

**Pharmacy Benefit Management
Audit of CVS Health (CVS)
Calendar Year 2021**

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, 2021 through December 31, 2021.

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 \$1,916,933.32 in paid dollars randomly selected and tested from the population of SEHP claims processed by CVS during calendar year 2021. The total population of claims is 1,078,347

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claims with a total paid amount of \$86,272,997.82. 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	(\$27.60)	\$2,830.66
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.

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TABLE 1C. KEY FINDINGS OF AUDIT PROGRAM¹

TYPE OF FINDING	FINDING	TOTAL MISPAID	RATING
Dispensing Fee Guarantees <ul style="list-style-type: none"> CVS issued a payment back to SEHP for \$36,995.78 (check #7754283 on August 12, 2022), resolving this issue. 	Findings 1	\$36,995.78	●
Pricing Guarantees – <ul style="list-style-type: none"> Testing shows an underperformance of the discount guarantee on the retail 90-day brand drugs CVS issued a payment back to SEHP for \$577,779.77 (check #7754283 on August 12, 2022), resolving this issue. 	Finding 2	\$577,779.77	●
Duplicate Claim Payments <ul style="list-style-type: none"> Sagebrush did not identify any instances where a claim was paid more than once. 	Finding 3	\$0.00	●
Copays/Coinsurance <ul style="list-style-type: none"> PLAN A – No exceptions found PLAN C,J,N & Q – No exceptions found 	Findings 4-5	\$0.00	●
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"> 5,544 claims totaling \$91,718.40 paid for prescriptions without authorizations in the electronic record for drugs requiring pre-authorizations. The errors included prescriptions for Adderall XR, Azor, Bromsite, Colchicine, Elidel, Focalin Xr, Humulin R, Nevanac, <i>Qsymia</i>, Suprep Bowel, <i>Toujeo Solo</i>, Venlafaxine, Xenical, Yuvaferm, and Zoloft, to name a few. Compound Drugs with an ingredient cost > \$300 requires prior auth – 1 claim found \$299.95 	Finding 8	\$92,018.35	●
Coordination of Benefits Opportunities	Finding 9	\$0.00	●
Tier 1 Strategy Drugs Sagebrush identified 12 drugs on the Tier 1 Strategy drug list with 73 paid claims that did not process at the Tier 1 20% coinsurance.	Finding 10	(\$2,937.91)	●
Statistical Sample Claims The audit of the statistical sample of claims identified the following: <ul style="list-style-type: none"> Sample #130 Per contract provided for the audit the provider discount should be 13% for payment of \$2,402.70. Claim priced AWP 46.00 x 60 = \$2760 - 14% pas through discount = \$2,373.60 + \$1.50 dispensing fee = \$2,375.10 paid. 	Finding 11	(\$27.60)	●
Turnaround Time CVS is meeting contractual guarantees.	Finding 12	\$0.00	●

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TYPE OF FINDING	FINDING	TOTAL MISPAID	RATING
Verification of Pharmacy Payments No exceptions were identified.	Findings 13 - 15	\$0.00	
Manufacturer Rebate Review <ul style="list-style-type: none"> • Outsourcing of Rebate Process • Minimum rebate guarantees were met • POS guarantee not met \$1,272,548.20 - CVS paid SEHP the difference between the Minimum POS Guarantee of 95% of the Invoiced Rebates and the actual POS Rebates, or \$1,272,548.26 (check #7730261 on July 15, 2022), resolving this issue. • Variations in data provided audit and Settlement • Effect of POS rebates on high-deductible participants • Rebate invoice discrepancies (not supported or not invoiced \$543,659.67 	Finding 16 - 22	\$1,816,207.87	
Eligibility Accuracy Review The audit revealed 623 participants that appear to have claims paid after the coverage termination date. <ul style="list-style-type: none"> • 277 claims were paid after the termination date totaling \$7,461.54. The members enrolled during open enrollment, but terminated prior to when the new year was effective. • 909 claims were paid after the participant's termination date. These claims totaled \$63,144.98. • 117 claims totaling \$4,835.46 were listed as exceptions as Sagebrush could not find these participants on the eligibility file. Therefore, we could not confirm if the claims were paid with active participant coverage. <p>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.</p>	Finding 23	\$75,441.98	
Total		\$2,702,280.24	

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. 2021 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) Jan - Aug	56,144	\$13,326.15	\$14,849.25	\$0.237	\$0.25	\$709.85
Retail Brand (1-34 Days Supply) Sept - Dec	29,598	\$7,653.10	\$6,256.60	\$0.259	\$0.20	(\$1,733.50)
Retail Brand (90 Days Supply) Jan - Aug	6,927	\$467.67	\$0.00	\$0.068	\$0.00	(\$467.67)
Retail Brand (90 Days Supply) Sept - Dec	3,696	\$216.57	\$0.00	\$0.059	\$0.00	(\$216.57)
Retail Generic (1-34 Days Supply) Jan-Aug	353,128	\$95,344.56	\$90,191.25	\$0.270	\$0.25	(\$7,062.56)
Retail Generic (1-34 Days Supply) Sept - Dec	180,287	\$52,283.23	\$37,018.00	\$0.290	\$0.20	(\$16,225.83)
Retail Generic (90 Days Supply) Jan-Aug	112,609	\$7,882.63	\$37,018.00	\$0.070	\$0.00	(\$7,882.63)
Retail Generic (90 Days Supply) Sept - Dec	59,137	\$3,548.22	\$0.00	\$0.060	\$0.00	(\$3,548.22)
TOTAL						(\$36,427.13)
<i>Reported by CVS:</i>						
Retail Brand (1-34 Days Supply) Jan - Aug	59,397	\$14,255.28	\$14,849.25	\$0.24	\$0.25	\$593.97
Retail Brand (1-34 Days Supply) Sept - Dec	31,283	\$8,133.58	\$6,256.60	\$0.26	\$0.20	(\$1,876.98)

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Retail Brand (90 Days Supply) Jan - Aug	8,899	\$622.93	\$0.00	\$0.07	\$0.00	(\$622.93)
Retail Brand (90 Days Supply) Sep- Dec	4,729	\$283.74	\$0.00	\$0.06	\$0.00	(\$283.74)
Retail Generic (1-34 Days Supply) Jan-Aug	360,765	\$97,406.55	\$90,191.25	\$0.27	\$0.25	(\$7,215.30)
Retail Generic (1-34 Days Supply) Sept - Dec	185,090	\$53,676.10	\$37,018.00	\$0.29	\$0.20	(\$16,658.10)
Retail Generic (90 Days Supply) Jan - Aug	113,776	\$7,964.32	\$0.00	\$0.07	\$0.00	(\$7,964.32)
Retail Generic (90 Days Supply) Sept - Dec	60,544	\$3,632.64	\$0.00	\$0.06	\$0.00	(\$3,632.64)
TOTAL AMOUNT DUE						(\$37,660.04)

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 \$36,995.78 (check #7754283 on August 12, 2022), resolving this issue. However, CVS provided an updated pricing and dispensing fee guarantee reconciliation report on May 31, 2023 to correct for 30-day drugs misclassified into the 90-day category. The May 31, 2023 correction reduced the amount owed to SEHP by CVS for 2021 dispensing guarantee to \$37,660.04 as shown in Table 2A.

Finding 2: Pricing Guarantees

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.

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TABLE 2B. SAGEBRUSH 2021 PRICING DISCOUNT GUARANTEE CALCULATION

Rate Type Description	Ingredient Cost	Total AWP	Contracted Discount Rate	Actual Discount Rate	Variance/Performance
Retail Brands (Jan-Aug)	\$31,321,317.16	\$40,787,802.16	19.15%	23.2%	\$1,271,366.04
Retail Brands (Sept – Dec)	\$19,304,134.71	\$21,747,814.29	19.40%	11.2%	-\$1,575,905.08
30-DAY TOTAL	\$51,184,381.55	\$62,535,616.45	19.24%	18.15%	(\$304,539.04) <
Retail Brands (90 day) (Jan-Aug)	\$5,011,861.90	\$6,254,391.86	22.50%	19.9%	-\$131,986.42
Retail Brands (90 day) (Sept-Dec)	\$2,863,905.51	\$3,941,474.91	22.75%	27.3%	\$131,431.58
90-DAY TOTAL	\$8,083,486.16	\$10,195,866.77	22.60%	20.72%	(\$554.84) <
Retail Generics (Jan-Aug)	\$11,642,417.93	\$77,439,635.60	84.25%	84.97%	\$83,338.20
Retail Generics (Sept-Dec)	\$6,253,039.81	\$41,478,143.05	85.50%	84.92%	(\$35,986.60)
GENERICS TOTAL					\$47,351.60 >
TOTAL RETAIL DUE					(\$305,093.88)
Mail Brands (Jan-Aug)	\$733,005.53	\$914,078.70	24.50%	19.81%	(\$34,382.63)
Mail Brands (Sept-Dec)	\$432,971.10	\$496,700.03	24.75%	12.83%	(\$51,608.14)
Mail Generics (Jan-Aug)	\$266,557.20	\$2,242,832.54	88.25%	88.12%	(\$2,915.69)
Mail Generics (Sept-Dec)	\$120,280.62	\$1,206,920.42	88.50%	90.00%	\$18,465.88
MAIL TOTAL					(\$70,440.57) <
TOTAL MAIL DUE					(\$70,440.57)
TOTAL AMOUNT DUE					(\$375,534.45)

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TABLE 2C. CVS REPORTED 2021 PRICING DISCOUNT GUARANTEE CALCULATION

Rate Type Description	Ingredient Cost	Total AWP	Contracted Discount Rate	Actual Discount Rate	Variance/Performance
Retail Brands (Jan-Aug)	\$32,059,303.22	\$39,425,123.03	19.15%	18.68%	(\$185,298.08)
Retail Brands (Sept – Dec)	\$17,189,524.27	\$21,117,706.96	19.40%	18.60%	(\$168,941.66)
30-DAY TOTAL					(\$354,239.73) <
Retail Brands (90 day) (Jan-Aug)	\$5,731,127.74	\$7,213,794.64	22.50%	20.55%	(\$140,669.00)
Retail Brands (90 day) (Sept-Dec)	\$3,116,131.50	\$3,966,432.45	22.75%	21.44%	(\$51,960.27)
RETAIL BRANDS (90-DAY) TOTAL					(\$192,629.26) <
Retail Generics (Jan-Aug)	\$11,199,626.17	\$76,590,334.74	85.38%	84.25%	\$865,470.78
Retail Generics (Sept-Dec)	\$6,055,424.61	\$41,269,809.32	85.33%	85.50%	(\$70,158.68)
GENERIC TOTAL					\$795,312.10 >
TOTAL RETAIL DUE					(\$546,868.99)
Mail Brands (Jan-Aug)	\$690,129.43	\$914,078.71	24.50%	24.50%	\$0.00
Mail Brands (Sept-Dec)	\$373,884.06	\$496,844.03	24.75%	24.75%	\$0.00
Mail Generics (Jan-Aug)	\$265,551.14	\$2,233,637.87	88.11%	88.25%	(\$3,127.09)
Mail Generics (Sept-Dec)	\$120,197.33	\$1,204,300.54	90.02%	88.50%	\$18,305.37
MAIL TOTAL					\$15,178.28 >
TOTAL MAIL DUE					\$0.00
TOTAL AMOUNT DUE					(\$546,868.99)

Table 2B & 2C VARIANCE PERFORMANCE KEY

Over Performance >Greater Than Contracted Rates	Acceptable Performance --Same as Contracted Rates	Under Performance <Less Than Contracted Rates
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Resolution 2:

CVS did not meet contractual performance guarantees for the retail brand pricing discounts. CVS issued a payment back to SEHP for \$577,779.77 (check #7754283 on August 12, 2022), resolving this issue. However, CVS provided an updated pricing and dispensing fee guarantee reconciliation report on May 31, 2023 to correct for 30-day drugs misclassified into the 90-day category. The May 31, 2023 correction reduced the amount owed to SEHP by CVS for 2021 pricing guarantee to \$546,868.99 as shown in Table 2C.

Finding 3: Duplicate Payments

Sagebrush tested the paid claims population for potential duplicate payments. There were nine (9) claims identified with potential duplicate payments totaling \$208.09.

Resolution 3: Based on the response from CVS, these claims were determined not to be duplicated payments; each exception has a proper override code in place.

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

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 non-covered 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.

No further action is required.

Finding 8: Prior Authorizations/Step Therapies

Sagebrush tested 100% of the claim population for calendar year 2021 to identify claims for medications that are listed on the Formulary Exclusions Requiring Prior Authorization drug list by drug name. The test identified 5,544 claim lines where the PA Number was blank. These 5,544 were for 1,081 unique participants with 3,389 unique prescriptions and 47 unique drug names totaling \$91,718.40 in paid dollars.

The test identified claims for Adderall XR, Azor, Bromsite, Colchicine, Elidel, Focalin Xr, Humulin R, Nevanac, *Qsymia*, Suprep Bowel, *Toujeo Solo*, Venlafaxine, Xenical, Yuvaferm, and Zoloft, to name a few.

CVS reviewed one claim for each drug name and dosage submitted. CVS states that the State of Kansas did not elect to implement a prior authorization (PA) for these products. Therefore, these drugs do not require a PA.

TABLE 2D. PRIOR AUTHORIZATION EXCEPTIONS

PLAN	TOTAL CLAIMS	FINANCIAL IMPACT
PLAN A	4,239	\$67,401.32
PLAN C	967	\$15,879.35
PLAN J	88	\$4,089.58
PLAN N	116	\$2,826.60
PLAN Q	134	\$1,521.55
TOTAL	5,544	\$91,718.40

Recommendation 8:

Sagebrush asked SEHP to provide the list of drugs requiring prior authorization to compare to the list that Sagebrush retrieved from the SEHP website. They appear to be the same, with the exception of Qsymia and Toujeo Solo.

CVS will need to provide documentation that shows SEHP did not implement a prior authorization for these products, as they are all on the list Formulary Exclusions Requiring Prior Authorization List(s) provided by SEHP and retrieved from the SEHP website.

CVS Caremark Response:

CVS Caremark reviewed the fifteen (15) sample claims provided by Sagebrush and confirmed these claims processed correctly, as the State of Kansas did not elect to implement a Prior Authorization (PA) requirement for these products. CVS Caremark only requires signed documentation for plan changes elected by a client, and thus in this case, there would not be any documentation where the State chose *not* to implement PA requirements. To the extent Sagebrush is aware of the State of Kansas signing a plan design document regarding these products, we would be happy to review the matter further.

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.

There is a discrepancy with the Prior authorization list between SEHP and Caremark. SEHP will follow up with Caremark regarding the response above.

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

When a new generic drug is launched or currently available for an existing brand name drug, CVS is sometimes able to negotiate discounts from manufacturers, making the brand name drug the option that delivers the lowest net cost to the participant.

Finding 10: Tier 1 Strategy

The electronic testing of 100% of the claims population identified fourteen (14) claims that fall into the Tier 1 Strategy category with a 20% participant coinsurance.

CVS Health reviewed the fourteen (14) exceptions and determined the following:

- One (1) exception, Vagifem, was not added to the Tier 1 Strategy drug list until 4-1-2021. The claim was submitted on 2-25-2021, therefore it did not apply to this claim.
- Thirteen (13) exceptions were on the Tier 1 Strategy drug list, however the Dispense as Written indicator showed the claims did not apply to this test.

No recommendation necessary

Finding 11: Statistical Claim Sample

Sagebrush assessed an error to one (1) claim in the statistical sample. Sample #130 priced with an incorrect provider discount rate. Per the contract provided for the audit, the Pharmacy discount should be 13% for a payment of \$2402.70. The claim priced AWP 46.00 x 60 = \$2760 - 14% pas through discount = \$2373.60 + \$1.50 dispensing fee = \$2375.10 paid.

TABLE 3A. SAMPLE EXCEPTIONS BY TYPE OF EXCEPTION

TYPE OF EXCEPTION	TOTAL # EXCEPTIONS	FINANCIAL IMPACT
Incorrect Provider Contracted Discount	1	(\$27.60)
TOTAL	1	(\$27.60)

CVS states that this client has pass through pricing. Therefore, this claim processed correctly with the 14% 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 underpaid \$27.60 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 13% discount, regardless of the Client.

CVS Caremark Response:

CVS Caremark has further reviewed the sample claim in question. As noted in our original response (and as Sagebrush acknowledges), the claim was invoiced correctly to the State pursuant to the terms of the contract. With regard to whether the claim processed according to the pharmacy's provider agreement, we note that the CVS Caremark Provider Manual, which is incorporated into the pharmacy's provider agreement, provides a process for a pharmacy to dispute a claim. In that regard, the Manual requires that to dispute a claim, the pharmacy "must notify [CVS Caremark] in writing within one hundred eighty (180) days of the fill date." In this case, CVS Caremark has no record of Caldwell Pharmacy disputing the claim in question within the required time frame.

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.

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 #130 for an underpayment of \$27.60. The claim priced with a contract discount of 14%. The Pharmacy contract shows a discount of 13%. 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%.

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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 \$27.60. 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 \$2,830.66 in the total paid claim population of \$86,272,997.82, 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	-	\$179.99	\$0.00	50	\$0.00	1,029,722	\$0.00
\$188.00	-	\$1,999.99	\$0.00	50	\$0.00	40,832	\$0.00
\$2,000.00	-	\$5,499.99	\$27.60	50	\$0.55	5,128	\$2,830.66
\$5,500.00	-	\$14,999.99	\$0.00	50	\$0.00	1,983	\$0.00
\$15,000.00	+		\$0.00	50	\$0.00	682	\$0.00
TOTAL			\$27.60	250	\$0.55	1,078,347	\$2,830.66

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	100.00%	99.25%	99.00%
Payment Accuracy	99.99%	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 130) 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 discount 1% less than the contractual discount; the pharmacy was underpaid by 1% on the sample.

Resolution 14:

The discrepancy on sample #130 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 19.15%. The pricing discount guarantee of 19.15% was not met in 2021 (see Finding and Recommendation 2), resulting in payments to pharmacies that were greater in aggregate than promised.

While the sample review identified this underpayment to a pharmacy on one claim, in aggregate CVS overpaid (did not meet the discount guarantee) for the retail pharmacy claims. CVS issued a check to SEHP to resolve the discount guarantee (see resolution to Finding 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 identified one sample where the EOB provided by the pharmacy did not match the fields in the electronic claims data provided to Sagebrush by CVS.

When CVS was presented with the discrepancy, CVS provided documentation that the pharmacy received an EFT (electronic) payment of \$228.26 in addition to the participant payment of \$86.96 for a total payment of \$315.22, which is the correct payment for the claim.

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 2021 plan year include Abbvie, Johnson & Johnson, Eli Lilly, Astra Zeneca, and Novo Nordisk.

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

	2021 TOTAL INVOICED REBATES
Total Top 5 Manufacturers	\$22,632,107.20
Total During Audit Period	\$40,987,477.68
% Audited	55.22%

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

		2021 Plan Year
A	Invoiced Rebates	\$40,987,477.68
B	Total Pharmacy Paid by Plan	\$86,272,997.82
C	Total Plan Paid + Rebates (A + B)	\$127,260,475.50
D	Rebates as a % of Total Unrebated Expense (A/C)	32.21%

Resolution 16: Observational only. No further action is 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.

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:

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

“...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.

Finding 18: Rebate Discrepancies

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

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

TABLE 4C. ACTUAL REBATES COMPARED TO REBATE GUARANTEES

Category	# of Claims from Pricing Guarantee 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	88,702	\$241.40	\$21,412,662.80			
Retail Brand 90-Day	15,606	\$301.89	\$4,711,295.34			
Mail Brand	1,329	\$648.52	\$861,883.08			
TOTAL	105,637		\$26,985,841.22	\$ 44,897,254.64	\$41,856,624.55	93.23%
Per Interim Settlement Report				\$45,399,129.31	\$41,856,624.55	92.20%

*Per contract.

**Invoiced Rebates from report provided to Sagebrush from CVS vs. Settlement Report

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

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: CVS paid SEHP the difference between the Minimum POS Guarantee of 95% of the Invoiced Rebates and the actual POS Rebates, or \$1,272,548.26 (check #7730261 on July 15, 2022), resolving this issue.

Finding 20: Rebate Guarantees

The table below is a comparison of the CVS-reported POS Guarantee calculation from the Settlement Report to the POS rebate data provided to Sagebrush auditors on November 14, 2022. Based on the data provided, it appears that a greater penalty payment is due to SEHP than previously reported. The difference between the Interim Settlement Amount Distribution of \$1,272,548.29 and the distribution calculated with the data provided to Sagebrush from CVS is \$2,783,574.78.

TABLE 4D. ACTUAL REBATES COMPARED TO MINIMUM REBATE GUARANTEE

Source	Actual Invoiced Rebates and Admin Fees	POS Rebate Minimum (95%)	Net POS Rebates*	% POS to Invoiced	POS Under/(Over) Distribution
Data Provided	\$44,897,254.64	\$42,652,391.91	\$38,596,268.83	85.97%	\$4,056,123.08
Settlement Report	\$ 45,399,129.31	\$ 43,129,172.84	\$41,856,624.55	92.20%	\$1,272,548.29
Difference				-6.23%	\$2,783,574.78

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

Recommendation: CVS should provide accurate data for audit to support the Interim Settlement calculations.

CVS Caremark Response:

CVS Caremark reviewed the analysis provided by Sagebrush and confirmed the difference noted between the Interim Settlement Report and POS Rebate data was due primarily to discrepancies with claim sequence numbers. Please note, this is to be expected as a result of timing between when each report is generated. The POS Rebate data provided during the onsite review was generated using the client's pricing guarantee report with POS rebate values added to each claim. However, this report only includes one sequence number per claim. If a claim is later reversed and reprocessed, the sequence number listed on the report may show as reversed and incur a \$0 POS Rebate value when the report is generated, even if the claim was later reprocessed.

Sagebrush was provided an analysis on February 15, 2023 which included 8,090 impacted claims. These claims accounted for \$3,154,940.54 in POS Rebates. When this additional value is accounted for, the POS Rebates reflected in the data provided on November 14, 2022, fall within just over \$100k of the amount listed on the Interim Settlement Report, which is in line with what the expected variance would be, given the timing of when these reports were generated.

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.

Finding 21: Effect of POS Rebate to High Deductible Plan Participants

Sample #40 from the statistical sampling and testing portion of this audit program is for a participant enrolled in a high deductible plan, BCNN. Sagebrush auditors determined sample #40 was paid correctly by CVS.

Sample #40 was also selected to receive a pharmacy test letter. The pharmacy, in its response to the test letter, drew attention to the effect of POS rebates to high deductible plan participants. The POS rebate, calculated by CVS, is not consistent from fill to fill. For high deductible participants, the result is an unpredictable out-of-pocket cost from fill to fill of the same drug.

The table below is the actual claims history for the sample #40 participant for same drug, filled multiple times in 2021. The cost of the drug (ingredient cost plus dispensing fee) did not vary during 2021. Also, the actual per claim rebate was the same throughout 2021; Sagebrush could verify the actual rebate since the manufacturer of this drug was selected for review. As can be seen in the table below, the varying POS rebate caused the participant's out-of-pocket costs to fluctuate from fill to fill.

This variability would not be so obvious, or potentially concerning, to participants in plans with low, fixed copays.

TABLE 4E. EXAMPLE IMPACT OF POS REBATES TO HIGH-DEDUCTIBLE PARTICIPANT

Fill Date	Drug	Drug Cost + Dispensing Fee	POS Rebate	Patient Payment (Cost less POS Rebate)
4/15/2021	Inhaler	\$315.22	\$214.60	\$100.62
7/1/2021	Inhaler	\$315.22	\$241.91	\$73.31
8/16/2021	Inhaler	\$315.22	\$241.91	\$73.31
9/27/2021	Inhaler	\$315.22	\$228.26	\$86.96
12/2/2021	Inhaler	\$315.22	\$169.73	\$145.49

CVS Caremark Response:

CVS Caremark reviewed the sample claim and maintains our position that the claim processed correctly. Claims will adjudicate with the estimated rebate value for the drug at the time of fill. POS Rebates help offset member out-of-pocket costs, especially during the deductible phase when they are responsible for the cost of the drug, by sharing rebates directly with members at the point-of-sale.

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.

Finding 22: 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.

TABLE 4F. INVOICE DISCREPANCIES

ISSUE #	DESCRIPTION	NUMBER OF CLAIMS	ESTIMATED IMPACT (\$)
1	NOT ON 2021 LIST OF REBATED CLAIMS: The listing of claims provided by CVS and submitted to manufacturers in 2021 did not include these rebate-eligible claims. CVS states that these claims were invoiced at a later date and included in the Adjusted Invoice Rebates totals. However, the Adjusted Invoice Rebates total was negative for two of selected manufacturers with rebate-eligible claims that were not invoiced. CVS was not able to provide detailed documentation showing the claims comprising the Adjusted Invoice Rebates and whether these amounts included these rebate-eligible claims that were not previously invoiced. Amount shown is the reported invoiced amount in response to Sagebrush's exception list.	213	\$420,690.67
2	CLAIMS WITH ZERO COB NOT INVOICED: The listing of claims provided by CVS and submitted to manufacturers in 2021 did not include these rebate-eligible claims. CVS states these claims were not rebate-eligible because there was other insurance coverage. However, no other insurance paid any amount toward these claims. Estimated amount shown is Ingredient Cost x 50%.	49	\$49,877
3	CLAIMS EXCLUDED FOR LATE SUBMISSION: CVS states these claims were excluded from the invoices because the claims were submitted more than 60 days following the fill date. These claims appear to either have been adjudicated within 60 days of the fill or should have been adjudicated at the point of sale. Estimated amount shown is Ingredient Cost x 50%.	16	\$73,092
Total Impact			\$543,659.67

CVS Caremark Response: Claims Eligible for Rebates Included in Invoices

CVS Caremark maintains the drugs referenced below were invoiced at the correct rate with no financial impact and no further action is required.

- **Issue #1 Not on 2021 list of rebated claims** ○ CVS Caremark provided proof to Sagebrush that the claims in question were billed to the manufacturers at a later date. Additional reporting is in process to provide further support.
- **Issue #2 Claims with zero COB not invoiced** ○ CVS Caremark is researching internally to provide further support to Sagebrush.
- **Issue #3 Claims excluded for late submission** ○ CVS Caremark provided proof to Sagebrush that the original iteration of each claim was submitted for invoicing correctly within the allowable time period. No further action is required.

Sagebrush Response:

- **Issue #1:** CVS provided a reply, with an invoice number, stating that the claims in questions were billed to the manufacturer at a later date (provided invoice number) and included in the “Adjusted Invoice Rebates” on the Rebate Report provided to Sagebrush. However, CVS did not document the subsequent invoices to tie the subsequent invoices to the reported Adjusted Invoice Rebates. Also, for example, the ingredient cost for the Claims Not Invoiced for one manufacturer is \$128,442,94 but the total Adjusted Invoiced Rebates for this manufacturer is (\$15,865.76). So, it is not documented or apparent that these claims were later invoiced and credited to SEHP because the Rebate Report shows a net reversal for all adjustments to this manufacturer. In total, the documentation (“proof”) provided to Sagebrush for adjusted invoices cannot be tied back to the rebates paid to the State from the information provided.
- **Issue #3:** CVS provided a reply, simply stating the claims had been excluded from rebate invoicing because the claim was “submitted later than the allowable invoice period of two quarters.” However, 16 of these claims were submitted (adjudication date) to CVS on the date of service (dispense date) and should have been invoiced.

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 generally administered the pharmacy benefits within the scope of the contract with SEHP. However, CVS needs to improve the quality of data and documentation to support the audit, particularly in support of the POS guarantees and adjustments to the invoices to manufacturers.