



**Pharmacy Benefit Management
Audit of CVS Health (CVS)
Calendar Year 2020**

SUMMARY REPORT

Prepared for
State Employee Health Plan (SEHP)
State of Kansas
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Submitted by:

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I. OVERVIEW

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, 2020 through December 31, 2020.

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.

KEY FINDINGS

During the audit period, Sagebrush reviewed a random sample of 250 SEHP pharmacy claims totaling \$1,915,288.47 in paid dollars randomly selected and tested from the population of SEHP claims processed by CVS during calendar year 2020. The total population of claims is 911,451

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claims with a total paid amount of \$80,768,898.14. 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 ¹

	ERROR AMOUNT IN SAMPLE	ESTIMATED GROSS FINANCIAL IMPACT FOR POPULATION
Total Financial Impact	\$272.74	\$3,927.46
Total Claims in Error	1	

¹ Represents claims errors for which CVS and Sagebrush agree to disagree as to the accuracy of the payment and identified through the audit of the statistical sample only. Other errors with a financial impact are described below.

TABLE 1B. SNAPSHOT OF STATISTICAL AUDIT RESULTS – ACCURACY ¹

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	100.00%	95.00% - 97.00%	98.00%
Processing Accuracy	100.00%	95.00%	98.00%

¹ 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.

TABLE 1C. KEY FINDINGS OF AUDIT PROGRAM¹

TYPE OF FINDING	FINDING	TOTAL MISPAID	RATING
Dispensing Fee Guarantees	Findings 1	\$4,756.10	●
Pricing Guarantees – <ul style="list-style-type: none"> Testing shows an underperformance of the discount guarantee on the retail 90-day brand drugs 	Finding 2	\$302,790.37	●

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TYPE OF FINDING	FINDING	TOTAL MISPAID	RATING
Duplicate Claim Payments <ul style="list-style-type: none"> There were twelve (12) claims identified with potential duplicate payments. These claims were resolved with additional documentation from CVS. 	Finding 3	\$0.00	●
Copays/Coinsurance <ul style="list-style-type: none"> PLAN A – 70 TIER 1 claims = \$1,655.64 PLAN C,J,N & Q – No exceptions found 	Findings 4-5	(\$1,655.64)	●
Non-Covered Drugs <ul style="list-style-type: none"> Non-covered injectables and Fertility Drugs 	Finding 6	\$0.00	●
Quantity Limits <ul style="list-style-type: none"> Exceeds Maximum Mail Order Supply – No Exceptions Found Opioids and Lidocaine – No exceptions found 	Finding 7	\$0.00	●
Prior Authorization (PA) and Step Therapy <ul style="list-style-type: none"> 563 claims totaling \$78,119.83 paid for prescriptions without authorizations in the electronic record for drugs requiring pre-authorizations. The errors included prescriptions for Asmanex, Clobetasol, Diltiazem, Fluoxetine 60mg, Humulin R and Sucalfate Sus to name a few. 	Finding 8	\$78,119.83	●
Coordination of Benefits Opportunities	Finding 9	\$0.00	●
Tier 1 Strategy Drugs Sagebrush identified 12 drugs on the Tier 1 Strategy drug list with 99 paid claims that did not process at the Tier 1 coinsurance.	Finding 10	(\$7,432.96)	●
Statistical Sample Claims The audit of the statistical sample of claims identified the following: <ul style="list-style-type: none"> Sample #241 applied 10% sales tax in error. Specialty Mail Order to participant residing in Kansas. CVS and Sagebrush agree to disagree as to whether the application of tax is in error. 	Finding 11	\$272.74	●
Turnaround Time CVS is meeting contractual guarantees.	Finding 12	\$0.00	●
Verification of Pharmacy Payments No exceptions were identified.	Findings 13 - 15	\$0.00	●
Manufacturer Rebate Review <ul style="list-style-type: none"> Rebate invoice discrepancies Outsourcing of Rebate Process Rebate Discrepancies Minimum rebate guarantees were met. 	Finding 16 - 20	(\$7,253.00)	●

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TYPE OF FINDING	FINDING	TOTAL MISPAID	RATING
<p>Eligibility Accuracy Review</p> <p>The audit revealed 277 participants that appear to have claims paid after the coverage termination date.</p> <ul style="list-style-type: none"> • 24 participants had claims paid after the termination date totaling \$787.56. The members enrolled during open enrollment, but terminated prior to the new year was effective. • 86 participants had claims, paid after the termination date and the date SEHP notified CVS, totaling \$19,184.00. • 162 participants had claims totaling \$41,075.37 that were paid after the termination date, but before CVS was notified that the participant had terminated. These are considered retro-terminations and are not considered an error as the claim was paid according to the participants information on file at the time of fill. • There are 5 participants with claims totaling \$296.94 that Sagebrush identified as exceptions based on the information in the eligibility file provide by SEHP. However, Sagebrush asked SEHP and CVS to review Sagebrush’s findings. Based on the comments provided, the information that CVS has in its system does not match what SEHP has provided. <p>These claims paid in error due to retroactivity represent less than 0.08% of total paid, are within expected industry tolerances for retroactivity, and are not material.</p>	Finding 21	\$61,343.87	●
Total		\$430,941.31	

¹Material 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.

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. 2020 MEASURED VERSUS REPORTED DISPENSING FEES

Guarantee	# of Claims	Actual Dispense Fee	Contracted Disp Fee	Achieved Rate	Guaranteed Rate	\$ Guarantee Overage/ Shortfall
<i>Measured from Claims Data:</i>						
Retail Brand (1-34 Days Supply)	44,352	\$11,906.44	\$13,305.60	\$0.27	\$0.30	\$1,399.16
Retail Generic (1-34 Days Supply)	311,842	\$96,748.13	\$93,552.60	\$0.31	\$0.30	-\$3,195.53
TOTAL	356,194	\$108,654.57	\$106,858.20			-\$3,195.53
<i>Reported by CVS:</i>						
Retail Brand (1-34 Days Supply)				\$0.25	\$0.30	\$3,526.10
Retail Generic (1-34 Days Supply)				\$0.31	\$0.30	-\$4,756.10
TOTAL AMOUNT DUE						-\$4,756.10

Resolution 1: The total dispense fee applied to the retail generic claims was in excess of the expected contracted rate. CVS issued a payment back to SEHP for \$4,756.10 (check # 902397, issued on 5/14/2021), resolving this issue.

Finding 2: Pricing Guarantees

Sagebrush matched CVS’s tabulation of the number of claims within 1%. The differences in the claim totals may be due to timing, such as subsequent adjustments to claims after CVS prepared its report, or Sagebrush’s programmed exclusions based on the contract description and applied to the file layout.

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 2020, calculated by Sagebrush. Table 2C shows the calculations reported by CVS.

CVS met or exceeded the minimum pricing guarantee discounts for several categories. Both CVS and Sagebrush identified one rate type that did not meet the minimum pricing guarantee.

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TABLE 2B. SAGEBRUSH 2020 PRICING DISCOUNT GUARANTEE CALCULATION

Rate Type Description	# Claims ¹	Contracted Discount Rate	Actual Discount Rate	Total AWP	Claims Ingredient Cost (plus minimum Rebate Guarantee) ²	Variance/Performance	
Retail Brands (All/Blended) ³	104,334	20.00%	20.05%	\$71,944,875.15	\$57,517,796.07	\$35,635.64	>
Retail Generics	744,563	84.00%	83.75%	\$116,653,181.09	\$18,959,213.74	(\$294,704.77)	<
Mail Generics	10,389	88.00%	88.15%	\$3,091,650.42	\$366,427.72	\$4,570.33	>
Mail Brands	Excluded from Guarantees						
TOTALS	859,286			\$191,689,706.66	\$76,843,437.53	(\$254,498.80)	
Difference to CVS	0.52%			-1.91%	-3.43%	(\$202,411.95)	

TABLE 2C. CVS REPORTED 2020 PRICING DISCOUNT GUARANTEE CALCULATION

Rate Type Description	# Claims	Contracted Discount Rate	Actual Discount Rate	Total AWP	Ingredient Cost	Variance/Performance	
Retail Brands (30 day)	77,275	19.00%	19.42%	\$47,558,956.95	\$38,324,226.81	\$199,747.62	>
Retail Brands (90 day)	29,519	22.25%	20.85%	\$21,627,883.34	\$17,117,531.84	(\$302,790.37)	<
Retail Generics	746,689	84.00%	84.04%	\$115,838,291.31	\$18,485,018.73	\$46,335.32	<
Mail Generics	10,322	88.00%	88.15%	\$3,080,388.39	\$365,159.64	\$4,620.58	>
Mail Brands	Excluded from Guarantees						
	863,805			\$188,105,519.99	\$74,291,937.02	(\$52,086.85)	

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 pricing discounts. CVS issued a payment back to SEHP for \$302,790.37 (check # 902397, issued 5/14/2021), resolving this issue.

Finding 3: Duplicate Payments

Sagebrush tested the paid claims population for potential duplicate payments. There were twelve (12) claims identified with potential duplicate payments totaling \$2,280.07.

Resolution 3: Based on the response from CVS, these claims were determined not to be duplicated payments.

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.

There were no issues found in this category.

Finding 5: Copays and Coinsurance

TABLE 2E. COPAY AND COINSURANCE EXCEPTIONS

PLAN	ISSUE	TOTAL CLAIMS ¹	FINANCIAL IMPACT
PLAN - C,J,N & Q	. No exceptions were found for Plans C,J,N and Q	0	\$0.00
PLAN A	TIER 1 claims for Plan A applied a coinsurance greater than 20% of the total ingredient cost, as stated in the plan document	70	(\$1,655.64)
	Total Mispaid	70	(\$1,655.64)

¹Total claims represents the number of claims in error.

Resolution 5: 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 action is required.

Finding 6: Non-Covered Drugs

Sagebrush did not identify any instances where a plan payment was issued for these drugs. Fertility drugs identified in the claim population were applied 100% to the participant coinsurance.

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.

Observation: Sagebrush notes that Nucynta (all strengths), Nucynta ER (all strengths) and Xartemis XR have the same quantity limit maximum for a 90-day supply as for a 30-day supply in the CPM rules.

Sagebrush did identify a participant in the testing that was prescribed Nucynta. This participant is receiving and filling 2 prescriptions for Nucynta every month, for 2 different strengths, Nucynta 100 mg, 180 tablets and Nucynta ER 250mg, 60 tablets, every month. Each of these prescriptions are being filled at the maximum quantity limit allowed each month. The total paid for the year for Nucynta 100mg is \$10,135.37 and Nucynta ER 250mg is \$6,103.02. The quantity limitations for Nucynta ER 250mg is 60 tablets for a one-month supply (25 days) and states all strengths combined and that a three-month limit is the same as a one-month limit.

The ambiguity of whether and how much of both drugs can be prescribed requires clarification due to both the clinical outcomes (habit-forming) and opportunity for fraud due to the street value.

Resolution 7: CVS and/or SEHP should consider limiting Nucynta and Nucynta ER (all strengths) and Xartemis XR to be filled only as a three-month supply for participants that require this medication long term. Since the one-month and three-month quantity limitation is the same, this could save money and lessen the risk of addiction and fraud.

A participant receiving Nucynta 100mg is allowed 180 tablets per one-month supply (25 days) or 180 tablets per three-month supply (75 days). A participant receiving a one-month supply, every month, is receiving 540 tablets every 75 – 90 days. The total of three one-month fills far exceeds the maximum quantity of the three-month supply limit (same as a one-month supply).

CVS Response:

CVS reviewed the claims provided for Nucynta. Nucynta is an immediate-release (IR) product and Nucynta ER is an extended-release (ER) product. This combination is often prescribed. The IR is used with the ER to treat break-through pain before the next ER dose. The ER and IR products do not accumulate together.

Sagebrush agrees with the CVS response. No further action is required.

Finding 8: Prior Authorizations/Step Therapies

Sagebrush tested 100% of the claim population for calendar year 2020 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 found 563 claim lines where the PA Number was blank. These 563 claims were for 165 unique participants with 328 unique prescriptions and 23 unique drug names totaling \$78,119.83 in paid dollars.

This test, based on the data provided to Sagebrush from CVS Health, is inconclusive as Sagebrush cannot determine if there is a PA on file in the prior year that would be in effect for the claims and drugs identified. There is no PA number, no PA effective or PA termination date, and no PA code in the data on any of these claims. There may be a PA on file in the prior year or an override on file that would allow for these claims to be paid.

The errors included prescriptions for Asmanex, Clobetasol, Diltiazem, Fluoxetine 60mg, Humulin R and Sucalfate Sus to name a few.

TABLE 2F. PRIOR AUTHORIZATION EXCEPTIONS

PLAN	TOTAL CLAIMS	FINANCIAL IMPACT
PLAN A	492	\$35,624.36
PLAN C	68	\$42,201.24
PLAN N	1	\$216.67
PLAN Q	2	\$77.56
TOTAL	563	\$78,119.83

Resolution 8: Sagebrush provided CVS with 1 claim for each of the 23 identified drugs that require a prior authorization for review. CVS Health reviewed the twenty-three (23) drug name exceptions provided with the audit report and determined the following through the review of specific NDCs for listed drug name:

Based on CVS’s review, Sagebrush agrees that the claims were processed according to the plan documents for the audit period.

Finding 9: Coordination of Benefits

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

Resolution 9: No further action is required.

Finding 10: Tier 1 Strategy

Sagebrush identified 12 brand name drugs on the Tier 1 Strategy list with 99 paid claims totaling \$7,432.96 where the lesser Tier 1 coinsurance of 20% was not applied.

Resolution 10: Sagebrush provided one claim for each drug identified to CVS to determine why the lesser 20% coinsurance was not applied. CVS determined the following:

- Two (2) claims were for Oracea and Vagifem that were not added to the Tier 1 Strategy list until January 1, 2021 and April 1, 2021, after the audit period. These claims were dispensed prior to these dates.
- Ten (10) claims adjudicated at the Formulary Brand Coinsurance since they were not entered with a DAW9. Claims must adjudicate with a DAW 9 in order for the Tier 1 Strategy pricing to apply.

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 Tier 1 claims. No further action is required.

Finding 11: Statistical Claim Sample

Sagebrush assessed an error to one (1) claim in the statistical sample. Sample #241 applied a 1% sales tax to the cost of the prescription. CVS states that the prescription was submitted with a destination address of Illinois, which has a 1% sales tax on medication. Sample #203 is for the same drug and the same participant as sample 241. Sample #203 was processed with a destination address of Kansas, which is where the participant resides, therefore, no sales tax was applied.

Sagebrush finds that the claim, sample #241, was processed incorrectly with a destination address of Illinois.

TABLE 3A. SAMPLE EXCEPTIONS BY TYPE OF EXCEPTION

TYPE OF EXCEPTION	TOTAL # EXCEPTIONS	FINANCIAL IMPACT
Application of Sales Tax	1	\$272.74
TOTAL	1	\$272.74

Resolution 11: No resolution is necessary.

CVS Response:

CVS reviewed the two (2) samples for Remodulin and determined the following:

- Sample #203 was processed for Remodulin Injection, dispensed from the CVS Specialty Pharmacy in Mt. Prospect, Illinois, and shipped to the member in Kansas. Therefore, no sales tax was applied.
- Sample #241 was processed for Remodulin Injection, dispensed from the CVS Specialty Pharmacy in Redlands, California, and shipped to CVS's Coram facility in Mt. Prospect, Illinois. Coram pre-fills Remodulin into cassettes that are then shipped to the patient on a weekly basis for infusion. It is a program offered and supported by the drug manufacturer. A 1% sales tax... was correctly applied.

Based on the above response from CVS, Sagebrush agrees that the 1% sales tax was applied correctly on Sample #241 since the drug was filled and shipped to the member from CVS's Coram facility in Mt. Prospect.

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 #241 for an overpayment of \$272.74. This mail order claim applied sales tax for a participant that resides in Kansas. CVS and Sagebrush Agree to Disagree on 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 \$272.74. 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 \$3,927.46 in the total paid claim population of \$80,768,898.14, shown in Table 3B below. The resulting projected gross financial (dollar) accuracy within the claim population is 99.99%. The standard commonly observed in the industry is 99.00%.

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

Strata by Claim Paid Amount	A	B	C	D	E
	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 - \$184.99	\$0.00	50	\$0.00	867,735	\$0.00
\$185.00 - \$2,079.99	\$0.00	50	\$0.00	36,449	\$0.00
\$2,080.00 - \$5,799.99	\$0.00	50	\$0.00	4,697	\$0.00
\$5,800.00 - \$13,399.99	\$0.00	50	\$0.00	1,850	\$0.00
\$13,400.00 +	\$272.74	50	\$5.45	720	\$3,927.46
TOTAL	\$272.74	250	\$5.45	911,451	\$3,927.46

Payment Accuracy: The payment accuracy rate for the audit sample is 100.00%. 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	100.00%	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

For each sampled claim, in addition to verifying that the appropriate discounts were taken according to the CVS system documentation, Sagebrush reviewed the discounts stated in the CVS-pharmacy contracts for 15 samples selected from the statistical sample.

Of the 15 samples reviewed, Sagebrush identified that the contract terms for discounts for two (2) samples (sample numbers 75 and 187) were not followed on the individual sample claims. The discount amounts for these samples did not match CVS' supporting documentation either. Specifically, the drug price was actually discount 0.5% more than the contractual discount on both samples; the pharmacies were underpaid by 0.5% on each of the two samples.

Resolution 14:

These two discrepancies were 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%. The pricing discount guarantee of 19% was not met in 2020, resulting in payments to pharmacies that were greater in aggregate than promised.

While the sample review identified underpayments to pharmacies on two claims, in aggregate CVS overpaid (did not meet the discount guarantee). The amount over the guarantee, \$302,790.37 (check # 902397, issued 5/14/2021) was paid to SEHP, resolving this issue.

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 identified two samples where the pharmacy receipts did not match the fields in the electronic claims data provided to Sagebrush by CVS.

When presented with the two discrepancies, CVS stated that the pharmacy received a payment that equaled the ingredient cost plus the dispensing fee while the paid amount in the data was the pharmacy payment less the point-of-sale (POS) rebate credited to the plan participant.

Finding 15: Verification of Payments

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

IV. 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 2020 plan year include Abbvie, Merck, Eli Lilly, Astra Zeneca, and Novo Nordisk.

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

	2020 TOTAL INVOICED REBATES
Total Top 5 Manufacturers	\$20,039,523.77
Total During Audit Period	\$36,808,383.16
% Audited	54.44%

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 31.3%. A high-volume of rebates is not necessarily positive, since rebates are typically offered on more costly drugs and there is evidence that higher rebates have contributed to increasing drug prices.¹

TABLE 4B. INVOICED REBATES VS TOTAL UNREBATED EXPENSE

		2020 Plan Year
A	Invoiced Rebates	\$36,808,383.16
B	Total Pharmacy Paid by Plan	\$80,653,543.87
C	Total Plan Paid + Rebates (A + B)	\$117,461,927.03
D	Rebates as a % of Total Unrebated Expense (A/C)	31.3%

Resolution 16: Observational only. No further action is necessary.

¹ <https://www.nytimes.com/2018/07/27/health/rebates-high-drug-prices-trump.html>

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.

The audit documentation provided to Sagebrush by CVS showed the transition of rebate agreements with manufacturers from CVS to Zinc during 2020. CVS made the Zinc-manufacturer contracts available for Sagebrush review. During the study period, the terms of the Zinc rebates were the same as the terms under the CVS-manufacturer contracts.

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 prices².

² <https://www.drugchannels.net/2020/01/express-scripts-prime-therapeutics-our.html>

Finding 18: Rebate Discrepancies

Based on the manufacturers reviewed, the total net mispayments identified in the invoices for the plan is (\$7,253), or 0.02% of the total rebates for the selected manufacturers.

The table below presents all discrepancies identified and not resolved with CVS. The findings include the results of the review of the manufacturer contracts for accurate rebate calculations, as well as a comparison of the claims data to invoices to verify quantities and ensure all rebate-eligible claims were invoiced.

TABLE 4C. REBATE DISCREPANCIES

ISSUE #	DESCRIPTION	ESTIMATED IMPACT (\$)
1	RHEUMATOID ARTHRITIS MEDICINE: In Q1 of 2020, the unredacted invoices provided by CVS for audit showed that the higher 10/1/2019 base rate was applied instead of the 1/1/2020 base rate. CVS provided data in response to this exception that shows the 1/1/2020 rate was applied, conflicting with the documents viewed onsite.	(\$2,321)
2	TYPE 2 DIABETES MEDICINE: In months 9 through 12 of 2020, CVS incorrectly invoiced for price protection when none was due. CVS confirmed that the price protection calculation for these months should have been zero.	(\$4,932)
Total Due to SEHP		\$0
Total Due from SEHP		(\$7,253)
Total Net Mispayments		(\$7,253)

Resolution 18: Based on CVS’s response, the incorrect invoiced amounts were corrected on subsequent invoices after the study period, calendar year 2020. No further action is required.

Finding 19: 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 4D. ACTUAL REBATES COMPARED TO MINIMUM REBATE GUARANTEE

Rate Type	# of Claims from Claims Data	Per Claim Rebate Guarantee	Total Minimum Rebate Guarantee	POS Rebated guarantee at least 95%	Actual Invoiced Rebates	Actual POS Rebates*	% POS to Invoiced
Retail Brand 30-Day	92,114	\$213.49	\$19,665,417.86	\$18,682,146.97			
Retail Brand 90-Day	12,220	\$269.48	\$3,293,045.60	\$3,128,393.32			
TOTAL	104,334		\$22,958,463.46	\$21,810,540.29	\$36,808,383.16	\$35,812,474.58	97.3%

*Excludes certain POS rebates, such as 340B pharmacies and specialty drugs.

Resolution 19: CVS met the minimum rebate guarantees. Additionally, CVS satisfied the contractual requirement that at least 95% of the actual rebates were rebates at the point-of-sale. No further action is required.

Finding 20: 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.

Resolution 20: Identified potential exceptions were reviewed with CVS and resolved. All claims eligible for rebate were included in the invoices to the selected manufacturers. No further action is required.

FINAL CONCLUSION

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.