERFORMANCE KEY	Over Performance >Greater Than Contracted Rates	Acceptable Performance --Same as Contracted Rates	Under Performance <Less Than Contracted Rates
------------------------------------	--	--	--

**Resolution 2:**

CVS did not meet contractual performance guarantees for the specialty, 30-day retail brand and mail generic pricing discounts. CVS will need to provide the check number, amount of check and date the check was issued to SEHP for the missed guarantees.

Also, CVS should provide a technical description, using data fields and specific values, of determining excluded claims. The technical description should be included in the documents provided for audit.

Sagebrush pricing guarantees will slightly differ from those reported by CVS as we are trying to match the promises in the contract based on the text descriptions in the contract and the claims data provided for the audit. The data includes only the post POS Rebate ING COST, therefore, Sagebrush has to manually estimate the number of claims with a POS rebate in order to calculate the total ING COST for the pricing guarantee. Sagebrush’s findings are generally consistent with CVS findings. Any

inconsistencies likely result from excluding claims from the guarantee calculations based solely on the CVS text description of excluded categories. The file referenced in the CVS response above was used as a guide for our testing.

**CVS Caremark Response:** CVS Caremark reviewed the pricing guarantee reconciliation and confirmed that SEHP was reimbursed for the self-reported Retail Pricing and Dispensing Fee guarantee shortfall of \$420,027.28 via check #7971859 on June 29, 2023. SEHP was also reimbursed for the self-reported Specialty Overall Effective Discount (OED) shortfall of \$1,051,185.83 via check #7971859 on June 29, 2023. CVS Caremark provided claim level support demonstrating our analysis and classification of claims which includes a technical description for exclusions. Please reference the column labeled, 'Description' in the file labeled, 'kansas2022.mdb' to view the various technical descriptions for exclusions. CVS Caremark requested Sagebrush provide additional support for their analysis on December 11, 2023. In response, Sagebrush reiterated their point that their findings are generally consistent with CVS findings and that any inconsistencies are due to a number of factors, all of which are listed in their report. CVS Caremark maintains our position that the reconciliation reporting provided in support of the audit is complete and accurate.

Once this analysis is complete, it is our view that we are in compliance with the contract and plan design, and there are no additional material financial discrepancies related to this finding.

## **Duplicate Payments**

Sagebrush reviewed each claim electronically to test for the proper application of plan benefits and to ensure that each claim was processed and paid only once.

### ***Finding 3: Duplicate Payments***

Sagebrush tested the paid claims population for potential duplicate payments. There were ten (10) claims identified with potential duplicate payments totaling \$439.24.

- CVS reviewed these potential exceptions and found that they all had a proper PA override applied for an early vacation refill

**Resolution 3:** No further action is necessary.

***Finding 4: Financial and Privacy Controls***

Based on Sagebrush’s review of the Administrative Questionnaire response, testing, and controls in place for the confidential exchange of information between CVS and Sagebrush, Sagebrush concludes CVS has adequate controls in place for integrity, accuracy, and privacy.

**Resolution 4:** No further action is necessary.

***Finding 5: Copays and Coinsurance***

Based on the CVS Health review of the sample of potential exceptions, CVS Health appears to have programmed its systems to correctly apply coinsurance to Plan A Tier 1 claims. No further recommendation is necessary.

***Finding 6: Non-Covered Drugs***

Sagebrush did not identify any instances where a plan payment was issued for non-covered drugs, including Fertility drugs.

***Finding 7: Quantity Limits***

- Mail order Supply – There were no claims identified with a greater than 90-day supply.
- Opioid Limitations – Sagebrush did not identify any instances where an opioid exceeded the limitations based on how the claim was filled. Meaning, if the claim was a one-month supply, the quantity filled was within the quantity limit set by the plan for a one-month supply.

**Resolution 7:** No further action is necessary.

***Finding 8: Prior Authorizations/Step Therapies***

Sagebrush tested 100% of the claim population for calendar year 2022 to identify claims for medications that are listed on the Formulary Exclusions Requiring Prior Authorization drug list by drug name. The test excluded claims for participants that did not have Fill Number 0, or the initial fill for the prescription, in the claims data. The test identified 670 claim lines where the PA Number was blank. These 606 claims were for 375 unique participants with 588 unique prescriptions and 7 unique drug names totaling \$70,346.82 in paid dollars.

The test identified claims for Abilify, Adderall XR, Fluoxetine, Humulin R, Mesalamine, ProAir HFA, and Ventoline HFA, to name a few.

CVS reviewed one claim for each drug name and dosage submitted and stated the following:

- Abilify Maintena is a preferred product and does not require a prior authorization.
- Adderall XR - A prior authorization is not required for members 19 years old or younger.
- Fluoxetine - The prior authorization requirement does not apply to the NDC identified.
- Humulin R U-500 is a preferred product and does not require prior authorization.
- Mesalamine - The prior authorization requirement does not apply to the NDC identified. Drug was added back to the preferred product list as of 8-1-2022.
- ProAir HFA and Ventolin HFA – CVS states these are Medicaid claims. Medicaid statutes state that CVS Caremark cannot reject claims for lack of prior authorization in CO, CT, DE, GA, IN, KY, LA, MO, NJ, NY, OH, or WV.

Based on additional review, these claims were all processed accurately without authorization.

**TABLE 2F. PRIOR AUTHORIZATION EXCEPTIONS**

PLAN	TOTAL CLAIMS	FINANCIAL IMPACT
PLAN A	287	\$22,390.29
PLAN C	268	\$46,235.76
PLAN J	17	\$407.84
PLAN N	34	\$1,312.93
TOTAL	606	\$70,346.82

**Resolution 8:** Sagebrush provided CVS with fourteen (14) claims from the 7 identified drugs that require a prior authorization for review. CVS Health reviewed the fourteen (14) drug name exceptions provided and determined that none of the included drugs required a prior authorization for the date of service in question.

For the claims where CVS states that the NDC does not require prior authorization, Sagebrush cannot determine from the Formulary Exclusions Requiring Prior Authorization list that is provided for the audit, what NDC’s are included or excluded, as the list is by drug name only.

CVS should provide a more detailed Formulary Exclusions Requiring Prior Authorization List that includes the NDC numbers that actually require the prior authorization.

**CVS Caremark Response:** CVS Caremark reviewed the fourteen (14) sample claims provided by Sagebrush and confirmed these claims processed correctly, as State of Kansas did not elect to implement a Prior Authorization (PA) requirement for these products. CVS Caremark recommends that in the future, Sagebrush request documentation at the onset of the audit for utilization management in order to determine which clinical programs were in place during the audit period.

It is our view that we are in compliance with the contract and plan design, and there are no material financial discrepancies related to this finding.

**Sagebrush Response:** Sagebrush agrees that the findings in this category, which are less than 1%, are not material.

***Finding 9: Coordination of Benefits***

Sagebrush did not identify any instances for missed coordination of benefits.

**Resolution 9:** No further action is necessary.

***Finding 10: Tier 1 Strategy***

The electronic testing of 100% of the claim's population did not identify any exceptions in the Tier 1 Strategy category.

CVS Health appears to have programmed its systems to correctly apply coinsurance to Tier 1 claims. No further recommendation is necessary.

**Resolution:** No further action is necessary.

***Finding 11: Statistical Claim Sample***

Sagebrush assessed an error to one (1) claim in the statistical sample. Sample #58 priced with an incorrect provider discount rate. Per the contract provided for the audit, the Pharmacy discount should be 20.45% for a payment of \$398.46. The claim priced  $AWP\ 713.64667 \times 1.5 = \$1070.47 - 19.6\% \text{ pass through discount} = \$860.66 + \$.10 \text{ dispense fee} = \$860.76 \text{ minus POS rebate } \$413.20 = \$447.56 \text{ less } \$40 \text{ copayment} = \$407.56 \text{ paid}$ .

CVS states that this client has pass through pricing. Therefore, this claim processed correctly with the 19.6% discount. No issue noted. However, Sagebrush selected this claim as part of the review of the



actual Pharmacy contract in place between CVS and the Pharmacy. The audit of this claim was to determine if the claim was processed according to the Pharmacy’s contracted discount with CVS. The claim was overpaid \$9.10 per the review of the Pharmacy contract.

CVS’s statement that the client has pass through pricing, is not appropriate in this case as there is a contract in place with the Pharmacy and CVS is contractually obligated to price the claims submitted by this Pharmacy with a 20.45% discount, regardless of the Client.

**CVS Caremark Response:** CVS Caremark has reviewed the sample claim in question and maintains our position that the claim processed correctly. The Network Enrollment Forms provided were in effect for the applicable time period and contain effective rate guarantees. Effective rate guarantees are contracted rates that guarantee that the pharmacy will not receive reimbursement in the aggregate that is less than the effective rate guarantee. Effective rate guarantees are guarantees to the pharmacy across all lines of business in all states. It is therefore not required that the pharmacy is paid, for each and every claim, a rate that matches the contracted effective rate.

It is our view that we are in compliance with the contract and plan design, and there are no material financial discrepancies related to this finding.

TABLE 3A. SAMPLE EXCEPTIONS BY TYPE OF EXCEPTION

TYPE OF EXCEPTION	TOTAL # EXCEPTIONS	FINANCIAL IMPACT
Incorrect Provider Contracted Discount	1	\$9.10
TOTAL	1	\$9.10

**Resolution 11:** No recommendation is necessary as the extrapolated impact of this one error to the paid claim population is minimal.

### Audit Results Statistical Sample

These results are based on the random sample claims being processed with the Pass Through pricing discounts at the time the claim was adjudicated by CVS, with the understanding that the discount guarantee will be aggregated with the year-end reconciliation.

Sagebrush assessed one (1) error on sample #58 for an overpayment of \$9.10. The claim priced with a contract discount of 19.6%. The Pharmacy contract shows a discount of 20.45%. CVS and Sagebrush disagree on the disposition of this claim.

**Financial Accuracy:** The tested financial accuracy rate of the sample is 99.99%. This accuracy meets the generally observed industry standard of 99.99%. The financial performance guarantee between CVS and SEHP is 99.25%.

The stratified random sampling method permits projection of the audited financial accuracy rate to the entire population. The auditor's ability to statistically project the audit findings in this manner depends on the sampling technique used.

The tested gross financial error in the pharmacy claims sample is \$9.10. Based on the amount of the payment errors and the distribution among the claim strata, the best estimate of the absolute (gross) financial error is \$6,147.05 in the total paid claim population of \$97,255,135.83, shown in Table 3B below. The resulting projected gross financial (dollar) accuracy within the claim population is 100.00%. The standard commonly observed in the industry is 99.00%.

TABLE 3B: CALCULATION OF GROSS FINANCIAL IMPACT FOR THE POPULATION

			A	B	C	D	E
Strata by Claim Paid Amount			Gross Sample Error	Sample Size	Average Error per Sampled Claim	Total # of Claims in Population	Projected Gross Error
					A/C		C x D
\$0.00	-	\$249.99	\$0.00	50	\$0.00	1,188,313	\$0.000
\$250.00	-	\$2,669.99	\$9.10	50	\$0.18	33,775	\$6,147.050
\$2,670.00	-	\$6,499.99	\$0.00	50	\$0.00	4,829	\$0.000
\$6,500.00	-	\$16,599.99	\$0.00	50	\$0.00	1,827	\$0.000
\$16,600.00	+		\$0.00	50	\$0.00	697	\$0.000
TOTAL			<b>\$9.10</b>	<b>250</b>	<b>\$0.18</b>	<b>1,229,441</b>	<b>\$6,147.050</b>

**Payment Accuracy:** The payment accuracy rate for the audit sample is 99.95%. This accuracy is within the generally observed industry standard of 95.00 to 97.00 percent. The performance guarantee between CVS and SEHP for payment accuracy is 98.00%.

**Procedural Accuracy:** The procedural accuracy rate for the audit sample is 100.00%. This accuracy rate exceeds the generally observed industry standard of 95.00% and the CVS performance guarantee for processing accuracy of 98.00%.

TABLE 3C: SUMMARY OF ACCURACY RATES

Measure	Measured Accuracy	CVS Performance Guarantees	Common Industry Standards
Financial Accuracy	99.99%	99.25%	99.00%
Payment Accuracy	99.95%	98.00%	95.00% - 97.00%
Procedural Accuracy	100.00%	98.00%	95.00%

**Finding 13: Payment Verification**

Sagebrush compared pharmacy payments to the actual CVS-pharmacy contract and contacted the pharmacy to verify receipt of the reported paid amounts for a sample of claims. The verification of pharmacy payments confirmed the statistical sample findings that the stated contractual pharmacy discount did not always match the actual discount applied on individual claims.

The review confirmed that CVS accurately reported the actual amounts paid to the pharmacies.

**Finding 14: Contractual Payment Terms**

Of the 15 samples reviewed, Sagebrush identified that the contract terms for discount for one (1) sample (sample number 58) was not followed on the individual sample claim. The discount amount for this sample did not match CVS’ supporting documentation either (see the Random Sample Observations and Recommendation section of this report). Specifically, the drug price was actually discounted .85% less than the contractual discount; the pharmacy was underpaid by .85% on the sample.

**Resolution 14:** The discrepancy on sample #58 was submitted to CVS for review and comment. It is CVS’ position that contractual discounts may not be followed on individual pharmacy transactions, however CVS states it is still within the scope of its agreement with SEHP if overall guarantees for pricing discounts are satisfied.

CVS guaranteed the State an overall discount of 19.40%. The pricing discount guarantee of 19.40% was not met in 2022 (see Finding and Recommendation 2), resulting in payments to pharmacies that were greater in aggregate than promised.

While the sample review identified this overpayment to a pharmacy on one claim, in aggregate CVS overpaid (did not meet the discount guarantee) for the specialty or 30-day retail pharmacy claims. See CVS response in Resolution 1 and Resolution 2.

**Verification of Pharmacy Payments with Pharmacies**

For the 15 pharmacy contracts reviewed, Sagebrush contacted the pharmacies to verify CVS payment records match to the pharmacy receipts. Sagebrush did not identify any samples where the Explanation of Benefits (EOB) provided by the pharmacy did not match the fields in the electronic claims data provided to Sagebrush by CVS.

***Finding 15: Verification of Payments***

The verification process confirmed that CVS accurately reported the actual amounts paid to the pharmacies.

**III. MANUFACTURER REBATE REVIEW**

The tables below show the data as used to select the top manufacturers for audit. The manufacturers selected for audit for the 2022 plan year include Abbvie, Johnson & Johnson, Eli Lilly, Astra Zeneca, and Novo Nordisk.

TABLE 4A. INVOICED REBATES FOR SELECTED MANUFACTURERS VS TOTAL REBATES

	2022 TOTAL INVOICED REBATES
Total Top 5 Manufacturers	\$28,370,413.92
Total During Audit Period	\$47,740,964.06
% Audited	59.4%

***Finding 16: Invoiced Rebates***

The total invoiced rebates, compared to total unrebated plan expense are shown in the table below. The rebates as a percentage of total paid pharmacy claims during the study period are 32.9%.

TABLE 4B. INVOICED REBATES VS TOTAL UNREBATED EXPENSE

		2022 Plan Year
A	Invoiced Rebates	\$47,740,964.06
B	Total Pharmacy Paid by Plan	\$97,255,135.83
C	Total Plan Paid + Rebates (A + B)	\$144,996,099.69
D	Rebates as a % of Total Unrebated Expense (A/C)	32.9%

**Resolution 16:** Observational only. No recommendation necessary.

***Finding 17: Outsourcing of Rebate Process***

On March 18, 2020, CVS launched a group purchasing organization (GPO) called Zinc Health Ventures, LLC (Zinc). Zinc is a Delaware limited liability company and subsidiary of CVS Health Corporation.

In the CVS Health Corporation Form 10-K for the fiscal year ended December 31, 2021, CVS states the purpose of the GPO as follows:

*“The Company operates a group purchasing organization that negotiates pricing for the purchase of pharmaceuticals and rebates with pharmaceutical manufacturers on behalf of its participants. The Company also provides various administrative, management and reporting services to pharmaceutical manufacturers.”*

This is the same language as found in the Form 10-K filed by CVS Health Corporation for the fiscal year ended December 31, 2020.

CVS made the Zinc-manufacturer contracts available for Sagebrush review. During the study period, the terms of the Zinc rebates were similar to the terms under the CVS-manufacturer contracts in prior year audit.

Also in the 2020 Form 10-K, under the section entitled “Risks From Changes in Public Policy and Other Regulatory Risks” on pages 44 – 45, CVS cites “*potential changes in public policy, laws and regulations... which can adversely affect our business.*” The listed risks include:

*“...in November 2020, the HHS released the Rebate Rule, which eliminates the regulatory safe harbor from prosecution under the AKS for rebates from pharmaceutical companies to PBMs in Medicare Part D and in Medicaid MCOs, replacing it with two far narrower safe harbors designed to directly benefit patients with high out-of-pocket costs and to change the way PBMs are compensated. The new safe harbors are (i) for rebates which are passed on to the patient at the point of sale and (ii) for flat service fee payments made to PBMs which cannot be tied to the list prices of drugs.”*

The other potential benefit of Zinc to CVS beyond potentially enhanced GPO purchasing power includes CVS continuing to collect administrative fees on rebates under the GPO contract. GPO contracts may avoid legislative proposals to prohibit manufacturers from paying PBMs administrative service fees directly that are based on a percentage of sales or drug list prices<sup>1</sup>.

---

<sup>1</sup> <https://www.drugchannels.net/2020/01/express-scripts-prime-therapeutics-our.html>

**Finding 18: Rebate Discrepancies**

No mispayments were identified in invoices reviewed for the selected manufacturers.

**Recommendation:** No further action is required.

**Finding 19: Minimum Rebate Guarantees**

Sagebrush applied the claim volumes to the per rebate guarantee amounts in CVS-SOK contract and compared to actual rebates and the reported point-of-sale rebates. The results of the comparison are shown in the table below.

TABLE 4C. ACTUAL REBATES COMPARED TO REBATE GUARANTEES

Category	# of Claims from Interim Settlement Report	Per Claim Rebate Guarantee*	Total Minimum Rebate Guarantee	Invoiced Rebates and Admin Fees**	POS Rebates per Settlement Report***	% POS to Invoiced
Retail Brand 30-Day	83,754	\$314.04	\$26,302,106.16			
Retail Brand 90-Day	11,363	\$408.25	\$4,638,944.75			
Mail Brand	1,191	\$989.76	\$1,178,804.16			
TOTAL	96,308		\$32,119,855.07	\$52,565,700.37	\$46,229,080.89	87.95%
Per Interim Settlement Report				\$52,611,550.96	\$46,229,080.89	87.87%

CVS met the minimum rebate guarantees. However, CVS did not satisfy the contractual requirement that at least 95% of the actual rebates were rebates at the point-of-sale.

**Resolution 19:** Per the Settlement Report, CVS owes SEHP the difference between the Minimum POS Guarantee of 95% of the Invoiced Rebates and the actual POS Rebates, or \$5,785,660.54. CVS will need to provide the check number used to reimburse SEHP this amount.

**CVS Caremark Response:** CVS Caremark can confirm that SEHP was paid \$5,785,660.54 via check #7824274 on April 26, 2023.

**Finding 20: POS Rebate Guarantee**

While onsite, CVS provided Sagebrush auditors with a database of POS rebates by claim. The table below is a comparison of the CVS-reported POS Guarantee calculation from the Settlement Report to

*Pharmacy Benefit Management Audit of CVS Health  
January 1, 2022 through December 31, 2022*

the POS rebate data provided to Sagebrush auditors during the week of October 23, 2023. Based on the data provided, it appears that the database of POS rebates by claim ties to the Settlement Report to within a tolerable margin.

**TABLE 4D. POS REBATES DATA COMPARED TO POS REBATE GUARANTEE**

Category	From POS Report: Total POS Rebate	From Interim Settlement: POS Rebate Total	Difference
Retail Brand	\$29,650,079.84		
Retail Generic 30-Day	\$234.62		
Retail Generic 90-Day	\$0.00		
Mail Brand	\$819,511.37		
Mail Generic	\$0.00		
Specialty	\$0.00		
TOTAL	\$30,469,825.83		
Exclusions	\$15,642,407.32		
GRAND TOTAL	\$46,112,233.15	\$46,226,329.01	-0.25%

**Resolution 20:** No further action is necessary.

**Finding 21: Claims Eligible for Rebates Included in Invoices**

Sagebrush electronically compared the claims data to the claims included on the invoices to the manufacturer. The purpose of the comparison is to ensure that all drugs that are eligible for rebates were included in the invoices.

Sagebrush eleven claims that appeared to be rebate-eligible but not invoiced. CVS provided documentation showing the reason why each claim was not submitted on an invoice to the respective manufacturer. The table below groups the claims by reason for non-submission.

TABLE 4E. INVOICE DISCREPANCIES

ISSUE #	DESCRIPTION	NUMBER OF CLAIMS	ESTIMATED IMPACT (\$)
1	<b>GOVERNMENT PHARMACIES NOT ELIGIBLE FOR REBATES:</b> Government (also known as 340b) pharmacies are not eligible for rebates under the manufacturer contracts. CVS provided additional documentation to demonstrate that the dispensing pharmacies for these claims were, in fact, government pharmacies.	3	\$0.00
2	<b>CLAIMS WITH ZERO COB NOT INVOICED:</b> The listing of claims provided by CVS and submitted to manufacturers in 2022 did not include these rebate-eligible claims. CVS states these claims were not rebate-eligible because there was an indicator for other insurance coverage. However, no other insurance paid any amount toward these claims. Estimated amount shown is Ingredient Cost x 50%.	8	\$1,859.42
<b>Total Impact</b>			\$1,859.52

**CVS Caremark Response: Claims Eligible for Rebates Included in Invoices**

CVS Caremark maintains the claims referenced above were correctly identified and ineligible claims and not invoiced to the manufacturers. No further action is required.

**• Issue #1 Government Pharmacies Not Eligible for Rebates**

○ CVS Caremark agrees that each claim referenced in issue #1 was dispensed from a government pharmacy and thus not rebate eligible. No further action is required.

**• Issue #2 Claims with Zero COB Not Invoiced**

○ CVS Caremark maintains that non-primary claims are ineligible for rebates and has provided documentation to Sagebrush that each claim referenced in issue #2 was a non-primary claim. No further action is required.



**Finding 22: Rebate Discrepancies**

Based on the manufacturers reviewed, the total net mispayments identified in the invoices for the plan is \$3,890.78, or 0.01% of the total rebates for the selected manufacturers.

The table below presents all discrepancies identified and not resolved with CVS. The findings represent the results of the review of the manufacturer contracts for accurate rebate calculations.

**TABLE 4F. REBATE DISCREPANCIES**

ISSUE #	DESCRIPTION	ESTIMATED IMPACT (\$)
1 - 4	<b>PRICE PROTECTION:</b> Sagebrush requested information supporting the calculation of Price Protection amounts for four drugs. Price Protection clauses protect the employer from extraordinary drug price increases, in excess of anticipated inflation or other contractual benchmark. Support provided reconciled each of the Price Protection amounts to within 0.10% or less. No impact to SEHP.	\$0
5 - 6	<b>OSTEOPOROSIS MEDICINE:</b> In Q1 and August 2022, this drug was eligible for an additional 3% incremental rebate for its formulary placement with another drug from this manufacturer, combined with the fact that no prior authorization is required. CVS responded on December 26, 2023 that the drug was processed with a prior authorization, however this drug is not listed as requiring a prior authorization on documentation provided for audit and to SEHP.	(\$264.18)
7	<b>BLOOD THINNER:</b> In January 2022, the correct base rebate rate was not applied. Invoice provided for audit shows invoice date of Month 1 Q1, Report 110773, invoiced at 51%. Information provided in CVS response to draft report shows these claims on Report 110770. There is discrepancy between data provided for audit and CVS response on December 26, 2023.	(\$3,626.60)
<b>Total Due to SEHP</b>		\$3,890.78

**CVS Caremark Response: Rebate Discrepancies**

CVS Caremark maintains the drugs referenced above were invoiced at the correct rates. Invoicing as well as contractual support was provided to Sagebrush on December 26, 2023 as support. No further action is required.

**• Issue #1-4 Price Protection**

- CVS Caremark provided Price Protection calculations to Sagebrush on December 26, 2023. No further action is required.

**• Issue #5-6 Osteoporosis Medicine**

- CVS Caremark maintains that the claims referenced above were invoiced at the correct rate. Support for the rate invoiced and proof of PA on a subset of the claims in reference was provided to Sagebrush on December 26, 2023. No further action is required.

**• Issue #7 Blood Thinner**

- CVS Caremark maintains that the claims referenced above were invoiced at the correct rate. Support for the rate invoiced was provided to Sagebrush on December 26, 2023. No further action is required.

#### **IV. ELIGIBILITY ACCURACY REVIEW**

Sagebrush requested electronic eligibility information from SEHP and electronically compared the eligibility records to the claim records. The written report quantifies the value of claims paid for ineligible participants for the study period. Examining prescriptions paid for ineligible participants is useful for determining the root cause and improving processes that would reduce such payments in the future.

##### ***Finding 23: Eligibility Accuracy Review***

Sagebrush electronically compared the eligibility files to the entire universe of dates of services for claim payments in the CVS claims payment file, January 1, 2022 through December 31, 2022. We then compared the electronic findings against the eligibility file manually due to discrepancies in the way the eligibility file is loaded into the Sagebrush database

Sagebrush identified 349 unique member ID's, with 674 individual participants that had 810 claims that appear to be paid after the coverage termination date. These 810 claims had a total paid amount of \$78,537.86. Based on review, the 810 claims were paid after the participant's termination date, but prior to CVS receiving notification that the member had terminated coverage.

These claims paid in error due to retroactivity represent less than 0.08% of the total paid in the claim population, are within expected industry tolerances for retroactivity, and are not material.

**CVS Caremark Response:** CVS Caremark reviewed the samples provided by Sagebrush and confirmed the participants were active at the time of adjudication. The eligibility dates for each participant were derived from the electronic files CVS Caremark received from State of Kansas's eligibility vendor. CVS Caremark is not responsible for paying claims due to the retroactive disenrollment of members until CVS Caremark receives an eligibility file reflecting that the member has terminated.

It is our view that we are in compliance with the contract and plan design, and there are no material financial discrepancies related to this finding.

**v. *ADMINISTRATOR RESPONSE***